

THE SPEAKER: The Chair will state, as to points of order, at the time the Chair answered the specific inquiry of the gentleman from Missouri, a point of order would not lie until the bill is reached and brought up for construction.

At this juncture, Mr. Hall requested that the Speaker protect his rights by enabling him to raise the point of order at the appropriate time. The Speaker responded that "The Chair will always protect the rights of any Member," but noted that a suspension of the rules procedure "suspends all rules."

The Chair then recognized Mr. Leslie C. Arends, of Illinois, who clarified the issue in the following manner:

Do I correctly understand the ruling of the Chair that suspending all the rules pertains to more than just the House; it pertains to the rules of committee action likewise?

THE SPEAKER: The gentleman from Illinois is correct.

Parliamentarian's Note: Two of the bills which were allegedly reported in the absence of a quorum, H.R. 17954 and H.R. 7406, were scheduled for consideration on both the Consent Calendar and under suspension of the rules. The Speaker did not foreclose the making of a point of order against a bill on the Consent Calendar. However, the two

bills which might have been vulnerable when called on the Consent Calendar were passed over without prejudice by unanimous consent.⁽¹⁴⁾

§ 25. —Effect

Questioning of Committee Chairman

§ 25.1 Where a report from a committee is challenged on the ground that a quorum of the committee was not present when the report was authorized, the Speaker interrogates the chairman of the committee concerned as to the facts in question.

On Sept. 30, 1966,⁽¹⁵⁾ Omar T. Burlison, of Texas, Chairman of the Committee on House Administration, submitted a privileged report (H. Rept. No. 2158), to accompany a resolution (H. Res. 1028), providing funds for his committee and asked for its immediate consideration. At this juncture, Mr. Jonathan B. Bingham, of New York, rose to a point of order against the resolution on the ground that a quorum of the

14. 114 CONG. REC. 29765, 90th Cong. 2d Sess.

15. 112 CONG. REC. 24548, 89th Cong. 2d Sess.

committee was not present when the resolution was reported. Speaker John McCormack, of Massachusetts, then inquired of Mr. Burleson as to whether he had any comment. Mr. Burleson replied in the affirmative and initiated the following exchange:

. . . Mr. Speaker, I do not see that this is a matter involving rules but rather a matter of custom and practice. We were simply following what has been a practice for a great many years relating to noncontroversial matters. This method of obtaining committee approval has been for the convenience of committee members. I shall be glad to redate to the House in just a few words what transpired in this instance.

Recently it has been difficult to get a quorum, and, for obvious reasons, it has been just about impossible for the last 10 days. Never before has the gentleman from New York objected to a telephone poll of members. In this instance, each of the 25 members of the committee, except those who were on the subcommittee examining contracts, the subcommittee headed by the gentleman from Ohio [Mr. Hays]—who had already agreed to the resolution, were called, and a majority of the members approved the resolution.

This practice has been prevalent and has been permitted over the years, although it has been held to a minimum.

Now Mr. Speaker, I shall be glad to yield to the gentleman from New York if he wants to tell us the real reason he is objecting to the consideration of this resolution. The gentleman never before has objected to this procedure and I ask why he objects now?

MR. BINGHAM: Mr. Speaker, will the gentleman yield?

MR. BURLESON: I yield to the gentleman from New York.

MR. BINGHAM: Mr. Speaker, I shall be glad to explain. There has been apparently the establishment of a subcommittee of the Committee on House Administration.

THE SPEAKER: The Chair does not want to go into all that. The Chair wants to ask the gentleman from Texas, the chairman of the committee, was a committee meeting called for the purpose of acting on this resolution? And, if so, was a quorum present?

MR. BURESON: Mr. Speaker, I have explained in some detail the procedure used in this instance. There was an agreement by a majority of the committee that the resolution may be presented.

THE SPEAKER: Was there a meeting? Did the committee meet? Was there a quorum present and voting and acting on it?

MR. BURLESON: Mr. Speaker, on infrequent occasions when we have resorted to this procedure as a matter of convenience and of expediting legislation, it has always been accepted as establishing a quorum. As far as I know this procedure has not been challenged. In this case a majority of the committee agreed to the resolution and I insist that a quorum was established and that the report is proper and that the resolution is privileged.

Having elicited the essential facts from Chairman Burleson, the Speaker sustained the point of order.⁽¹⁶⁾

16. For full discussion of the Chair's reasoning and ultimate conclusion, see §23.2, *supra*.

Recommittal of Measure**§ 25.2 Where the chairman of a committee admits a bill was reported when a quorum was not present and a point of order is sustained against the bill on that ground, the bill is recommitted.**

On Oct. 11, 1968,⁽¹⁷⁾ by direction of the Committee on Rules, Mr. John A. Young, of Texas, called up House Resolution 1256 and asked for its immediate consideration. The resolution provided that upon its adoption, it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a bill (S. 2511), relating to producers of crude pine gum.

After brief discussion, House Resolution 1256 was agreed to,⁽¹⁾ whereupon William R. Poage, of Texas, Chairman of the Committee on Agriculture, moved that the House resolve itself into the Committee of the Whole for the consideration of S. 2511.

Immediately thereafter, Speaker John W. McCormack, of Massa-

For a similar instance in which the Speaker noted that such quorum issues are routinely decided "by the Chair on the statement of the chairman of the legislative committee concerned," see 102 CONG. REC. 12199, 84th Cong. 2d Sess., July 9, 1956.

17. 114 CONG. REC. 30738, 90th Cong. 2d Sess.

1. *Id.* at p. 30739.

chusetts, recognized Mr. Paul Findley, of Illinois, for a point of order:

Mr. Speaker, I make a point of order against consideration of S. 2511.

THE SPEAKER: The gentleman will state his point of order.

MR. FINDLEY: Mr. Speaker, I make a point of order against the consideration of S. 2511 on the grounds that the Committee on Agriculture acted without a quorum being present when it ordered S. 2511 reported to the House on July 2, 1968.

Rule XI, clause [27(e)], of the rules of the House ⁽²⁾ states as follows:

(e) No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

I have personally checked with the staff of the Committee on Agriculture and have been informed that on July 2, 1968, there were only 14 members of the committee present and that the vote to report S. 2511 to the House was 11 to 0 in favor of such action. Since the total membership of that committee is 35, there obviously was not a majority actually present as required by Rule XI clause [27(e)].

At this juncture, the Speaker interrogated Mr. Poage with respect to the committee's action on the measure:

THE SPEAKER: The Chair would like to inquire of the chairman of the Committee on Agriculture if a quorum was present when the bill was reported.

2. See Rule XI clause 2(l)(2)(A), *House Rules and Manual* 713(c)(1979).

MR. POAGE: Mr. Speaker, the chairman of the Committee on Agriculture was not present the day this bill was reported. The record indicates that there were only 14 members of the committee present at the time it was reported.

THE SPEAKER: Does the gentleman from Texas state that the record of his committee shows there were 14 members present when the bill was acted upon and reported out?

MR. POAGE: That is correct.

Having obtained the necessary information, the Speaker ruled as follows:

Clause 27 of rule XI clearly covers this situation. Paragraph (e) of clause 27 of rule XI states:

No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present.

Upon the statement of the chairman of the committee, a majority of the committee were not actually present. Therefore, the point of order is sustained; and the bill is recommitted to the Committee on Agriculture.⁽³⁾

Withdrawal of Measure

§ 25.3 Where a point of order was raised against consider-

3. A similar point of order was raised the same day (114 CONG. REC. 30751, 90th Cong. 2d Sess.) with respect to a bill (S. 1507), entitling firefighters to certain retirement benefits. As the committee with jurisdiction [the Committee on Post Office and Civil Service] had less than a quorum present when the measure was reported out, the Speaker ordered the bill recommitted.

ation of a privileged resolution, reported and called up by the Committee on House Administration, on the ground that a quorum was not present when the resolution was ordered reported, the resolution was withdrawn.

On Feb. 28, 1968,⁽⁴⁾ Speaker John W. McCormack, of Massachusetts, recognized Mr. Samuel N. Friedel, of Maryland, who, by direction of the Committee on House Administration, submitted a privileged report (H. Rept. No. 1127), on a resolution (H. Res. 1042), authorizing the expenditure of certain funds for the expenses of the Committee on Un-American Activities, and asked for immediate consideration of the resolution.

Immediately thereafter, Mr. William F. Ryan, of New York, raised a point of order against the consideration of the report on the ground that a quorum was not present when the matter was considered.⁽⁵⁾

4. 114 CONG. REC. 4448, 90th Cong. 2d Sess.

5. The rules [see Rule XI clause 2(l)(2)(A), *House Rules and Manual* §713(c) (1979)] provide that: "No measure or recommendation shall be reported from any committee unless a majority of the committee were actually present."

Desiring to be heard on the point of order, Mr. Friedel stated:

Mr. Speaker, it is true that we did not have a quorum present for the consideration of House Resolution 1042, but we had unanimous consent by the members that they would not raise a point of order.

However, Mr. Speaker, under the circumstances, in view of the point of order being raised, I withdraw the resolution.

Parliamentarian's Note: After the point of order was sustained, the resolution was automatically recommitted and the Committee on House Administration met again with a quorum present and filed a new report on the resolution.

§ 26. Introduction

The Speaker's referral of private and public bills and resolutions, petitions, and memorials is authorized by Rule XXII clauses 1 and 4:⁽⁶⁾

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk indorsing their names and reference or disposition to be made thereof; and

6. *House Rules and Manual* §§ 849, 854 (1979). Clauses 2 and 3 of Rule XXII restrict the introduction of certain private bills and provide for the correction in errors of reference of private bills.

said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record. . . .

4. All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with Rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

Messages from the President and communications are referred pursuant to Rule XXIV clause 2:⁽⁷⁾

7. Senate bills are referred similarly to House bills except where a House committee has reported or is about to report a similar bill, in which case the Senate bill is customarily held at the Speaker's table. Although the Speaker has the authority under this rule to refer bills with amendments between the Houses to committee, he rarely does so.