

Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously ruled on the point of order raised by the gentleman, and the matter is one that is now before the House for the consideration of the House, and the will of the House.

For the reasons heretofore stated and now stated, the Chair overrules the point of order.

MR. JONES of Missouri: Respectfully, Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. JONES of Missouri. Mr. Speaker, can the Chair tell me under what authority the House can consider this in the House rather than in the Committee of the Whole House on the State of the Union, in view of rule XX which says it shall first be considered in the Committee of the Whole House on the State of the Union?

THE SPEAKER: The Chair will state that the House can change its rules at any time upon a resolution that is properly before the House reported by the Committee on Rules. The present resolution has been put before the House by the Committee on Rules within the authority of the Committee on Rules, therefore the matter presents itself for the will of the House.⁽¹³⁾

§ 54. Committee Procedure

The rules expressly grant privileged status to certain actions of

13. Special rules from the Committee on Rules and their effect on the order of business are treated in Ch. 21, *infra*.

the Committee on Rules. It may sit, without special leave, even while the House is reading a measure for amendment under the five-minute rule.

While the Committee on Rules is unique among the House's standing committees, it is subject to most of the rules' provisions affecting them.

The committee is completely exempt, however, from a number of provisions affecting most standing committees. Thus, the Committee on Rules is not obliged to provide time for, or even to include at all, in its reports any supplemental, minority, or additional views of its members.⁽¹⁴⁾ Similarly, the committee is under no obligation under House rules "to make public announcement of the date, place, and subject matter of any hearing" it plans to conduct.⁽¹⁵⁾ Moreover, the committee is exempt from certain rule provisions which pertain solely to standing committees with legislative jurisdiction. For example, the requirements of Rule XIII clause 7⁽¹⁶⁾ pertaining to the inclusion, in reports accompanying public bills, of

14. See Rule XI clause 2(1)(5), *House Rules and Manual* § 714 (1979).

15. See Rule XI clause 2(g)(3), *House Rules and Manual* § 708 (1979).

16. *House Rules and Manual* § 748(b) (1979).

certain estimates of costs arising under said bills are specifically made inapplicable to the Committee on Rules. Similarly, privileged reports from the Committee on Rules are exempted from the provisions of Rule XI clause (2)(l)(6)⁽¹⁷⁾ requiring that measures reported by committees not be considered in the House until the third calendar day on which the committee report on such measure has been available to Members.

Committee Rules

§ 54.1 The Committee on Rules having adopted rules of procedure, the chairman of the committee inserted them in the Record.

On Feb. 28, 1967,⁽¹⁸⁾ Speaker John W. McCormack, of Massachusetts, recognized William M. Colmer, of Mississippi, Chairman of the Committee on Rules, who then stated:

Mr. Speaker, rule XI of the House provides that all committees of the House of Representatives other than the Committee on Appropriations shall have regular meeting days during the sessions of the Congress.

The same rule also provides that the committees of the House may adopt

17. *House Rules and Manual* §715 (1979).

18. 113 CONG. REC. 4774, 4775, 90th Cong. 1st Sess.

additional rules not inconsistent with the rules of the House.

In conformity with and carrying out the provisions of rule XI, the Committee on Rules today unanimously adopted the following rules of procedure for the Committee on Rules:

RULES FOR THE COMMITTEE ON RULES, ADOPTED UNANIMOUSLY FEBRUARY 28, 1967

RULE 1. MEETINGS

The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week while the Congress is in session. Meetings shall be called to order and presided over by the Chairman or, in the absence of the Chairman, by the ranking Majority Member of the Committee present as acting chairman.

Meetings and hearings of the Committee shall be open to the public except when a majority of the Committee determine that testimony received may bear upon matters affecting the national security. Executive sessions of the Committee shall be closed.

For the purpose of hearing testimony, a majority of the Committee shall constitute a quorum.

A printed transcript of any hearing or public meeting of the Committee may be had if the Chairman decides it is necessary, or if a majority of the Members request it.

A Tuesday meeting of the Committee may be dispensed with where, in the judgment of the Chairman, there is no need therefor, and additional meetings may be called by the Chairman or by written request of a majority of the Committee duly filed with the counsel of the Committee.

RULE 2. VOTING

No measure or recommendation shall be reported or tabled by the Committee unless a majority of the Committee is actually present.

A roll call vote of the Members of the Committee may be had upon the request of any Member.

RULE 3. REPORTING

Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee, the Chairman or acting Chairman shall report the same or designate some Member of the Committee to report the same to the House, as provided in the Rules of the House.

RULE 4. COMMITTEE STAFFING

The professional and clerical staffs of the Committee shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of the members of the staffs and delegate such authority as the Chairman deems appropriate, with the exception of the Minority staff, who shall be selected by and under the general supervision and direction of the Ranking Minority Member of the Committee.

RULE 6. MISCELLANEOUS

The Committee shall prepare, maintain, and publish for the Members of the Committee, so far as practicable, a calendar listing all matters formally before it. Information on the Calendar shall include the numbers of the bills or resolutions, a brief description of a bill's contents, including the legislative committee reporting it and the name of the principal sponsoring Member. For purposes of this rule, matters formally before the Committee include: bills or resolutions over which the Committee has original jurisdiction, and bills or resolutions from other committees concerning which the chairman or designated member of such committee has requested a hearing in writing and forwarded to the Committee on Rules a copy of such bill or resolution as reported,

together with the final printed committee report.

Upon adoption of the rules and procedures of the Committee at the opening of each Congress, the Chairman may have these rules and procedures printed in an early issue of The Congressional Record.

Calling Meetings

§ 54.2 The Chairman of the Committee on Rules is under no obligation to call a meeting thereof, but where he declines to call a meeting, a majority of the committee members may do so pursuant to those rules applicable to all standing committees.

On May 27, 1946,⁽¹⁹⁾ the House received a message from the Senate to the effect that that body had passed an amended version of the so-called Case bill (H.R. 4908), which was entitled, "An act to provide additional facilities for the mediation of labor disputes, and for other purposes." The message also requested House concurrence in the Senate's amended version of the bill.

Later in the day, Speaker Sam Rayburn, of Texas, recognized Mr. Howard W. Smith, of Virginia, a member of the Committee on Rules, who asked the following question:⁽²⁰⁾

19. 92 CONG. REC. 5848, 79th Cong. 2d Sess.

20. *Id.* at p. 5863.

Mr. Speaker, the Committee on Rules all day long has been seeking to get a meeting of that committee. This morning I made the unanimous-consent request that the Committee on Rules be given until tomorrow night to file its report on the so-called Case bill. Objection was made by the gentleman from New York to that request. So that the situation now is that unless the committee meets this afternoon it will not be possible to carry out the previously agreed upon schedule of the House to take up the Case bill on Wednesday morning. My parliamentary inquiry is whether when the chairman of the Committee on Rules absents himself from the floor of the House and from the office of the committee and declines to call a meeting of the committee to transact important business for the country it is within the province of a majority of the members of the committee to themselves call a meeting and report whatever legislation they desire to the floor of the House.

The Speaker responded by stating:

The Chair will read clause 48 of rule XI:⁽¹⁾

1. This provision has changed very little in substance since 1946. The 1979 rules [Rule XI clause 2(c)(2), *House Rules and Manual* §705 (1979)], require that the committee chairman be notified of the filing of a request for the meeting and that he be provided with three calendar days within which to call it himself, before the committee majority may file its notice mandating such a meeting.

A standing committee of the House shall meet to consider any bill or resolution pending before it: (1) on all regular meeting days selected by the committee; (2) upon the call of the chairman of the committee; (3) if the chairman of the committee, after 3 days' consideration, refuses or fails, upon the request of at least three members of the committee, to call a special meeting of the committee within 7 calendar days from the date of said request, then, upon the filing with the clerk of the committee of the written and signed request of a majority of the committee for a called special meeting of the committee, the committee shall meet on the day and hour specified in said written request. It shall be the duty of the clerk of the committee to notify all members of the committee in the usual way of such called special meeting.

That is the answer of the Chair to the parliamentary inquiry of the gentleman from Virginia.

Mr. Smith then elaborated on his initial inquiry, prompting the following exchange:⁽²⁾

MR. SMITH of Virginia: Mr. Speaker, may I submit a further inquiry?

Under those circumstances, is it possible for the chairman of the committee of his own volition to prevent the House from taking action on legislation vital to the Nation until the time set forth in the rule has elapsed?

THE SPEAKER: Under the rules of the House, the chairman of a committee does not have to call a meeting of the committee. The answer to the question as to how the committee can get together if the chairman does not desire

2. 92 CONG. REC. 5863, 5864, 79th Cong. 2d Sess.

to call the committee together or refuses to call them together is contained in the rule just read.

§ 54.3 Any Member may request that the Chairman of the Committee on Rules call a meeting of that committee to consider reporting a resolution making in order the disposition of a House bill with Senate amendments thereto.

On Aug. 13, 1957,⁽³⁾ Speaker Sam Rayburn, of Texas, recognized Mr. Kenneth B. Keating, of New York, who requested unanimous consent to take a civil rights bill (H.R. 6127), from the Speaker's desk, with Senate amendments thereto, and to disagree to the amendments of the Senate and ask for a conference. This request being objected to, Mr. Emanuel Celler, of New York, asked unanimous consent that the House concur in the Senate amendments—a request to which Mr. Keating objected.

Thereafter, the following exchange took place:

MR. KEATING: Would the Speaker recognize me to move to send the bill to the Rules Committee?

THE SPEAKER: The Chair would not. It is not necessary to do that.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

3. 103 CONG. REC. 14568, 85th Cong. 1st Sess.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Would the Speaker advise what action is necessary now in order to get the bill to the Committee on Rules?

THE SPEAKER: Anyone can make the request of the chairman of the Committee on Rules to call a meeting of the committee to consider the whole matter.

MR. KEATING: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KEATING: Mr. Speaker, if that were done, would the bill which is now on the Speaker's desk be before the Rules Committee?

THE SPEAKER: It would not be before the Committee on Rules. The Committee on Rules could consider the matter of what procedure to recommend to the House for the disposition of this whole matter.

Absence of a Quorum

§ 54.4 The Chairman of the Committee on Rules has withdrawn a report presented from the floor where a question arose as to whether a quorum of the committee was present at the time the resolution was ordered reported.

On Feb. 2, 1951,⁽⁴⁾ Mr. Adolph J. Sabath of Illinois, a member of

4. 97 CONG. REC. 876, 82d Cong. 1st Sess.

the Committee on Rules, sought to file a privileged report (H. Res. 95), authorizing the Committee on the Judiciary to conduct studies and investigations relating to matters within its jurisdiction.

Shortly thereafter, Mr. Clarence J. Brown, of Ohio, made the point of order that the resolution was not properly reported by the committee whereupon the following exchange took place:

MR. BROWN of Ohio: I think an inquiry by the Chair will determine there was not a quorum present, and that the resolution was not before the committee at that time.

MR. [EDWARD E.] COX [of Georgia]: That is right. That is a correct statement.

MR. BROWN of Ohio: I must protest, Mr. Speaker, and I must make the point of order inasmuch as I regret to do so.

MR. SABATH: Mr. Speaker, even if a quorum was not present, no point of order has been made. But a quorum was present, and I can give you the names of the seven Members who were present. They were Mr. Cox, Mr. Colmer, Mr. Madden, Mr. Delaney, Mr. Mitchell, Mr. Latham, and myself. Seven of twelve makes a quorum. But I withheld it because the gentleman from Ohio [Mr. Brown] objected due to some misunderstanding with the gentleman from New York [Mr. Celler]. Since that time I have learned that the gentleman from New York [Mr. Celler] has agreed with the gentleman from Ohio [Mr. Brown] on the assignment of committees and because the gentleman

from New York [Mr. Celler] assured me that an agreement has been reached with the gentleman from Ohio [Mr. Brown] as to the number of subcommittees, I present it today. A quorum was present. The committee had jurisdiction.

MR. COX: Mr. Speaker, if the gentleman will yield there, the gentleman will recall that the gentleman from Virginia [Mr. Smith] and the gentleman from Texas were not present. There was not a single Republican present.

MR. SABATH: There was a Republican present.

MR. COX: Not a single Republican was present. This was not on the agenda but it was called up after the Republicans left, and there was not the majority present.

Shortly thereafter, Mr. Sabath withdrew the report.

Presumption of Procedural Regularity

§ 54.5 A point of order against a special rule, presumably reported at a properly convened meeting of the Committee on Rules, will not lie on the ground that the measure made in order by the special rule was not properly reported by a standing committee and was the subject of misrepresentations before the Committee on Rules.

On July 23, 1942,⁽⁵⁾ Speaker Sam Rayburn, of Texas, recog-

5. 88 CONG. REC. 6542, 77th Cong. 2d Sess.

nized Adolph J. Sabath, of Illinois, Chairman of the Committee on Rules, who called up House Resolution 528. The resolution provided for a special rule, the adoption of which would enable the House to resolve itself into the Committee of the Whole to consider a bill (H.R. 7416), providing a means to vote for wartime servicemen absent from their states of residence.

Immediately after the Clerk's reading, the following exchange took place:

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I make a point of order against the rule.

I make the point of order, Mr. Speaker, that this rule was obtained by fraud; that it was represented to the Rules Committee that the Committee on Election of [the] President, Vice President, and Representatives in Congress [now, the Committee on House Administration] had held a meeting and reported this bill. No such meeting was ever held. The chairman of the committee was in New York, sick, and a majority of the rest of the members was not even notified that any such meeting was contemplated. Fraud vitiates everything, and I cannot believe that the Rules Committee would report this rule out knowing that they were being defrauded. If they did not know it, the fraud vitiates the rule. That is a well-known legal maxim that every lawyer is familiar with. So I make the point of order, Mr. Speaker, that this proposition is not legally before the House because it was never le-

gally reported. The members of the Rules Committee were misled into believing it had been reported and therefore were defrauded into reporting this rule, which vitiates the whole proceeding.

THE SPEAKER: The only thing that interests the Chair is whether or not the Committee on Rules had a formal meeting and reported this resolution. The Chair has no right, as the Chair thinks, in the absence of some evidence to the contrary, to assume that the Committee on Rules had anything but a formal session and reported this special rule. Therefore the Chair overrules the point of order of the gentleman from Mississippi.

Three-day Rule for Filing Reports

§ 54.6 The Committee on Rules must present to the House reports concerning rules, joint rules, and orders of business within three legislative days of the time when ordered reported by the committee.

On Jan. 25, 1944,⁽⁶⁾ Speaker Sam Rayburn, of Texas, recognized Mr. John E. Rankin, of Mississippi, who initiated the following exchange in the course of asking a parliamentary inquiry:

Mr. Speaker, on day before yesterday the Committee on Rules voted, I understand unanimously, to report to the

6. 90 CONG. REC. 675, 78th Cong. 2d Sess.

House a rule on the soldiers' vote bill, S. 1285. This rule has not been reported to the House.

My parliamentary inquiry is whether if the chairman of the Committee on Rules declines further, or delays further, to report this rule to the House so we may proceed with this legislation, some other member of the Committee on Rules may do so without a resolution.

I may say to the Chair that it is my definite understanding that unless the chairman of the Committee on Rules does report it, a motion will be in order under the privilege of the House to require the resolution to be brought to the floor of the House, but what I am trying to find out is whether or not some other member of the committee would have the right to report this rule and let us proceed with the legislation.

THE SPEAKER: The rule provides that the Committee on Rules shall present to the House reports concerning joint resolutions and other business within 3 legislative days of the time when ordered reported by the committee.⁽⁷⁾

The Chair does not feel it necessary at this time to answer the parliamentary inquiry further because the Chair believes that action will provide the answer.

§ 55. Reports From the Committee

A report from the Committee on Rules on rules, joint rules, or order of business is privileged.

7. See Rule XI clause 4(c), *House Rules and Manual* § 730 (1979).

It may report at any time on "rules, joint rules, and order of business."⁽⁸⁾ It is always in order to call up the committee's reports providing that the matter reported is within its jurisdiction⁽⁹⁾ and providing that if a measure is reported on the same day it is called up in the House, at least two-thirds of the Members present vote affirmatively to consider the report;⁽¹⁰⁾ this latter proviso is inapplicable during the last three days of a session.⁽¹¹⁾ Pending the consideration of the report, the Speaker may entertain one motion to adjourn, but after the result is announced, no dilatory motion is permissible. The rule expressly prohibits the committee from reporting any special rule which "shall operate to prevent the motion to recommit" as provided elsewhere [Rule XVI clause 4] in the rules, although it should be noted that a motion to recommit a special rule from the committee, itself, is not in order. The committee is also expressly prohibited from reporting a special rule which sets aside business under the Calendar Wednesday provi-

8. Rule XI clause 4(a), *House Rules and Manual* § 726 (1979).

9. The inclusion of nonprivileged matter vitiates the privilege.

10. Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979).

11. See § 56.2, *infra*.