the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.

THE SPEAKER: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

MR. MAVERICK: I did not hear the Chair.

THE SPEAKER: This is a special rule which is under consideration and is in order.

MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MCFARLANE: Is it in order for the Chairman of the Rules Committee to bring in a rule on a bill which we defeated this afternoon and then move the previous question before the opponents have an opportunity to be heard?

THE SPEAKER: It is, under the rules of the House.

MR. O'CONNOR: Mr. Speaker, all the opponents were heard today.

THE SPEAKER: It is a question for the House itself to determine.

C. SPECIAL RULES OR ORDERS

§ 16. Authority of Committee on Rules; Seeking Special Orders

Under Rule XI clause 17,[10] the Committee on Rules has jurisdiction over the rules, joint rules, and order of business of the House.[11] And under Rule XI

10. *House Rules and Manual* § 715 (1973) [Rule X clause 1(q), *House Rules and Manual* § 686(a) (1979)].

11. The jurisdiction defined in the rule was made effective Jan. 2, 1947, as part of the Legislative Reorganization Act of 1946. The jurisdiction was further defined in the 90th Congress when jurisdiction over rules relating to official conduct and financial disclosure was transferred to the Committee on Standards of Official Conduct (H. Res. 1099, 90th Cong.).

Prior to the 1946 act, Rule XI clause 35 provided that "all proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules." And Rule XI clause 45 conferred privilege on reports from the Committee on Rules.

For a short history of the Committee on Rules, including its procedures, composition and authority in relation to the current and past rules of the House, see 115 CONG. REC. 9498–501, 91st Cong. 1st Sess., Apr. 17. 1969 (insertion in the Record by Richard Bolling [Mo.], a member of the Committee on Rules, of a short history of that committee prepared

clause 23, it is always in order to call up for consideration a report from tile Committee on Rules on such matters,[12] which report may be adopted in the House by a majority vote. If the report is called up the same day reported, it may not be considered unless so determined by a two-thirds vote.[13]

The Committee on Rules may waive any rule which impedes the consideration of a bill or amendment thereto, and points of order do not lie against the consideration of such rules, as it is for the House to determine, by a majority vote on the adoption of the resolution, whether certain rules should be waived.[14] Thus an objection that a report from the Committee on Rules changes the rules of the House and thus should require a two-thirds vote rather than a majority vote has no merit.[15]

A major portion of the legislation considered in the House is considered pursuant to resolutions, also called "rules" and "special orders," reported by the Committee on Rules. As most bills reported by the other committees of the House are not privileged under the rules for immediate consideration, the special order from the Committee on Rules gives privilege to the bill sought to be considered in the House,[16]

Under Rule XIII clause 1,[17] most bills require consideration in the Committee of the Whole; therefore the special order usually provides that it shall be in order, upon adoption of the resolution to move that the House resolve itself into the Committee of the Whole for the consideration of the designated bill.[18] But if the resolu-

by Walter Kravitz of the Legislative Reference Service of the Library of Congress).

See also Ch. 17, supra, for further information on the committee.

12. *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

13. For the privilege of reports from the Committee on Rules, see § 17, infra. For consideration of and voting on such reports, see § 18, infra.

14. For the authority of the Committee on Rules as to waiving rules and points of order, see §§ 16.9–16.14, infra. Rules may also be waived by unanimous-consent requests and motions to suspend the rules; for discussion of motions to suspend the rules and their effect, see § 9, supra.

The power of the House to change or to waive its rules is derived from U.S. Const. art. I, § 5, clause 2, which authorizes each House of Congress to determine the rules of its proceedings.

15. See § 16.9, infra.

16. For a statement by Speaker Nicholas Longworth (Ohio) as to the privilege conferred on a bill by the adoption of a special order, see § 16.6, infra.

17. *House Rules and Manual* § 742 (1979).

18. Special orders may also provide for the consideration of bills or resolu-

tion is for the consideration of a bill not reported from committee, the resolution may provide that the House shall immediately resolve itself into the Committee of the Whole for the consideration of the bill (since the committee of jurisdiction has in effect been discharged from the further consideration of the bill). The resolution usually provides for a certain period of general debate (one hour or more), equally divided and controlled by the chairman and ranking minority member of the reporting committee, and for reading the bill for amendment under the five-minute rule. A "closed" rule restricts or prohibits the offering of amendments; an "open" rule allows the offering of germane amendments from the floor. Whether a rule is characterized as a "modified open" or a "modified closed" rule is a matter of degree, the former describing rules permitting any germane amendment with designated exceptions, and the latter prohibiting the offering of amendments, with designated exceptions.

The resolution will generally provide that at the conclusion of the reading of the bill for amendment, the bill shall be reported back to the House, where the previous question shall be considered as ordered on the bill to passage without intervening motion except the motion to recommit. The resolution may provide that a separate vote may be demanded on any amendments adopted in the Committee of the Whole to a committee amendment in the nature of a substitute, as otherwise only amendments in their perfected form are reported from Committee of the Whole and voted on in the House. Frequently, the resolution provides that the committee amendment in the nature of a substitute printed in the reported version of the bill may be read as an original bill for the purpose of amendment.

Due to the numerous possible variations in the form of special orders, only a representative sample is included in this and the following sections.

The grant of jurisdiction to the Committee on Rules is necessarily broad, in order that the rules may be temporarily waived in order to consider and pass particular pieces of legislation. The only restrictions on the power of the Committee on Rules in reporting rules, under Rule XI clause 23,[19]

tions in the House, or in the House as in the Committee of the Whole (see for example §§ 20.16 and 20.17, infra).

19. *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

are as follows: "The Committee on Rules shall not report any rule or order which shall provide that business under clause 7 of Rule XXIV [the Calendar Wednesday rule] shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI.[20] The committee's authority extends to reporting resolutions making in order the consideration of bills not yet reported from standing or conference committees,[1] and to reporting resolutions providing certain procedures or waiving certain points of order during the further consideration of bills already under consideration in the House or Committee of the Whole.[2]

Rules or special orders are requested from the Committee on Rules, usually, by the committee which has reported, or which has jurisdiction over, the measure to be considered, and the Committee on Rules may hold hearings and meetings on requested orders regardless of whether the House is in session and reading for amendment under the five-minute rule.[3]

Power and Function of Rules Committee Generally

§ 16.1 During consideration of a resolution allowing legislation to be included in an appropriation bill, the functions of the Committee on Rules were discussed.

On Jan. 23, 1932, during consideration of a special order from

20. Calendar Wednesday is a little-used procedure, and is customarily dispensed with by unanimous consent rather than by the two-thirds vote on a motion (see § 4, supra).

Although the Committee on Rules may not prevent a motion to recommit (see § 16.19, infra), recommittal is not in order when a bill is being considered under a motion to suspend the rules.

Thus the Committee on Rules may report a resolution making in order motions to suspend the rules on days not specified in the suspension rule, which in effect precludes motions to recommit on bills passed under that procedure (see 8 Cannon's Precedents § 2267).

1. See §§ 16.15–16.18, infra. A special order from the committee may even provide for the consideration of a bill which has not yet been introduced. 8 Cannon's Precedents § 3388.

2. See §§ 16.26, 16.27, infra; 8 Cannon's Precedents § 2258.

3. See §§ 16.20–16.22, infra, for requests for special orders from the Committee on Rules. See §§ 16.23–16.25, infra, for meetings and hearings by the committee, including the provisions of the House rules and the rules of the committee itself in the 93d Congress.

the Committee on Rules making in order on a general appropriation bill certain legislative language, Mr. John J. O'Connor, of New York, of the Committee on Rules discussed that committee's functions:

MR. O'CONNOR: Mr. Speaker, this resolution was introduced before the Committee on Rules by the gentleman from Tennessee [Mr. Byrns], chairman of the Committee on Appropriations at the request of his committee. We were informed that every member of the Appropriations—Republican and Democratic members—favored it except as to one gentleman objecting in one small particular. As for the necessity for the resolution it was stated that there was a probability that a point of order might be made against these provisions of sections 2 and 3 now carried in this agricultural appropriation bill. It was therefore thought best that the matter be laid before the House so that the membership of the House could determine whether the provisions of these two sections now in the bill should remain in the bill.

It has always been my understanding that the Rules Committee is not a committee that passes on the merits of measures. As has often been said before, that committee merely determines whether or not a measure is in accord with the program of the House and in answer to a reasonable demand from the membership of the House, that they have an opportunity to pass their judgment upon it. It is in that customary spirit that the Rules Committee approached this resolution without going into its merits to any extent. The entire membership of the Appropriations Committee without regard to politics wanted to give the House an opportunity to pass upon it. In such a situation I believe it to be the duty of the Rules Committee to lay the matter before the House for such action as it shall see fit to take. That we have done in this case.[4]

§ 16.2 The Chairman of the Committee on Rules discussed that committee's functions when calling up the first major special order of the 73d Congress.

On Mar. 21, 1933, when William B. Bankhead, of Alabama, the Chairman of the Committee on Rules, called up by direction of that committee a special order providing for the consideration of a bill, he delivered some remarks on the functions of the committee:

MR. BANKHEAD: Mr. Speaker, for the benefit of a number of the new Members of the House, it will be noticed that this is the first time since the convening of the special session of Congress that the consideration of a bill of major importance has been brought forward under the provisions of the authority and jurisdiction of the Committee on Rules.

So this resolution provides for the consideration of this measure as it is presented. No doubt the distinguished minority leader, as already indicated by some interviews in the newspapers,

4. 75 CONG. REC. 2568, 72d Cong. 1st Sess.

will undertake to say that this is a very drastic rule. I admit it. The minority will also say that it is a gag rule. In the common acceptation of this term I admit it; but I want to say that many years ago when, as a somewhat green Member of the House of Representatives, I was assigned to service on the Committee on Rules, under Republican administrations for many years, all that I absorbed or learned about so-called gag rules I learned while sitting at the feet of the distinguished gentleman from New York, Mr. Snell, and his associates.

I may say to the new Members of this Congress, also, and we might as well be candid and frank about the function and jurisdiction of the Committee on Rules, the gentleman from New York and his associates well know what these functions are. The Committee on Rules is the political and policy vehicle of the House of Representatives to effectuate the party program and the party policy. This is what it is, nothing more and nothing less, and although, individually, I express the opinion here and now that we regret the necessity sometimes of bringing resolutions upon the floor of this House that will prevent the ordinary freedom of action and freedom of offering amendments, there come times when, under our system of party government, the Committee on Rules, acting as I have suggested, is requested, as we have been requested in this instance, by the leadership of the House, to bring in the rule that we now have under consideration, for reasons which they thought were wise and appropriate under the circumstances.

So if you adopt this rule for the consideration of this bill, it provides for four hours of general debate which will give all gentlemen who desire to do so a fairly reasonable opportunity to express their views upon it, and at the end of that time we are going to have a vote on this bill, if the rule is adopted, and we are going to vote the bill as it is up or down.[5]

§ 16.3 The failure of a motion to suspend the rules and pass a bill does not prejudice the status of a bill and the Committee on Rules may subsequently bring in a special rule providing for its consideration and requiring only a majority vote for its passage.

On June 5, 1933,[6] Mr. John E. Rankin, of Mississippi, moved to suspend the rules and pass a bill relating to the appointment of the Governor of Hawaii; the motion failed to obtain two-thirds (yeas 222, nays 114). Speaker Henry T. Rainey, of Illinois, responded to a parliamentary inquiry:

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BLANTON: If that motion [to lay on the table the motion to reconsider] is carried, then the Rules Committee

5. 77 CONG. REC. 665, 666, 73d Cong. 1st Sess.

6. 77 CONG. REC. 5015, 5022, 5023, 73d Cong. 1st Sess.

nevertheless will be able to bring in a rule tomorrow to take that bill up when it can be passed by a majority vote?

THE SPEAKER: The Rules Committee can bring in a bill suspending the rules.

Parliamentarian's Note: The motion to reconsider is no longer utilized following a negative vote on a motion to suspend the rules (see § 15.7, supra).

On June 6, the Committee on Rules reported a resolution providing for the consideration of the bill, and the resolution was adopted by the House on June 7.

On Aug. 24, 1935,[7] there was called up by direction of the Committee on Rules a resolution making in order the consideration of a bill which had on that day failed of passage on suspension of the rules. Speaker Joseph W. Byrns, of Tennessee, answered parliamentary inquiries on the power of the Committee on Rules:

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAVERICK: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.

THE SPEAKER: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

MR. MAVERICK: I did not hear the Chair.

THE SPEAKER: This is a special rule which is under consideration and is in order.

MR. [WILLIAM D.] MCFARLANE [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MCFARLANE: Is it in order for the Chairman of the Rules Committee to bring in a rule on a bill which we defeated this afternoon and then move the previous question before the opponents have an opportunity to be heard?

THE SPEAKER: It is, under the rules of the House.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, all the opponents were heard today.

THE SPEAKER: It is a question for the House itself to determine.

Parliamentarian's Note: Jefferson's Manual states [at § 515, *House Rules and Manual* (1979)] that it is not in order to consider a bill the same as one already rejected in the same session; this prohibition may be waived by a resolution reported from the Rules

7. 79 CONG. REC. 14652, 74th Cong. 1st Sess.

Committee providing for consideration.

§ 16.4 The question whether the House will consider a resolution making in order the consideration of a bill which seeks to amend a nonexisting law is a matter for the House and not the Chair to decide.

On May 13, 1953,[8] Mr. Leo E. Allen, of Illinois, called up, by direction of the Committee on Rules, a resolution providing for the consideration of a bill to amend the "Submerged Lands Act," reported from the Committee on the Judiciary. Speaker Joseph W. Martin, Jr., of Massachusetts, overruled a point of order against the consideration of the resolution:

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Speaker, a point of order.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. FEIGHAN: Mr. Speaker, I make a point of order against the consideration of this rule because it attempts to make in order the consideration of the bill H.R. 5134, which is a bill to amend a nonexisting act.
>
> THE SPEAKER: The Chair will state that the point of order that has been raised by the gentleman from Ohio is not one within the jurisdiction of the Chair, but is a question for the House to decide, whether it wants to consider such legislation.
>
> The Chair overrules the point of order.

§ 16.5 Objection having been made to a unanimous-consent request to take from the Speaker's table a bill with Senate amendments thereto, disagree to the amendments and agree to a conference, the Committee on Rules met immediately and reported out a resolution to accomplish such action; it was agreed by a two-thirds vote to consider the resolution and the resolution was adopted that day.

On Aug. 9, 1949, Mr. J. Vaughan Gary, of Virginia, asked unanimous consent to take from the Speaker's table the bill H.R. 4830 (foreign aid appropriations) with Senate amendments thereto, disagree to the amendments, and agree to the conference asked by the Senate. Mr. Vito Marcantonio, of New York, having objected to the request, the Committee on Rules held a meeting, reported out a resolution making in order the action requested by Mr. Gary, and the House agreed to consider the resolution by a two-thirds vote and adopted the resolution.[9]

8. 99 CONG. REC. 4877, 83d Cong. 1st Sess.

9. 95 CONG. REC. 11139–46, 81st Cong. 1st Sess.

Parliamentarian's Note: This function of the Committee on Rules has been exercised less frequently since adoption (on Jan. 4, 1965, H. Res. 8, 89th Cong. 1st Sess.) of that portion of clause 1 Rule XX permitting a motion to go to conference when authorized by the committee with legislative jurisdiction.

§ 16.6 The effect of a special rule providing for the consideration of a bill is to give to the bill the privileged status for consideration that a revenue or appropriation bill has under Rule XVI clause 9.

On June 28, 1930,[10] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

> MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, if pressed, I will make the point of order that the resolution from the Committee on Rules is not in order because it relates to a bill which is not now upon the calendar of the House under the conditions and in the status which existed when this resolution was adopted by the Committee on Rules.
>
> The calendar shows that H.R. 12549 was reported to the House on June 24, 1930, Report No. 2016, and was placed on the House Calendar. The resolution or rule now called up for consideration by the Committee on Rules was presented to the House June 20, 1930, and therefore before the bill on the calendar had been reported to the House.
>
> Of course, we all know that this bill is now upon the calendar for the third time. A previous rule was adopted for its consideration on June 12, 1930, and at that time a point of order was made, when it was sought to take up the bill in Committee of the Whole House on the state of the Union, on the ground that the report did not comply with the Ramseyer rule. Subsequently, after the present rule was presented in the House on June 20, 1930, I think it is well known that another irregularity in the adoption of the report became known, so on June 23, if my recollection is correct, the chairman of the Committee on Patents obtained unanimous consent to withdraw the bill and the report, and the bill was thereupon again reported the following day and placed upon the House Calendar.
>
> The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House, to bring in a

10. 72 CONG. REC. 11994, 11995. 71st Cong. 2d Sess.

rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

MR. [JOHN Q.] TILSON [of Connecticut]: Mr. Speaker, will the gentleman yield?

MR. CHINDBLOM: Yes.

MR. TILSON: Does not the effect of this resolution date from the time it is adopted by the House, and not from the time it was reported by the Committee on Rules? And if we to-day in the House adopt the rule, is not the effect of the rule to be applied as of to-day, and not three or four days ago, when the rule was reported?

THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

Rules Committee Jurisdiction Over Order of Business.

§ 16.7 The Speaker stated in overruling a point of order against a special order from the Committee on Rules that the committee could report a resolution to change the rules of the House on any

matter except that which is prohibited by the Constitution.

On Sept. 3, 1940,[11] there was pending before the House a special order from the Committee on Rules providing for the consideration of, and providing for two days of general debate on, a bill. Speaker pro tempore Jere Cooper, of Tennessee, overruled a point of order against the resolution:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

Parliamentarian's Note: Rule XI clause 17 gives jurisdiction to the Committee on Rules over the rules, joint rules, and order of business of the House. But under Rule XI clause 23, the Committee on Rules may not report any order providing that business under Rule XXIV clause 7 (Calendar Wednesday) shall be dispensed with by less than a two-thirds vote, or any order operating to prevent the motion to recommit being made pursuant to Rule XVI clause 4.[12]

§ 16.8 To a bill amending the rules of the House [Legislative Reorganization Act of 1970] being considered pursuant to a resolution prohibiting amendments to the bill "which would have the effect of changing the jurisdiction

11. 86 CONG. REC. 11359, 11360, 76th Cong. 3d Sess.

12. Rule XI clause 17, *House Rules and Manual* § 715 (1973) [Rule X clause 1(q), *House Rules and Manual* § 686(a) (1979)]. Rule XI clause 23, *House Rules and Manual* § 729 (1973) [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)]. Rule XXIV clause 7, *House Rules and Manual* § 897 (1979). Rule XVI clause 4, *House Rules and Manual* § 782 (1979).

of any committee of the House listed in Rule XI," an amendment to clause 23 [clause 4(b), House Rules and Manual (1979)] of Rule XI proscribing the power of the Committee on Rules to report special orders which would limit the reading of a measure for amendment or the offering of amendments thereto, was ruled out of order as an attempt to change the jurisdiction of the Committee on Rules.

On July 29, 1970, the Legislative Reorganization Act of 1970 (H.R. 17654) was being read for amendment in the Committee of the Whole pursuant to a special order (H. Res. 1093) prohibiting the offering of amendments which would change the jurisdiction of House committees. Chairman William H. Natcher, of Kentucky, sustained a point of order against an amendment (and discussed the jurisdiction of the Committee on Rules): (13)

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jacobs: On page 39, after line 4, add the following new section:

"Sec. 123(a) Clause 23 of Rule XI of the Rules of the *House of Representatives* is amended by adding at the end thereof the following: 'In addition, the Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.'.". . .

MR. [H. ALLEN] SMITH of California: Mr. Chairman, I raise the point of order that this very definitely limits the jurisdiction of the Rules Committee and would prohibit us from issuing a closed rule and other types of rules. The rule under which this measure was considered strictly prohibits the changing of any jurisdiction of any committee.

THE CHAIRMAN: Does the gentleman from Indiana desire to be heard on the point of order?

MR. JACOBS: Mr. Chairman, as I understand the term "jurisdiction," it means the territory or subject matter over which legal power is exercisable, not the rules by which such power proceeds.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to point out to the gentleman from Indiana that under House Resolution 1093 we have the following language, beginning in line 11:

No amendments to the bill shall be in order which would have the effect of changing the jurisdiction of any committee of the House listed in Rule XI.

Therefore, the Chair sustains the point of order.

MR. JACOBS: Mr. Chairman, a parliamentary inquiry.

13. 116 CONG. REC. 26414, 91st Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. JACOBS: Mr. Chairman, my parliamentary inquiry is for some enlightenment about the word "jurisdiction" itself, the definition of the word "jurisdiction"? Does it refer to subject matter and territory, or relate to the manner in which the Committee on Rules can make a report within its jurisdiction?

THE CHAIRMAN: The Chair would like to point out to the gentleman from Indiana that under the amendment offered by the gentleman from Indiana there is the following language:

> The Committee on Rules shall not report any rule or order for the consideration of any legislative measure which limits, restricts, or eliminates the actual reading of that measure for amendment or the offering of any amendment to that measure.

Therefore the amendment offered by the gentleman from Indiana restricts the jurisdictional powers of the Committee on Rules. For that reason the point of order must be sustained.

Waiver of Rules by Special Orders

§ 16.9 Rules of the House may be changed or temporarily suspended by a majority vote by the adoption of a resolution from the Committee on Rules providing for such a change, such as waiving points of order in the consideration of a bill.

On June 14, 1930,[14] Mr. Bertrand H. Snell, of New York, called up by direction of the Committee on Rules House Resolution 253, providing for the consideration of two conference reports on the same bill together as one, for the purposes of debate and voting. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution, where the point of order was based on the fact that the resolution waived all points of order in the consideration of the reports:

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I desire to make a point of order against the resolution.

THE SPEAKER: The gentleman will state it.

MR. O'CONNOR of New York: The resolution provides that "in the consideration of the reports all points of order shall be waived." Points of order are based on the rules of the House, either the few published rules or the precedents and rulings by presiding officers. This resolution proposes to do what should be done by a motion to suspend the rules. The difficulty is, however, that to suspend the rules a two-thirds vote is required. This is not a resolution brought in for the purpose of obtaining by a majority vote the direct repeal of all of the rules of the House but is intended to serve a certain specific purpose in reference to only one measure of the House. For instance, the rule relating to Calendar Wednesday requires that to set that aside there must be a two-thirds vote. The rule prohibiting legislation on an appropriation bill could not be set aside, in my opinion, by this method,

14. 72 CONG. REC. 10694, 71st Cong. 2d Sess.

and that applies to other rules of the House. Points of order being rules of the House, in my opinion this resolution violates the rules of the House, in that it sets aside all rules relating to points of order.

MR. SNELL: Mr. Speaker, I should be very glad to argue the point of order with the gentleman if I knew what his point of order is, but from anything my friend has said so far, I am unable to identify it.

THE SPEAKER: The Chair will state it is not necessary. This is a very ordinary proceeding. It has been done hundreds of times to the knowledge of the Chair. The Chair overrules the point of order.

On Oct. 27, 1971,[15] the House had under consideration House Resolution 661, reported from the Committee on Rules and providing for consideration of H.R. 7248, to amend and extend the Higher Education Act and for other purposes. The resolution waived points of order against the committee amendment in the nature of a substitute for failure to comply with Rule XVI clause 7 (germaneness) and Rule XXI clause 4 [clause 5 in the 96th Congress] (appropriations in a legislative bill) and also provided that points of order could be raised against portions of the bill whose subject matter was properly within another committee's jurisdiction rather than within the jurisdiction of the Committee on Education and Labor, which had reported the bill. (Under normal procedure, a point of order based on committee jurisdiction cannot be raised after a committee to which has been referred a bill has reported it, the proper remedy being a motion to correct reference.)

In response to a parliamentary inquiry, Speaker Carl Albert, of Oklahoma, indicated that a majority vote, and not a two-thirds vote, would be required to adopt the resolution:

MR. [SPARK M.] MATSUNAGA [of Hawaii]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. MATSUNAGA: Mr. Speaker, at this point is it proper for the Speaker to determine whether a two-thirds vote would be required for the passage of this resolution, House Resolution 661, or merely a majority?

THE SPEAKER: The resolution from the Committee on Rules makes in order the consideration of the bill (H.R. 7248) and a majority vote is required for that purpose.

MR. MATSUNAGA: Even with the reference to the last section, Mr. Speaker, relating to the raising of a point of order on a bill which is properly reported out by a committee to which the bill was referred, which would in effect contravene an existing rule of the House?

15. 117 CONG. REC. 37768, 92d Cong. 1st Sess.

THE SPEAKER: The Committee on Rules proposes to make in order in its resolution (H. Res. 661) the opportunity to raise points of order against the bill on committee jurisdictional grounds, but as is the case with any resolution reported by the Committee on Rules making a bill a special order of business, only a majority vote is required.

MR. MATSUNAGA: I thank the Speaker.

§ 16.10 The Speaker stated in overruling a point of order against a special order from the Committee on Rules that the committee could report a resolution to change the rules of the House on any matter except that which is prohibited by the Constitution.

On Sept. 3, 1940,[16] there was pending before the House a special order from the Committee on Rules providing for the consideration of, and providing for two days of general debate on, a bill. Speaker pro tempore Jere Cooper, of Tennessee, overruled a point of order against the resolution:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order that the resolution is contrary to the unwritten law of the House. It has been the universal practice, custom, and tradition of the House to have debate fixed by hours. This resolution fixes general debate by days. This is entirely meaningless, because a day may be terminated by a motion that the Committee rise or by adjournment, and for that reason I press my point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. The gentleman from New York makes the point of order that the resolution is contrary to the unwritten rules of the House in that general debate is fixed by days instead of hours.

In the first place, the point of order comes too late.

In the second place, this is a resolution reported by the Committee on Rules to change the rules of the House, which is permissible on anything except that which is prohibited by the Constitution.

The point of order is overruled.

§ 16.11 It is for the House, and not the Chair, to decide upon the efficacy of adopting a special rule which has the effect of setting aside the standing rules of the House insofar as they impede the consideration of a particular bill; it is not within the province of the Chair to rule out, on a point of order, a resolution reported by the Committee on Rules which is properly before the House and which provides for a

16. 86 CONG. REC. 11359, 11360, 76th Cong. 3d Sess.

special order of business (abrogating the provisions of Rule XX clause 1).

On Nov. 28, 1967,[17] the previous question had been moved on House Resolution 985, called up by direction of the Committee on Rules, providing for concurring in a Senate amendment to a House bill; the resolution was necessary in order to waive the requirement of Rule XX clause 1 [*House Rules and Manual* § 827 (1979)], that Senate amendments be considered in Committee of the Whole if they would be subject to that procedure where originating in the House. Speaker John W. McCormack, of Massachusetts, overruled a point of order against the resolution:

MR. [PAUL C.] JONES of Missouri: Mr. Speaker, I make a point of order against a vote on this resolution, and I make the point of order based entirely on rule XX, which says that any amendment of the Senate to any House bill shall be subject to a point of order that it shall first be considered in the Committee of the Whole House on the State of the Union. If it originated in the House it would be subject to that point of order. I believe there is no question about it being subject to a point of order should it originate here in this House. Until that issue is debated in the Committee of the Whole House on the State of the Union I believe that we are violating rule XX of the House rules.

THE SPEAKER: The Chair will state that the Chair has previously [see footnote 18, infra] 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.

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

The reason I am making this is that I want to get some record on this for this reason: The Chair has said that the Committee on Rules may make a resolution which has not been adopted by the House which summarily amends the Rules of the House which the Members of the House are supposed to rely upon. This rule has not been adopted as yet.

17. 113 CONG. REC. 34038, 34039, 90th Cong. 1st Sess.

THE SPEAKER: The Chair will state that the Committee on Rules has reported the rule under consideration—

MR. JONES of Missouri: But it has never been voted upon.

THE SPEAKER: The Chair will state that we are about to approach that matter now.

MR. JONES of Missouri: And I am challenging that, and the point of order is made that we cannot vote on that because it says in rule XX that this first shall be considered in the Committee of the Whole House on the State of the Union.

THE SPEAKER: The Chair cannot be any more specific or clear in responding to the point of order or in answering the gentleman's parliamentary inquiry.

The matter is properly before the House and it is a matter on which the House may express its will.

The Speaker had previously, when the resolution was called up, overruled the same point of order:[18]

THE SPEAKER: The Chair is prepared to rule. The Chair has given serious consideration to the point of order raised by the gentleman from Missouri. The Committee on Rules has reported out a special rule. It is within the authority of the rules, and a reporting out by the Rules Committee is consistent with the rules of the House. Therefore, the Chair overrules the point of order.

§ 16.12 The Committee on Rules may report a resolution waiving points of order against provisions in a legislative bill containing appropriations in violation of Rule XXI clause 4 (clause 5 in the 96th Congress) and it is not in order to make such points of order when the resolution and not the bill is before the House.

On Aug. 1, 1939,[19] there was pending before the House a resolution from the Committee on Rules providing for the consideration of a bill reported from the Committee on Banking and Currency and waiving points of order against the bill (certain sections of the bill contained appropriations in a legislative bill). Speaker William B. Bankhead, of Alabama, overruled a point of order against the resolution where the point of order was directed against those sections of the bill:

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make a point of order against certain sections of the bill referred to in the rule.

THE SPEAKER: Does the gentleman desire to make a point of order against the resolution?

MR. TABER: Against certain sections of the bill referred to in the resolution.

THE SPEAKER: The Chair will not entertain that point of order, because the matter now pending before the House

18. *Id.* at pp. 34032, 34033.

19. 84 CONG. REC. 10710, 10711, 76th Cong. 1st Sess.

is whether or not it should agree to the resolution making a certain bill in order. . . .

The Chair has no disposition to limit the argument of the gentleman from New York [Mr. Taber], but the Chair is very clearly of the opinion that the points of order the gentleman seeks to raise against certain provisions of the bill are not in order at this time. The House is now considering a resolution providing for the consideration of the bill against which the gentleman desires to raise certain points of order. The resolution which is now being considered itself provides, if adopted, that all points of order against the bill are waived. This is no innovation or new matter. Time after time the Committee on Rules has brought to the House resolutions waiving points of order against bills. Under the general rules of the House, the Chair will say to the gentleman, aside from the considerations which the Chair has mentioned, points of order cannot be raised against the bill until the section is reached in the bill which attempts to make appropriations and against which the point of order is desired to be made.

For those reasons the Chair does not feel like recognizing the gentleman at this juncture to state points of order against the proposed bill.

MR. TABER: May I call the attention of the Chair to the last sentence in clause 4 of rule XXI:

> A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

There have been decisions holding that the point of order would not lie to the bill or to its consideration, but I have cited to the Chair cases where such points of order have been made and have been sustained when the bill itself was not under consideration.

THE SPEAKER: The Chair has undertaken to make it plain that the Chair's decision is based very largely upon the proposition that the resolution now being considered specifically waives all points of order that may be made against the bill, and includes those matters evidently against which the gentleman has in mind in making points of order.

§ 16.13 The House rejected a resolution reported from the Committee on Rules, providing for the consideration of a bill improperly reported (failure of a quorum to order the bill reported).

On July 23, 1973,[20] the House rejected House Resolution 495, called up by Mr. Claude D. Pepper, of Florida, by direction of the Committee on Rules and providing for the consideration of H.R. 8929 (to amend title 39, on the reduced mailing rate for certain matter). The resolution specifically waived Rule XI clause 27(e) (clause 2(1)(2)(A) in the 96th Congress) in relation to the bill; that clause provided that a quorum must actually be present when a bill is ordered reported by

20. 119 CONG. REC. 25482, 93d Cong. 1st Sess.

a committee, a requirement that was not followed in the reporting of the bill in question.

§ 16.14 Despite certain defects in the consideration or reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules.

On May 2, 1939,[1] Mr. Samuel Dickstein, of New York, made a point of order against an order of business resolution reported by the Committee on Rules and called up for consideration, on the ground that the bill made in order by the resolution had been referred to, considered by, and reported from a committee (the Committee on the Judiciary) which had no jurisdiction over the subject matter involved. After extended argument on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that after a public bill has been reported it is not in order to raise a question of committee jurisdiction. The Speaker further commented that even if there were defects in the committee consideration and report, the rule from the Committee on Rules would have the effect of remedying such defects:

> MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.
>
> THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.[2]

On July 23, 1942,[3] Mr. John E. Rankin, of Mississippi, made a

1. 84 CONG. REC. 5052–55, 76th Cong. 1st Sess.

2. For the Feb. 28, 1933, decision referred to by the Chair, see 76 CONG. REC. 5247–49, 72d Cong. 2d Sess.

3. 88 CONG. REC. 6541, 6542, 77th Cong. 2d Sess.

point of order against a bill "not legally before the House," on the grounds that the committee of jurisdiction, the Committee on Election of President, Vice President, and Representatives in Congress, had never reported the bill with a quorum present. Speaker Sam Rayburn, of Texas, responded as follows:

> THE SPEAKER: The Chair is ready to rule.
>
> At this time there is no bill pending before the House. A resolution reported by the Committee on Rules will be presented to the House, which, if adopted, will make in order the consideration of H.R. 7416. If the Committee on Election of President, Vice President, and Representatives in Congress had never taken any action upon this bill and the Committee on Rules had decided to report a rule making it in order and putting it up to the House whether or not the House would consider the bill, they would have been within their rights. Therefore, the Chair cannot do otherwise than hold that there is nothing at the time before the House. It is anticipated that a special rule will be presented, making in order the consideration of H.R. 7416. If the House adopts the rule then the House has decided that it desires to consider the bill at this time, and the Chair therefore overrules the point of order of the gentleman from Mississippi [Mr. Rankin] and recognizes the gentleman from Illinois [Mr. Sabath].

Parliamentarian's Note: It is the present practice to waive points of order against the consideration of a bill by reason of specific defects in committee reports. For example, the failure of a committee to comply with the "Ramseyer" rule (Rule XIII clause 3, *House Rules and Manual* § 745 [1979]) may be raised after the House agrees to a resolution making the consideration of the bill in order and before the House resolves itself into the Committee of the Whole to consider the bill unless the rule has waived that point of order.

Orders for Considering Unreported Measures

§ 16.15 A point of order that the Committee on Rules has reported a special rule providing for the consideration of a bill prior to the time the bill to be considered was reported and referred to the Union Calendar does not lie.

On June 28, 1930,[4] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules a resolution making in order the consideration of a bill. Mr. Carl R. Chindblom, of Illinois, made a point of order against the report of the Committee on Rules, on the ground that the committee had reported the resolution to the House on June 20, 1930, whereas

4. 72 CONG. REC. 11994, ll99a, 71st Cong. 2d Sess.

the bill was first reported to the House on a later date, on June 24, 1930 (and was recommitted twice to the committee of jurisdiction in order to correct errors in the report). Mr. Chindblom asserted that the effect of the resolution was to make it in order to resolve into the Committee of the Whole for the consideration of the bill, but not to waive the "rule which requires bills to be upon the calendar of the House before they can have consideration."

Speaker Nicholas Longworth, of Ohio, overruled the point of order and stated in part as follows:

> . . . The Chair thinks that all that special rules of this sort do is put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:
>
> > At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.
>
> Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 16.16 The Committee on Rules may consider any matter that is properly before them, including providing for the consideration of a bill on which a majority report has not yet been made.

On July 30, 1959,[5] Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedures of the Committee on Rules:

> MR. [CLARE E.] HOFFMAN of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?
>
> THE SPEAKER: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.
>
> MR. HOFFMAN of Michigan: My question is, until a majority of the committee sign the report, can the Committee on Rules consider the bill?
>
> THE SPEAKER: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.
>
> MR. HOFFMAN of Michigan: Still, there is that word "properly." I was asking a simple question.

---

5. 105 CONG. REC. 14743, 86th Cong. 1st Sess.

THE SPEAKER: The Chair has answered the question.

§ 16.17 The Committee on Rules may report resolutions providing for the immediate consideration of bills not yet reported by the committees to which referred.

On Aug. 19, 1964,[6] the House adopted House Resolution 845, reported by the Committee on Rules, providing for the immediate consideration of H.R. 11926 (limiting the jurisdiction of federal courts in apportionment cases) which was pending before, and not yet reported by, the Committee on the Judiciary.

Following the adoption of the resolution, Speaker John W. McCormack, of Massachusetts, held that a point of order against consideration of the bill did not lie on the ground that the Committee on the Judiciary had not compiled with the "Ramseyer" rule (requiring comparative prints in committee report), since that rule only applies where a committee has reported a bill, and not where it has been discharged from consideration of the bill.

Similarly on Mar. 29, 1961, the House agreed to a special order from the Committee on Rules which provided for the immediate consideration of S. 153; the Senate bill had been referred to the Committee on Government Operations and had not yet been reported.[7]

§ 16.18 The Committee on Rules may report to the House a resolution making in order the consideration of a conference report when filed, although the conference report was not prepared at the time of the action taken by the Committee on Rules.

On many occasions, the Committee on Rules has reported resolutions making in order the consideration of conference reports on the same day reported, notwithstanding the prohibition in clause 2, (a) and (b), Rule XXVIII, against consideration of conference reports, and amendments reported from conference in disagreement, until the third day after the report is filed in the House and printed in the *Congressional Record*. For example, on July 25, 1956, the House adopted a resolution from the Committee on Rules providing as follows:

> *Resolved*, That during the remainder of this week it shall be in order to consider conference reports the same day reported notwithstanding the provisions of clause 2, rule

6. 110 CONG. REC. 20212, 20213, 88th Cong. 2d Sess.

7. 107 CONG. REC. 5267, 87th Cong. 1st Sess.

XXVIII; that it shall also be in order during the remainder of this week for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII.[8]

On June 30, 1951, the House adopted a resolution from the Committee on Rules which not only provided for a conference on an appropriation bill but also provided for the consideration of the conference report when reported:

MR. [ADOLPH J.] SABATH [of New York]: Mr. Speaker, by direction of the Committee on Rules I submit a privileged report (H. Res. 309, Rept. No. 667) and ask for its immediate consideration.

Resolved, That immediately upon the adoption of this resolution the joint resolution (H.J. Res. 277) making temporary appropriations for the fiscal year 1952, and for other purposes, with the Senate amendments thereto be, and the same hereby is, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to by the House; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said joint resolution be, and hereby is, agreed to by the House, and that the Speaker shall immediately appoint conferees without intervening motion.

Sec. 2. It shall be in order to consider the conference report on the said joint resolution when reported notwithstanding the provisions of clause 2, rule XXVIII.[9]

Special Orders May Not Prevent Motion to Recommit

§ 16.19 The Committee on Rules may not report any order or rule which operates to prevent the offering of a motion to recommit as provided in Rule XVI clause 4, but such restriction does not apply to a special rule prohibiting the offering of amendments to a title of a bill during its consideration and thus prohibiting a motion to recommit with instructions to include such an amendment.

On Jan. 11, 1934,[10] Mr. William B. Bankhead, of Alabama, called up by direction of the Committee on Rules a resolution providing for the consideration of an appropriation bill; the resolution prohibited the offering of amendments to title II of the bill. Mr. Bertrand H. Snell, of New York, made a point of order against the rule on the ground that it violated Rule XI clause 45 [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)] since it would operate to prevent certain motions to recommit, such as to recommit with instructions to include an amendment in title II. Speaker

8. 102 CONG. REC. 14456, 84th Cong. 2d Sess.

9. 97 CONG. REC. 7538, 82d Cong. 1st Sess.

10. 78 CONG. REC. 479–83, 73d Cong. 2d Sess.

Henry T. Rainey, of Illinois, overruled the point of order:

THE SPEAKER: The Chair is prepared to rule. The gentleman from New York makes the point of order that the Committee on Rules has reported out a resolution which violates the provisions of clause 45, rule XI, which are as follows:

> The Committee on Rules shall not report any rule or order . . . which shall operate to prevent the motion to recommit being made as provided in clause 4, rule XVI.

The pertinent language of clause 4, rule XVI is as follows:

> After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution.

The special rule, House Resolution 217, now before the House, does not mention the motion to recommit. Therefore, any motion to recommit would be made under the general rules of the House. The contention of the gentleman from New York that this special rule deprives the minority of the right to make a motion to recommit is, therefore, obviously not well taken. The right to offer a motion to recommit is provided for in the general rules of the House, and since no mention is made in the special rule now before the House it naturally follows that the motion would be in order.

A question may present itself later when a motion to recommit with instructions is made on the bill H.R. 6663 that the special rule which is now before the House may prevent a motion to recommit with instructions which would be in conflict with the provisions of the special rule. It has been held on numerous occasions that a motion to recommit with instructions may not propose as instructions anything that might not be proposed directly as an amendment. Of course, inasmuch as the special rule prohibits amendments to title II of the bill H. R. 6663 it would not be in order after adoption of the special rule to move to recommit the bill with instructions to incorporate an amendment in title II of the bill. The Chair, therefore, holds that the motion to recommit, as provided in clause 4, Rule XVI, has been reserved to the minority and that insofar as such rule is concerned the special rule before the House does not deprive the minority of the right to make a simple motion to recommit. The Chair thinks, however, that a motion to recommit with instructions to incorporate a provision which would be in violation of the special rule, House Resolution 217, would not be in order. For the reasons stated, the Chair overrules the point of order.

MR. SNELL: Will the Chair allow me to make a parliamentary inquiry?

THE SPEAKER: Certainly.

MR. SNELL: Do I understand from the ruling of the Chair the minority will be allowed to offer the usual motion to recommit?

THE SPEAKER: The usual simple motion to recommit provided by the rules.

On appeal, the House upheld the decision of the Chair by a roll-call vote of 260–112.

Parliamentarian's Note: The language of the resolution in ques-

tion prohibited the offering of amendments to title II of the bill "during the consideration" of the bill (both in the House and in the Committee of the Whole). Normally, such resolutions only prohibit certain amendments during consideration in Committee of the Whole, allowing a motion to recommit with instructions in the House to add such amendments. This is apparently the only ruling by the Speaker on the authority of the Committee on Rules to limit, but not to prohibit, the motion to recommit.

Requesting Resolutions on the Order of Business

§ 16.20 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 disposition of a House bill with Senate amendments which require consideration in Committee of the Whole, but a motion to send the bill to the Committee on Rules is not in order.

On Aug. 13, 1957,[11] objection was made to a unanimous-consent request to take from the Speaker's table a House bill with a Senate amendment, disagree to the amendment, and ask for a conference with the Senate, Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on requesting a special order from the Committee on Rules:

> MR. [KENNETH B.] KEATING [of New York]: 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.
>
> 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.

Requesting "Closed Rule"

§ 16.21 Members discussed, during debate on a resolu-

11. 103 CONG. REC. 14568, 8ath Cong. 1st Sess.

tion from the Committee on Rules providing a "closed" rule for a bill, the requirements of the Democratic Caucus rules as to seeking such rules and as to the procedures of the Committee on Rules in reporting such rules.

On Nov. 13, 1973,[12] the House was considering House Resolution 695, providing for the consideration of H.R. 11333, increasing social security benefits and reported from the Committee on Ways and Means. The resolution permitted only committee amendments to the bill. The following colloquy took place during the debate:

MR. [PHILLIP] BURTON [of California]: Mr. Speaker,[13] first I would like to state that I think, given the time constraints, that the Committee on Ways and Means has enacted essentially a very thoughtful set of changes to the Social Security Act. However, there is one aspect of this procedure that is potentially disturbing, so that the record can be clear in this one respect, I would like to pose a question to the distinguished gentleman from Oregon (Mr. Ullman) the acting chairman of the committee. The question I pose is this:

As I understand the rules of the majority party caucus, there are certain procedures clearly delineated to be followed in the event a closed rule is to be sought. As I understand, the gentleman from Oregon indicated to the Rules Committee that because of this unexpected time crunch and for that reason only, that the seeking and obtaining of a closed rule in this one instance is not intended in any way, nor should it be considered to be a precedent for any future such effort by any committee to seek a closed rule without complying with whatever the ground rules as explicitly stated in the caucus recommendations.

Is that essentially a fair statement of the situation?

MR. [ALBERT C.] ULLMAN: Mr. Speaker, let me say to my friend from California that the sole motivation of the Committee was to meet the timetable that was before the Congress. It certainly is not our intention to change any rules or procedures of any institution in this body, but we were under a time frame of action that demanded that we go to the Rules Committee and get a rule immediately.

I say to the gentleman that we have no present intention but to get this bill passed just as expeditiously as possible.

MR. BURTON: Mr. Speaker, as I understand the gentleman's response, it is in no way his intention, nor should it be construed by anyone in terms of establishing a precedent in overriding the rule I referred to earlier, is that correct?

MR. ULLMAN: Yes.

§ 16.22 Pursuant to clause 17 of the Addendum of the Rules of the Democratic Caucus, a Member inserted in

12. 119 CONG. REC. 36861–63, 93d Cong. 1st Sess.

13. Carl Albert (Okla.).

the Record notice of his intention to request the Committee on Rules to report to the House a "modified closed rule" for the consideration of a bill reported from the Committee on the Judiciary.

On Nov. 12, 1973,[14] William L. Hungate, of Missouri, a member of the Committee on the Judiciary who would be managing a bill reported from that committee on the floor, made an announcement regarding the request for a special order from the Committee on Rules for the consideration of the bill:

MR. HUNGATE: Mr. Speaker, on Tuesday, October 6, 1973, the Committee on the Judiciary ordered favorably reported the bill H. R. 5463, to establish rules of evidence for certain courts and proceedings.

Pursuant to the provisions of clause 17 of the Addendum to the Rules of the Democratic Caucus for the 93d Congress, I am hereby inserting in the Congressional Record notice of my intention to request, following the expiration of 4 legislative days, the Committee on Rules to report to the House a resolution providing for a "modified closed rule" on the bill H.R. 5463. The rule I will be requesting would provide in effect that after an extensive period of general debate not to exceed 4 hours, on the bill, further consideration of the bill for amendment would be postponed to a time certain to give Members an opportunity to draft and to insert in the Record any amendments which they proposed to offer to the bill. Those amendments, if offered, would not be subject to amendment on the floor, and article V of the bill, the "Privilege" article, would not be subject to amendment. Such a rule would I believe, best permit the House of Representatives to work its will on this important and complicated piece of legislation.

Parliamentarian's Note: Addendum 17 to the Rules of the Democratic Caucus read as follows in the 93d Congress, first session:

17. (*a*) It shall be the policy of the Democratic Caucus that no committee chairman or designee shall seek, and the Democratic Members of the Rules Committee shall not support, any rule or order prohibiting any germane amendment to and bill reported from committee until four (4) legislative days have elapsed following notice in the *Congressional Record* of an intention to do so. (*b*) If, within the four (4) legislative days following said notice in the *Congressional Record*, 50 or more Democratic members give written notice to the chairman of the committee seeking the rule and to the chairman of the Rules Committee that they wish to offer a particular germane amendment, the chairman or designee shall not seek and the Democratic Members of the Rules Committee shall not support, any rule or order relating to the bill or resolution involved until the Democratic Caucus has met and decided whether the proposed amendment should be allowed to be consid-

14. 119 CONG. REC. 36601, 36602, 93d Cong. 1st Sess.

ered in the House. (*c*) If 50 or more Democratic Members give notice as provided in subsection (*b*) above, then, notwithstanding the provisions of Caucus Rule No. 3, the Caucus shall meet for such purpose within three (3) legislative days following a request for such a Caucus to the Speaker and the chairman of the Democratic Caucus by said committee chairman or designee. (*d*) *Provided*, further, that notices referred to above also shall be submitted to the Speaker, the Majority Leader, and the chairman of the Democratic Caucus.

Meetings of Committee

§ 16.23 The Chairman of the Committee on Rules announced that the committee would meet in a larger than usual committee room in order to hear the application for a special order on controversial tax bill.

On Sept. 17, 1963,[15] Howard W Smith, Chairman of the Committee on Rules, made an announcement relative to a meeting of the committee on a tax bill:

> MR. SMITH of Virginia: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.
>
> THE SPEAKER: Is there objection to the request of the gentleman from Virginia?
>
> There was no objection.
>
> MR. SMITH of Virginia: Mr. Speaker, on tomorrow the Committee on Rules will hear the application of the Committee on Ways and Means for a rule on the tax bill. There is considerable interest in this subject matter and our quarters in the Rules Committee are rather confining for a large crowd. For the convenience of the Members of the House who wish to be informed on the subject, and through the courtesy of the chairman of the Committee on Ways and Means, the Committee on Rules will meet not in our own chamber tomorrow but in the chamber of the Committee on Ways and Means in the New House Office Building in order to hear the application of the committee for a rule on the tax bill. There are many Members interested in this who would like to hear the discussion that will be carried on by the Chairman of the Committee on Ways and Means, the gentleman from Arkansas [Mr. Mills], and the ranking minority member, the gentleman from Wisconsin [Mr. Byrnes]. This meeting will be at 10:30 tomorrow morning.

Parliamentarian's Note: Rule XI clauses 2 (b) and (c) [*House Rules and Manual* § 705 (1979)] provides for regular meeting days, pursuant to written rules adopted by committees, and for additional meetings of committees to be called by the chairman thereof for the consideration of any bill or resolution pending before the committee.

§ 16.24 Rules were adopted by the Committee on Rules in the 93d Congress to govern meeting procedures.

15. 109 CONG. REC. 17210, 88th Cong. 1st Sess.

In the 93d Congress, the Committee on Rules adopted (on Mar. 27, 1973) rules to govern its proceedings, including the following provisions to govern meetings:

(a) The Committee on Rules shall meet at 10:30 a.m. on Tuesday of each week when the House is in session. Meetings and hearings 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.

(b) A minimum 48 hours' notice of regular meetings and hearings of the Committee shall be given to all members except that the Chairman, acting on behalf of the Committee, may schedule a meeting or hearing for the consideration of emergency and/or procedural measures or matters at any time. As much notice as possible will be given to all members when emergency meetings or hearings are called; provided, however, that an effort has been made to consult the Ranking Minority Member.

(c) Meetings, hearings, and executive sessions of the Committee shall be open to the public in accordance with clause 16 and clause 27 of rule XI of the Rules of the House of Representatives, as amended by H. Res. 259, 93d Congress.

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

(e) For the purpose of executive meetings, a majority of the Committee shall constitute a quorum.

(f) All measures or matters which have been scheduled for consideration by the Committee on which any Member of the House wishes to testify, and so requests, will be the subject of hearings, at which time all interested Members who are proponents or opponents will be provided a reasonable opportunity to testify.

(g) There shall be a transcript of regularly scheduled hearings and meetings of the Committee which may be printed if the Chairman decides it is appropriate, or if a majority of the members request it.

(h) 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.

(i) The Committee may permit, by a majority vote on each separate occasion, the coverage of any open meeting or hearing, in whole or in part, by television broadcast, radio broadcast, and still photography under such requirements and limitations as set forth in the Rules of the House of Representatives.

(j) The five-minute rule in the interrogation of witnesses, until such time as each member of the Committee who so desires has had an opportunity to question the witness, shall be followed.

(k) When a recommendation is made as to the kind of rule which should be granted a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the meeting where such language is to be considered or as soon thereafter as such recommendation becomes available.

§ 16.25 The Speaker held that the Committee on Rules had authority to sit during sessions of the House and was not included in a previous ruling of the Speaker that committees could not sit while bills were being read for amendment.

On May 27, 1946,[16] Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on the power of the Committee on Rules to meet while the House was in session:

> MR. [JAMES P.] GEELAN [of Connecticut]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. GEELAN: In view of the previous ruling by the Chair that he would recognize reports of no committee which was meeting while the House was in session, what would be the situation?
>
> THE SPEAKER: If the Chair made any such ruling today he does not remember it.
>
> MR. GEELAN: I distinctly recall the Chair's prohibiting any committee's being in session or holding hearings while the House was in session.
>
> THE SPEAKER: The Committee on Rules is exempt from that rule.

Parliamentarian's Note: In the 79th Congress, when the Speaker made the ruling cited, Rule XI clause 46 read as follows:

> No committee, except the Committee on Rules, shall sit during the sitting of the House, without special leave.

That rule was adopted in 1794, and the exception for the Committee on Rules was inserted in 1893.[17]

In the 93d Congress, Rule XI clause 17 [now Rule X clause 1(q)(4), *House Rules and Manual* § 686(a) (1979)] specifically provided that the Committee on Rules was authorized to sit and act whether or not the House was in session, and Rule XI clause 31 [now Rule XI clause 2(i), *House Rules and Manual* § 710 (1979)] provided that five committees, including the Committee on Rules, could sit without special leave while the House was reading a measure for amendment under the five-minute rule.[18]

---

16. 92 CONG. REC. 5863, 5864, 79th Cong. 2d Sess.

17. 4 Hinds' Precedents § 4546.

In the 73d Congress, the Speaker ruled that he could order stricken from the calendar a bill where it was shown that the committee reporting it had sat during the session of the House without permission. 78 CONG. REC. 7057, 73d Cong. 2d Sess., Apr. 20, 1934.

18. The rule formerly provided that no committee except those named in the rule could sit without special leave at any time when the House was in session. The form of the rule in the 93d Congress was derived from the Legislative Reorganization Act of 1946 (see *House Rules and Manual*

Granting Special Order Governing Bill Already Under Consideration

§ 16.26 Where a section in a bill pending before the Committee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous consent request that the Senate bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XXI clause 4 [now Rule XXI clause 5, *House Rules and Manual* § 1846 (1979)], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling the Committee rose and a motion for a recess was adopted (at 5:42 p.m.).[19]

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:[20]

AFTER RECESS

The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.

MR. BANKHEAD: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.

MR. [JOSEPH B.] SHANNON [of Missouri]: Mr. Speaker does not the rule have to lie over for a day?

THE SPEAKER: It does not.

The Clerk will report the resolution.

§ 710 [1979] for the history of the provision).

19. 77 CONG. REC. 988–90, 73d Cong. 1st Sess.

20. *Id.* at p. 990.

The Clerk read as follows:

HOUSE RESOLUTION 85

Resolved, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:

"Sec. 4. For the purpose of carrying out the provisions of this act, there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .

THE SPEAKER: It requires a two-thirds vote to consider it. The question is, Shall the House consider the resolution?

The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 189; noes 71.

So (two-thirds having voted in favor thereof) the House determined to consider the resolution.

MR. BANKHEAD: Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution. The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:[21]

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The resolution was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 598, with Mr. Lozier in the chair.

The Clerk read the title of the bill.

MR. RAMSPECK: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:

"Sec. 4. For the purpose of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary, and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated.". . .

MR. RAMSPECK: Mr. Chairman, this simply puts back in the bill section 4

21. *Id.*

exactly, which was ruled out on the point of order.

I move that all debate on this section do now close.

§ 16.27 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Committee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

The House then adopted a special order from the Committee on Rules which waived points of order against one section of the bill: (1)

MR. [WILLIAM: M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

Resolved, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone; that is, to waive points of order against a particular section of the bill.

Special Rule With Continuing Effect

§ 16.28 Form of resolution waiving points of order against certain legislative provisions in a general appropriation bill and providing that during the remainder of the Congress no amendments shall be in order to any other general appropriation bill which conflict with the provisions of the legislative language made in order by the special rule.

1. 115 CONG. REC. 13246–51, 91st Cong. 1st Sess.

On Jan. 11, 1934,[2] the following resolution reported from the Committee on Rules was called up and adopted by the House:

> *Resolved,* That during the consideration of H.R. 6663, a bill making appropriations for the Executive Office and sundry independent bureaus, boards, commissions, and offices, for the fiscal year ending June 30, 1935, and for other purposes, all points of order against title II or any provisions contained therein are hereby waived; and no amendments or motions to strike out shall be in order to such title except amendments or motions to strike out offered by direction of the Committee on Appropriations, and said amendments or motions shall be in order, any rule of the House to the contrary notwithstanding. Amendments shall not be in order to any other section of the bill H.R. 6663 or to any section of any general appropriation bill of the Seventy-third Congress which would be in conflict with the provisions of title II of the bill H.R. 6663 as reported to the House, except amendments offered by direction of the Committee on Appropriations, and said amendments shall be in order, any rule of the House to the contrary notwithstanding.

Parliamentarian's Note: Title II of the bill proposed permanent and legislative amendments to a variety of statutes, to limit the salaries of federal officials, allowances and pensions, and was entitled "Economy Provisions." The effect of the resolution was to prohibit certain amendments to general appropriation bills during the remainder of the Congress, regardless of whether such amendments would have been in order under the general rules of the House. This special rule also prohibited the inclusion in a motion to recommit with instructions, on H.R. 6663 or any other general appropriations bill during the remainder of the Congress, of the type of amendment prohibited by the rule, since the special rule prohibited such amendments "during the consideration" of the bill (in both the Committee of the Whole and the House) and prohibited such amendments to any other general appropriation bill (by implication in both the Committee of the Whole and the House).

§ 17. Reports and Their Privilege

Pursuant to Rule XI clause 23,[3] it is "always" in order to call up a report from the Committee on Rules; the privilege of such re-

2. H. Res. 217, 78 CONG. REC. 479, 73d Cong. 2d Sess.

3. *House Rules and Manual* § 729 (1973). [Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].