

MR. DICKSTEIN: Mr. Speaker, I ask unanimous consent to proceed for 2 additional minutes.

THE SPEAKER: <sup>(2)</sup> Is there objection to the request of the gentleman from New York [Mr. Dickstein]?

There was no objection.

MR. DICKSTEIN: Mr. Speaker, I want to say to the membership of the House that I have tried the best way I can, as chairman of that committee, to work with every Member of this House. I agree with my good friend from California that sometimes the committee is too strict, sometimes we may be a little lenient, but on the whole I think we are a strict committee. . . . May I say that we should be patient and reasonable. Let us look at it in the proper American light and not from any other point of view.

Mr. Speaker, I yield back the balance of my time.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I ask for recognition.

THE SPEAKER: The time is in control of the gentleman from New York [Mr. Dickstein]. Has the gentleman from New York [Mr. Dickstein] yielded the floor?

MR. DICKSTEIN: Yes.

THE SPEAKER: The gentleman from Mississippi [Mr. Rankin] is recognized for 1 hour.

MR. DICKSTEIN: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Mississippi yield for a parliamentary inquiry?

MR. RANKIN: I yield for a parliamentary inquiry.

2. Sam Rayburn (Tex.).

THE SPEAKER: The gentleman will state it.

MR. DICKSTEIN: The gentleman from Mississippi asked me to give him time, which I was good enough to do. I said I would be glad to do it. Had I known I was going to surrender the floor by that, I would not have done it. I did not surrender it. I simply yielded back the balance of my time, and the Record will bear me out.

THE SPEAKER: The Chair distinctly asked the gentleman from New York if he yielded the floor, and his answer was in the affirmative.

MR. DICKSTEIN: I did not understand.

THE SPEAKER: The gentleman from Mississippi is recognized for 1 hour, if he desires that time.

*Parliamentarian's Note:* Had Mr. Dickstein moved the previous question after using his 10 minutes, and if that motion had been agreed to, no further debate would have been in order.

## **§ 22. Consideration and Passage of Vetoed Bills; Voting**

Under the Constitution, a vetoed bill becomes law when it is reconsidered and passed by the requisite two-thirds vote in each House.<sup>(3)</sup> The Supreme Court has held that an affirmative vote of two-thirds of the Members voting, a quorum being present, in each House, is sufficient to override the President's veto.<sup>(4)</sup>

3. U.S. Const. art. I, § 7, clause 2.

4. *Missouri Pac. Ry. Co. v Kansas*, 248 U.S. 276 (1919), citing, at pp. 283,

The vote on the question of passage, the objections of the President to the contrary notwithstanding, must be by the yeas and nays under the express command of the Constitution.<sup>(5)</sup>

Consideration of a vetoed bill is privileged,<sup>(6)</sup> and when a vetoed bill is postponed to a day certain it comes up then as unfinished business.<sup>(7)</sup>

A vetoed bill is considered under the hour rule<sup>(8)</sup> and the previous question may be moved at any time.<sup>(9)</sup>

The motion to reconsider is not in order on the question of overriding a veto.<sup>(10)</sup>

284; see also 4 Hinds' Precedents §§3537, 3538 and 7 Cannon's Precedents §1111 and *United States v Ballin*, 114 U.S. 1 (1892).

5. ". . . But in all such Cases [reconsideration of a veto] the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively." U.S. Const. art. I, §7, clause 2.
6. U.S. Const., *House Rules and Manual* §108 (1981); see also §22.4, *infra*.
7. See §§22.1, 22.2, *infra*.
8. See §§22.7, 22.8, *infra*.
9. See §22.9, *infra*.
10. 5 Hinds' Precedents §5644; and 8 Cannon's Precedents §2778.

### ***Veto Message as Unfinished Business***

**§ 22.1 A veto message is the unfinished business before the House where the consideration of the message has been postponed from the previous day by motion.**

On Apr. 30, 1959,<sup>(11)</sup> the Speaker<sup>(12)</sup> announced that the unfinished business was the further consideration of the veto of the President of the bill (S. 144), to modify Reorganization Plan No. 2 of 1939 and Reorganization Plan No. 2 of 1953. The question put was:

Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

**§ 22.2 When a veto message postponed to a day certain is announced as the unfinished business, no motion is required from the floor for the consideration of such veto, and the question "Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding" is pending.**

11. 105 CONG. REC. 7200, 86th Cong. 1st Sess. See also 111 CONG. REC. 26242, 89th Cong. 1st Sess., Oct 7, 1965.

12. Sam Rayburn (Tex.).

On Apr. 14, 1948,<sup>(13)</sup> the Speaker<sup>(14)</sup> announced that the unfinished business of the House was the further consideration of the veto message of the President on the bill (H.R. 5052) to exclude certain vendors of newspapers or magazines from provisions of the Social Security Act and the Internal Revenue Code. The proceedings were as follows:

THE SPEAKER: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding? . . .

The gentleman from California [Mr. Gearhart] is recognized.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, will the gentleman yield?

MR. [BERTRAND W.] GEARHART: I yield to the gentleman from Pennsylvania.

MR. EBERHARTER: Has the gentleman made a motion to call up the bill?

MR. GEARHART: The Parliamentarian advises me that is not necessary. The Speaker has already stated the issue.

MR. EBERHARTER: I just wanted the record to be certain. I did not hear the gentleman make a motion to call up the bill. . . .

THE SPEAKER: The veto message was originally read on April 6, and the request of the gentleman from California was that it be reread for the information of the House. Previous to that re-

13. 94 CONG. REC. 4427, 4428, 80th Cong. 2d Sess.

14. Joseph W. Martin, Jr. (Mass.).

quest the Chair had stated that the question before the House was, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman will proceed.

**§ 22.3 Where the House adjourns prior to disposition of a veto message from the President, the bill comes up as unfinished business on the next legislative day.**

On Sept. 14, 1965,<sup>(15)</sup> the Speaker<sup>(16)</sup> announced:

The unfinished business is the further consideration of the veto message from the President on the bill H.R. 3329 [incorporating the Youth Councils on Civil Affairs]. Without objection the message and the bill will be referred to the Committee on the District of Columbia and ordered to be printed.

There was no objection.

The preceding day, the President's veto message was laid before the House shortly before adjournment. Objection was made to referral of the message and bill to committee.<sup>(17)</sup> Thus, it was brought up the next day as unfinished business.

***Consideration on Calendar Wednesday***

**§ 22.4 The consideration of a veto message was held to be**

15. 111 CONG. REC. 23628, 89th Cong. 1st Sess.

16. John W. McCormack (Mass.).

17. 111 CONG. REC. 23623, 89th Cong. 1st Sess.

**in order on Calendar Wednesday.**

On May 11, 1932,<sup>(18)</sup> it being Calendar Wednesday, the Speaker<sup>(19)</sup> laid before the House the veto message of the President of the bill (H.R. 6662) to amend the Tariff Act of 1930:

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, this being Calendar Wednesday, ought not further business be dispensed with before we consider any other business?

THE SPEAKER: Not necessarily.

MR. STAFFORD: This is Holy Wednesday.

MR. [CHARLES R.] CRISP [of Georgia]: Is there any other business under Calendar Wednesday?

MR. STAFFORD: No.

MR. CRISP: Mr. Speaker, to save any question, I move that further business under Calendar Wednesday be dispensed with.

The motion was agreed to.

THE SPEAKER: Let the Chair say, however, in connection with this Calendar Wednesday rule, that it does not suspend the Constitution of the United States, which provides that a veto message of the President shall have immediate consideration. The Clerk will read the message.

***Effect of Committee Report***

**§ 22.5 After referral to the committee in which it origi-**

18. 75 CONG. REC. 10035, 72d Cong. 1st Sess.

19. John N. Garner (Tex.).

**nated, a vetoed bill may be reported to the House with the recommendation that it pass over the veto of the President.**

On May 18, 1949,<sup>(20)</sup> Mr. Emanuel Celler, of New York, submitted a privileged report from the Committee on the Judiciary on the bill (H.R. 1036) for the relief of R. C. Owen, R. C. Owen, Jr., and Roy Owen. The bill had been vetoed by the President and referred to the Committee on the Judiciary after delivery of the President's veto message in the House. The Committee on the Judiciary then reported the bill with the recommendation that it pass over the President's veto. The bill did so pass, two-thirds of the House voting in favor thereof.<sup>(21)</sup>

Likewise, on Aug. 5, 1940,<sup>(1)</sup> Mr. Hatton W. Sumners, of Texas, submitted the report from the Committee on the Judiciary on the bill (H.R. 7737) providing for intervention by states in certain cases involving the validity of the exercise of federal power.

The bill had been vetoed by the President and on return to the

20. 95 CONG. REC. 6426-30, 81st Cong. 1st Sess.

21. For an instance where vetoed bill favorably reported from a committee failed of passage, see 86 CONG. REC. 12615-22, 76th Cong. 3d Sess., Sept. 25, 1940.

1. 86 CONG. REC. 9878-84, 76th Cong. 3d Sess.

House referred to the Committee on the Judiciary. The committee in turn reported the bill with the recommendation that it pass the objections of the President to the contrary notwithstanding.

The House voted to override the President's veto, with 253 yeas and 46 nays.

***Committee Report as Privileged***

**§ 22.6 Parliamentarian's Note: Reports from committees to which vetoed bills are referred, recommending passage of such bills over a veto, are privileged.**

On Aug. 17, 1951,<sup>(2)</sup> Mr. John E. Rankin, of Mississippi, submitted a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193), to establish a pension rate, with the recommendation that such bill pass over the President's veto. The proceedings were as follows:

MR. RANKIN: Mr. Speaker, I submit a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193) to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended.

The Clerk read as follows:

Your Committee on Veterans' Affairs, to whom was referred the bill,

2. 97 CONG. REC. 10197, 10202, 82d Cong. 1st Sess.

H.R. 3193, entitled "A bill to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended," together with the objections of the President thereto, having reconsidered said bill and the objections of the President thereto, reports the same back to the House with the unanimous recommendation that said bill do pass, the objections of the President to the contrary notwithstanding. . . .

MR. RANKIN: Mr. Speaker, I ask for recognition.

THE SPEAKER:<sup>(3)</sup> The gentleman from Mississippi is recognized.

MR. RANKIN: Mr. Speaker, I ask unanimous consent to extend my remarks at this point and include letters which I have received . . . supporting this measure and urging the Congress to override the veto. . . .

Mr. Speaker, I move the previous question.

The previous question was ordered.

THE SPEAKER: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

Those in favor of passing the bill, the objections of the President to the contrary notwithstanding, will, when their names are called, vote 'aye,' those opposed "no."

The Clerk will call the roll.

The question was taken; and there were yeas 318, nays 45, not voting 69.

. . .

So, two-thirds having voted in favor thereof, the bill was passed, the objec-

3. Sam Rayburn (Tex.).

tions of the President to the contrary notwithstanding.

### *Debate*

#### **§ 22.7 Debate on the question of passing a bill over the President's veto is under the hour rule and the Member in charge may yield to others for debate in his hour.**

On May 17, 1951,<sup>(4)</sup> the Speaker<sup>(5)</sup> called up as unfinished business for further consideration a veto message from the President on a bill (H.R. 3096) relating to the acquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, was recognized by the Chair. Mr. Vinson raised a parliamentary inquiry:

Mr. Speaker, do I understand correctly that under the rules of the House I am entitled to 1 hour, during which time I can yield to other Members without, however, yielding the floor?

THE SPEAKER: The gentleman is correct.

#### **§ 22.8 A Member recognized on the question of passage of a bill over the President's veto controls one hour of debate, and he may yield a portion of that time to another Member**

4. 97 CONG. REC. 5435, 82d Cong. 1st Sess. See also 116 CONG. REC. 750, 91st Cong. 2d Sess., Jan. 22, 1970.

5. Sam Rayburn (Tex.).

#### **who may in turn control the allocation of that time to other Members.**

On Apr. 10, 1973,<sup>(6)</sup> the House considered the question of overriding the President's veto on the bill (H.R. 3298), to restore certain water and sewer grant programs. Mr. William R. Poage, of Texas, was recognized for one hour. The proceedings were as follows:

THE SPEAKER:<sup>(7)</sup> The gentleman from Texas (Mr. Poage) is recognized for 1 hour.

MR. POAGE: Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oklahoma, the Speaker of the House of Representatives.

MR. ALBERT: Mr. Speaker, I appreciate the fact that the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. Poage), has yielded to me. I appreciate the years that I served under his leadership on that committee.

In a few minutes, as every Member of this House knows, we will cast one of the critical votes of this session of Congress—critical because of the importance of the subject matter with which we are dealing, and critical because of the challenge which we confront as a law-making body of the Nation. . . .

MR. POAGE: Mr. Speaker, it is my desire to yield half of this time to the gentleman from California (Mr. Teague). I understand that I can only

6. 119 CONG. REC. 11679–91, 93d Cong. 1st Sess.

7. Carl Albert (Okla.).

yield to him one time. Is it in order for me at this time to yield him 30 minutes and let him apportion it?

THE SPEAKER PRO TEMPORE:<sup>(8)</sup> The gentleman has control of the time. He can yield his time.

MR. POAGE: I yield to the gentleman from California 30 minutes.

MR. [CHARLES M.] TEAGUE of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TEAGUE of California: Does that mean that I must use all of my 30 minutes together?

THE SPEAKER: The gentleman may use his time as he sees fit, for purposes of debate only.

MR. TEAGUE of California: I thank the Speaker.

I yield myself 3 minutes.

Mr. Speaker, I rise in support of the President's veto of H.R. 3298.

It is not easy for me, and I know it is not easy for a great many of Members of the House, to vote to sustain the veto on this bill. I say that because the program that has been affected by the President's action is not, in my opinion, a bad program—it is in fact the best of the several agricultural programs for which the President has impounded funds. . . .

THE SPEAKER: Does the gentleman from California desire to yield further at this time.

MR. TEAGUE of California: Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. Harsha].

MR. [WILLIAM H.] HARSHA: Mr. Speaker, I believe we should make an

attempt in this situation to separate rhetoric from the facts and I want to allude now to some of the facts. . . .

MR. POAGE: Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill).

MR. [THOMAS P.] O'NEILL [Jr.]: Mr. Speaker, I am speaking today as a window box farmer, as I was referred to by a gentleman from the minority side the other day, but I want to remind my colleagues that this program, very interestingly, passed the House by 297 votes to 54 votes. And it passed the House because the rural water program is crucial for pollution control and health in rural America. . . .

MR. TEAGUE of California: Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. Sebelius).

MR. [KEITH G.] SEBELIUS: Mr. Speaker, I appreciate this opportunity to discuss the Presidential veto of H.R. 3298, legislation to restore the rural water and waste disposal grant program.

I share the conviction that we must restore commonsense to our Federal spending and hold Federal outlays to the ceiling level of \$250 billion. However, how we "spend" this limited budget is debatable. It is a matter of priorities. . . .

MR. POAGE: Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, there are two issues involved in our consideration of the President's veto.

The first is the issue of the constitutional division of powers under our tripartite form of Government. Can any President unappropriate funds—the appropriation of which he has previously approved? . . .

**8.** John J. McFall (Calif.).

Mr. Speaker, I move the previous question.

Two-thirds not having voted in favor of the override, the veto of the President was sustained and the bill was rejected.

### ***Effect of Moving the Previous Question***

#### **§ 22.9 The demand for the previous question precludes further debate on the question of passing a bill over a Presidential veto.**

On June 16, 1948,<sup>(9)</sup> the House had under consideration the veto message of the President on a bill (H.R. 6355) making supplemental appropriations for the Federal Security Agency. Mr. Frank B. Keefe, of Wisconsin, was recognized to control the debate for one hour. After brief remarks, he immediately moved the previous question. Mr. John J. Rooney, of New York, then raised a parliamentary inquiry:

Mr. Speaker, under the rules is not the majority granted the privilege of discussing this message?

THE SPEAKER:<sup>(10)</sup> If the gentleman from Wisconsin withdraws his moving of the previous question it would be in order. Otherwise it is not in order.

9. 94 CONG. REC. 8473, 80th Cong. 2d Sess.

10. Joseph W. Martin, Jr. (Mass.).

### ***Voting by Yeas and Nays***

#### **§ 22.10 Under the Constitution, the vote on passage of a bill over the President's veto must be by the yeas and nays.**

On May 17, 1951,<sup>(11)</sup> the House had under consideration the question of overriding the President's veto on a bill (H.R. 3096), relating to the acquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, moved the previous question. The Chair<sup>(12)</sup> declared that under the Constitution, the question would have to be determined by the yeas and nays.<sup>(13)</sup>

### ***Vote Recapitulations and Changes***

#### **§ 22.11 Where a yea and nay vote has been announced and a recapitulation is ordered on the question of overriding a Presidential veto, a Member may correct his vote only and may not change it; and corrections in a vote on recapitulation are made after the yeas have**

11. 97 CONG. REC. 5444, 82d Cong. 1st Sess.

12. Sam Rayburn (Tex.).

13. U.S. Const. art. I, §7. See also 97 CONG. REC. 13745, 82d Cong. 1st Sess., Oct. 20, 1951.

**been read by the Clerk and then after the nays are read.**

On June 17, 1947,<sup>(14)</sup> the House considered the question of overriding the President's veto on a bill (H.R. 1), to reduce individual income tax payments. After debate a roll call vote was taken pursuant to the constitutional requirement. Mr. Charles A. Halleck, of Indiana, sought a recapitulation of the vote, and the Chair ordered the recapitulation.

Mr. Adolph J. Sabath, of Illinois, raised a parliamentary inquiry:

Mr. Speaker, a Member having voted one way or the other cannot change his vote on the capitulation?

THE SPEAKER:<sup>(15)</sup> A Member may correct his vote, but cannot change it.

The Clerk will call the names of those voting "yea."

The Clerk called the names of those voting "yea."

THE SPEAKER: Are there any corrections to be made where any Member was listening and heard his name called as voting "yea" who did not vote "yea?" . . . The Chair hears none.

The Clerk will call the names of those voting "nay."

The Clerk called the names of those voting "nay."

THE SPEAKER: Is there any Member voting "nay" who is incorrectly recorded? . . . The Chair hears none.

14. 93 CONG. REC. 7143, 7144, 80th Cong. 1st Sess.

15. Joseph W. Martin, Jr. (Mass.).

*Parliamentarian's Note:* Since the vote on overriding a veto is now taken by the electronic voting device, a recapitulation is not in order. The Speaker could, of course, order the vote taken by the call of the roll if circumstances warranted.

***Pairing of Votes***

**§ 22.12 Pairs on the question of passage of a bill over a Presidential veto are recorded in the Congressional Record and are arranged in a two to one ratio.**

On Aug. 5, 1940,<sup>(16)</sup> after a roll call vote which sustained the veto of the President of a bill (H.R. 3233) to repeal certain acts of Congress, the Clerk announced the pairing of certain Members on the vote. The *Congressional Record* disclosed the pairs, as follows:

Mr. McDowell and Mr. Ball (to override with Mr. Schwert (to sustain).

Mr. Wolfenden of Pennsylvania and Mr. Osmer (to override) with Mr. Cullen (to sustain).

Mr. Culkin and Mr. Jennings (to override) with Mr. Hook (to sustain).

Mr. Kilburn and Mr. Reece of Tennessee (to override) with Mr. Buckley of New York (to sustain).

16. 86 CONG. REC. 9889, 9890, 76th Cong. 3d Sess.