

ager of the pending bill in the Committee of the Whole, moved that all debate on the pending amendment close instantly. The Committee agreed to the motion by division vote. Mr. Andrew Jacobs, Jr., of Indiana, and Mr. Jonathan B. Bingham, of New York, then sought recognition to debate the amendment. Chairman Chet Holifield, of California, ruled that no further debate was in order:

MR. JACOBS: What about those of us who were on our feet when debate was choked off? Will we be recognized?

THE CHAIRMAN: There was no count made of Members standing for time, and the motion of the gentleman from Illinois was to close debate, and that motion was agreed to.<sup>(4)</sup>

### § 23. Recognition for Particular Motions and Debate Thereon

This section discusses illustrative principles of recognition for various types of motions. The general subject of motions is treated comprehensively in Chapter 23, *supra*, and particular motions are discussed in detail in that chapter.

4. The manager of a bill has priority of recognition to move to close debate instantly on an amendment, even if other Members seek to debate it further or to offer amendments thereto; see § 21.30, *supra*.

As a general matter where a Member is recognized to offer a resolution, after the resolution is read, that Member must again be recognized for debate; and between the two recognitions, a proper motion may intervene after presentation of the resolution.<sup>(5)</sup>

Where two or more Members rise at the same time seeking recognition to offer motions or for debate, the Speaker inquires into their purpose in seeking recognition, and then under Rule XIV, clause 2, names the Member to speak first.<sup>(6)</sup> The fact that the Chair asks a Member, “for what purpose does the gentleman rise” does not confer recognition on the Member to offer a motion.<sup>(7)</sup>

Dilatory motions are not entertained by the Chair, and the determination of whether a motion is dilatory is within the Chair’s discretion.<sup>(8)</sup> The Chair has on occasion indicated a reluctance to hold motions to be dilatory,<sup>(9)</sup> unless it was obvious that dilatory tactics were being used.<sup>(10)</sup>

Several motions discussed in this section are used in the Committee of the Whole. (Proceedings

5. See 6 Cannon’s Precedents § 65.

6. See § 23.4, *infra*.

7. See § 23.1, *infra*.

8. See § 23.7, *infra*.

9. See § 23.8, *infra*.

10. See § 23.12, *infra*.

in the Committee of the Whole are covered in more detail in Chapter 19, *supra*.) For motions to resolve into the Committee of the Whole for the consideration or resumption of consideration of a bill, recognition is first accorded the manager of a bill.<sup>(11)</sup>

A Member recognized to offer and debate an amendment may move that the Committee of the Whole rise,<sup>(12)</sup> but a Member yielded time for general debate may not make the motion unless yielded to for that purpose.<sup>(13)</sup>

The motion that the Committee of the Whole rise is privileged and may be offered during the pendency of a motion to limit debate or immediately upon the adoption of that motion; similarly, the preferential motion that the Committee rise with the recommendation that the enacting or resolving clause be stricken may be offered while the motion to limit debate is pending.<sup>(14)</sup>

Other motions discussed in this section include the following motions used in the House.

11. See §23.27, *infra*; and see, generally, Ch. 19 §4, *supra*.
12. See 113 CONG. REC. 32694, 90th Cong. 1st Sess., Nov. 15, 1967.
13. See 96 CONG. REC. 2178, 81st Cong. 2d Sess., Feb. 22, 1950. For general discussion of motions to rise, see Ch. 19 §§22–25, *supra*.
14. See §23.31, *infra*.

A Member, if recognized for that purpose, may move to suspend the rules and pass a bill with amendments. The fact that the amendments have not been considered or adopted by a committee does not prevent their consideration.<sup>(15)</sup> Recognition for a motion to suspend the rules is within the discretion of the Speaker. Thus, for example, the previously announced scheduling of a House bill under suspension does not preclude the consideration of a similar Senate bill in lieu thereof if recognition is granted by the Speaker.<sup>(16)</sup>

The Speaker may recognize any Member who signed a motion to discharge to call up that motion; and the proponents of a successful motion to discharge are entitled to prior recognition to debate the discharged bill.<sup>(17)</sup>

After the previous question is ordered on the passage of a bill or joint resolution, a motion to recommit is in order, and the Speaker gives preference in recognition for such purpose to a

15. See §23.16, *infra*. A second on a motion to suspend the rules, formerly required in some circumstances, is no longer required. See §23.19, *infra*.
16. See §23.17, *infra*.
17. See §23.23, *infra*. See Ch. 18, *supra*, for further discussion of motions to discharge.

Member who is opposed to the bill or joint resolution.<sup>(18)</sup> In recognizing Members to move to recommit, the Speaker gives preference first to the ranking minority member of the committee reporting the bill, if opposed to the bill, and then to the remaining minority members of that committee in the order of their rank.<sup>(19)</sup>

A member of the minority has priority of recognition to offer a motion to recommit, even where the proposition has been discharged from committee and the chairman of the committee has controlled the time in opposition thereto.<sup>(20)</sup>

Rule XI, clause 4(b)<sup>(1)</sup> now provides that the Committee on Rules shall not report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI, including a motion to recommit with instructions to report back an amendment otherwise in order (if offered by the Minority Leader or a designee), except with respect to a Senate bill or resolution for which the text of

18. See Rule XVI, clause 4, *House Rules and Manual* §782 (1995).

19. See §23.45, *infra*.

20. See Ch. 23 §§25 et seq., *supra*, for further discussion of the motion to recommit.

1. *House Rules and Manual* §729a (1995).

a House-passed measure has been substituted.

In the case of a motion to commit offered pursuant to Rule XVII, clause 1, the Member offering the motion in some circumstances need not qualify as opposed.<sup>(2)</sup>

#### Cross References

Motions generally, see Ch. 23, *supra*.

Motions cannot interrupt Member with floor, see §32, *infra*.

Motions to close or limit debate, see §§76, 78, *infra* (duration of debate in Committee of the Whole).

Motions on conference reports, see Ch. 33, *infra*.

Motion to resolve into the Committee of the Whole, see Ch. 19, *supra*.

Motions on Senate amendments, see Ch. 32, *infra* (amendments between the Houses) and Ch. 33, *infra* (amendments in disagreement reported from conference).

Nondebatable motions, see, for example, §§6.4 (motion to correct reference of bill); 6.19 (motion to close debate under five-minute rule); 6.29, 6.30 (motion that Committee of the Whole rise); 6.14 (motion to dispense with proceedings under call of the House); 6.9 (motion to lay on table); 6.35 (motion for previous question); 6.60 (motion returning bill to Senate pursuant to Senate request), *supra*.

Prior rights to recognition of opposition after rejection of essential motion made by Member in charge, see §15, *supra*.

2. See §23.55, *infra*. For discussion of distinctions between the motion to recommit and the motions to commit or refer, see Ch. 23 §25, *supra*.

Yielding for motions, see § 30, *infra*.

### ***What Constitutes Recognition***

#### **§ 23.1 The fact that the Speaker or Chairman asks a Member “for what purpose does the gentleman rise” does not confer recognition on the Member to offer a motion.**

On Apr. 13, 1946,<sup>(3)</sup> Mr. Dewey Short, of Missouri, sought recognition from Speaker Sam Rayburn, of Texas, after the engrossment and third reading of the pending bill had been ordered. The Speaker inquired of Mr. Short “for what purpose does the gentleman from Missouri rise?” and Mr. Short stated that he was offering a motion to recommit the bill.

The Speaker recognized Mr. Edward E. Cox, of Georgia, to demand the reading of the engrossed copy of the bill. Mr. Vito Marcantonio, of New York, made the point of order that Mr. Short had been recognized to offer a motion to recommit. The Speaker stated:

The gentleman from Missouri [Mr. Short] was not recognized. The Chair asked the gentleman for what purpose he rose, and then recognized the gentleman from Georgia.

On June 26, 1951,<sup>(4)</sup> Chairman Albert A. Gore, of Tennessee,

3. 92 CONG. REC. 3669, 79th Cong. 2d Sess.

4. 97 CONG. REC. 7174, 82d Cong. 1st Sess.

ruled in the Committee of the Whole that his inquiry as to a Member’s purpose in seeking recognition did not confer recognition:

Mr. [Emanuel] Celler [of New York] rose.

THE CHAIRMAN: For what purpose does the gentleman from New York rise?

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I move—

MR. CELLER: Mr. Chairman, was I not recognized?

THE CHAIRMAN: The Chair inquired for what purpose the gentleman rose; that does not entail recognition.

#### **§ 23.2 The mere making of a motion does not confer recognition, and where another Member has shown due diligence he may be recognized even though a motion has been made.**

On Apr. 16, 1943,<sup>(5)</sup> an amendment to a bill being considered in the Committee of the Whole was rejected on a division vote. Chairman William M. Whittington, of Mississippi, then ruled that it was not too late to demand tellers where an intervening motion that the Committee rise was made without recognition by the Chair:

THE CHAIRMAN: The amendment is rejected.

5. 89 CONG. REC. 3502, 78th Cong. 1st Sess.

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I move that the Committee do now rise.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I ask for tellers.

MR. TARVER: Mr. Chairman, I raise the point of order that it is too late to demand tellers.

MR. TABER: I was on my feet, Mr. Chairman.

MR. TARVER: The Chair had announced the result of the vote, and a motion had been made that the Committee rise.

MR. TABER: The gentleman from Georgia had not been recognized by the Chair.

MR. TARVER: The Chair had announced the vote.

THE CHAIRMAN: The gentleman from New York demands tellers.

The gentleman from Georgia makes the point of order that the request comes too late. The Chair would say in deference to the gentleman from New York and the gentleman from Georgia that there had not been formal recognition of the gentleman from Georgia.

Tellers were ordered, and the Chair appointed Mr. Tarver and Mr. Taber to act as tellers.

**§ 23.3 Recognition of a Member to object to a unanimous-consent request for the withdrawal of a motion in the Committee of the Whole (to strike out the enacting clause) does not extend recognition to speak in opposition to the motion.**

On Mar. 1, 1950,<sup>(6)</sup> Mr. Clare E. Hoffman, of Michigan, offered the

6. 96 CONG. REC. 2598, 81st Cong. 2d Sess.

preferential motion that the Committee of the Whole rise and report the pending bill back to the House with the recommendation that the enacting clause be stricken. After debating his motion, Mr. Hoffman asked unanimous consent to withdraw his motion. Mr. Francis H. Case, of South Dakota, objected to withdrawal of the motion and claimed time in opposition to the motion at the same time that Mr. Carl Hinshaw, of California, rose in opposition to the motion.

Chairman Clark W. Thompson, of Texas, recognized Mr. Hinshaw since he was a member of the committee which had reported the bill.

Mr. Case then inquired whether he had not been recognized to speak. The Chairman responded:

The gentleman was recognized by the Chair to make an objection, but not to speak.

***Speaker's Authority To Recognize***

**§ 23.4 Where two or more Members rise at the same time seeking recognition to offer motions or for debate, the Speaker inquires into their purpose in seeking recognition, and then under Rule XIV clause 2, names the Member to speak first.**

On Apr. 26, 1933,<sup>(7)</sup> the House was considering House Joint Resolution 157 (relating to the Saint Lawrence Seaway) pursuant to a special order (H. Res. 112) providing for consideration in the House and ordering the previous question on the joint resolution to final passage without intervening motion except one motion to recommit. Pending was a motion to recommit with instructions, offered by Mr. James S. Parker, of New York, on Apr. 25 and coming over as unfinished business (the previous question having been ordered on the passage of the joint resolution). The previous question was ordered on the motion to recommit as follows:

Mr. [Bertrand H.] Snell [of New York] and Mr. [Sam] Rayburn [of Texas] rose.

MR. SNELL: Mr. Speaker, at the appropriate time I desire to be recognized against the motion to recommit. This is the unfinished business before the House.

MR. RAYBURN: Mr. Speaker, I move the previous question.

MR. SNELL: Mr. Speaker, I am on my feet demanding recognition. The previous question has not been ordered.

7. 77 CONG. REC. 2413, 73d Cong. 1st Sess.

See Rule XIV clause 2, *House Rules and Manual* §753 (1995): "When two or more Members rise at once, the Speaker shall name the Member who is first to speak."

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I certainly shall object to the establishment of any precedent of debating motions to recommit.

MR. SNELL: This is not a precedent. Motion to close debate by ordering the previous question has not been made. This is the unfinished business before the House.

MR. RAYBURN: Mr. Speaker, I move the previous question. I think I have the right to make this motion.

THE SPEAKER: The question is on ordering the previous question on the motion to recommit.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RICH: Mr. Speaker, is it proper procedure, when one Member has obtained recognition, for another Member to be recognized? The gentleman from New York [Mr. Snell] had the floor and was recognized.

THE SPEAKER: The Chair recognized the gentleman from New York to ascertain for what purpose he rose.

MR. RICH: Is it proper procedure for the Chair now to recognize the gentleman from Texas?

THE SPEAKER: The question is on the motion to recommit.

The previous question was ordered on the motion to recommit, which was rejected.

*Parliamentarian's Note:* At the time of this precedent, a motion to recommit with instructions, offered after the previous question

had been ordered on a bill or joint resolution to passage, was not debatable; Rule XVI, clause 4 was amended in the 92d Congress to specifically allow debate (five minutes for and five minutes against) on such a motion to recommit with instructions. Thus in the instant precedent the motion to recommit was not debatable regardless of whether the previous question was ordered thereon.

**§ 23.5 Where a Member seeks recognition to call up District of Columbia business, privileged on District of Columbia Monday, and at the same time another Member seeks recognition to move to suspend the rules and agree to a bill, that motion made privileged by unanimous consent, it is within the discretion of the Speaker as to which of the two Members he will recognize.**

On Aug. 27, 1962,<sup>(8)</sup> Mr. Emanuel Celler, of New York, moved to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States. Mr. Thomas G. Abernethy, of Mississippi, made a point of order against such recognition on the ground

8. 108 CONG. REC. 17654, 17655, 87th Cong. 2d Sess.

that he wanted recognition to offer a District of Columbia bill and that pursuant to Rule XXIV clause 8 of the House rules, District of Columbia business was privileged. He alleged that the Speaker was permitted only to recognize for District of Columbia business. Mr. Carl Albert, of Oklahoma, stated that the Suspension Calendar had been transferred by unanimous consent to that day and contended that under the rules the Speaker had the power of recognition at his discretion.

Speaker John W. McCormack, of Massachusetts, ruled as follows:

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

**§ 23.6 The Speaker may not be compelled by a motion under Rule XXV to recognize Members for scheduled "special orders" immediately upon completion of scheduled legislative business, but rather may continue to exercise his power of recognition under Rule XIV clause 2 to recognize other Members for unanimous-consent requests**

**and permissible motions; thus, the Speaker has declined to recognize a Member who sought to invoke Rule XXV to interfere with the Speaker's power of recognition.**

Rule XXV, which provides that "questions as to the priority of business shall be decided by a majority without debate," merely precludes debate on motions to go into Committee of the Whole, on questions of consideration, and on appeals from the Chair's decisions on priority of business, and should not be utilized to permit a motion directing the Speaker to recognize Members in a certain order or to otherwise establish an order of business. Thus, for example, on July 31, 1975,<sup>(9)</sup> the Speaker<sup>(10)</sup> refused to recognize a Member who sought to make a motion to direct recognition of Members for special orders.

MR. PHILLIP BURTON [of California]: Mr. Speaker, I make a point of order that a quorum is not present.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I make a point of order. . . .

Mr. Speaker, I would like to make the point of order to this effect: Under the new rules of the House, is it not true that once the House has pro-

ceeded to the closing business of the day, granting requests for absences and special orders, that it is no longer in order to make a point of order that a quorum is not present?

THE SPEAKER: The Chair has not started to recognize Members for special orders yet. All the business on the Chair's desk has been completed. . . .

MR. BAUMAN: Mr. Speaker, I make the point of order that the rules preclude a quorum at this point because personal requests have already been read from the desk. A leave of absence was granted to the gentleman from Texas (Mr. Teague).

Under the new rules, Mr. Speaker, a quorum does not lie after this point of business in the day.

THE SPEAKER: If the Chair understands the gentleman's point of order, it relates to the fact, which is a new rule, not the rule we used to follow. The rule is that once a special order has started, the Member who has the special order and is speaking cannot be taken off his feet by a point of order of no quorum. However, there is nothing in the rules of which the Chair is aware that requires the Chair to begin to call a special order at any particular time.

MR. BAUMAN: Mr. Speaker, I move under rule XXV that the House proceed to recognize the Members previously ordered to have special orders today, and on that I ask for a rollcall vote.

MR. [MICHAEL T.] BLOUIN [of Iowa]: Mr. Speaker, I move that the House do now adjourn.

The question was taken.

MR. BAUMAN: Mr. Speaker, on that, I demand the yeas and nays.

9. 121 CONG. REC. 26249, 26251, 94th Cong. 1st Sess.

10. Carl Albert (Okla.).

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 137, nays 202, not voting 95, as follows: . . .

MR. BAUMAN: Mr. Speaker, under rule XXV, I again renew my motion that the Chair proceed to the recognition of other Members who have previously been granted special orders for today.

THE SPEAKER: The Chair recognizes the gentleman from California (Mr. Danielson).

MR. [GEORGE E.] DANIELSON [of California]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

THE SPEAKER: Is there objection to the request of the gentleman from California?

MR. BAUMAN: Mr. Speaker, there is a motion pending.

Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and the Speaker announced that the noes appeared to have it.

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 142, nays 205, not voting 87, as follows: . . .

### ***Dilatory Motions***

#### **§ 23.7 Dilatory motions are not entertained by the Chair,**

#### **and the determination of whether a motion is dilatory is within the Chair's discretion.**

On May 16, 1938,<sup>(11)</sup> Speaker Pro Tempore Sam Rayburn, of Texas, stated in response to a parliamentary inquiry that the determination whether a motion is dilatory is within the discretion of the Chair:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I rise to submit a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. COCHRAN: . . . My parliamentary inquiry is whether a point of order would lie against the motion of a Member to strike out the title when, as a matter of fact, the Member was not in favor of striking out the title.

THE SPEAKER PRO TEMPORE: The present occupant of the Chair would have no way of reading a Member's mind or questioning his motives with reference to any amendment that he might offer. The Chair thinks that any Member who gained the floor to offer any permissible amendment would be in order and he would be entitled to the floor.

MR. COCHRAN: It was certainly a violation of the spirit of the rule when one offers an amendment to strike out a title and then in the first sentence after recognition says that he is not going to insist upon his motion and consumes 5 minutes that should be allowed in opposition to the title.

11. 83 CONG. REC. 6938, 75th Cong. 3d Sess.

THE SPEAKER PRO TEMPORE: The rule interpreted otherwise would make it pretty hard on the occupant of the chair.

MR. [CASSIUS C.] DOWELL [of Iowa]: Where it becomes apparent to the Chair that a motion is made for the purpose of delay, then a point of order may be made and would be sustained, would it not?

THE SPEAKER PRO TEMPORE: The present occupant of the chair understands that the determination of whether a motion is dilatory is entirely within the discretion of the Chair.<sup>(12)</sup>

**§ 23.8 The Speaker recognized a Member to move to adjourn notwithstanding a point of order that such motion was dilatory, and referred to the heavy responsibilities involved in holding a motion dilatory.**

On June 5, 1946,<sup>(13)</sup> there was a series of quorum calls and mo-

12. Rule XVI clause 10, *House Rules and Manual* §803 (1995) provides “No dilatory motion shall be entertained by the Speaker.”

Dilatory motions are expressly forbidden during consideration of reports from the Committee on Rules (Rule XI clause 4(b), *House Rules and Manual* §729(a) [1995]).

For an occasion where a motion to recommit was held dilatory under the “twenty-one day rule” in effect in the 89th Congress, see 111 CONG. REC. 18087, 89th Cong. 1st Sess., July 26, 1965.

13. 92 CONG. REC. 6352–56, 79th Cong. 2d Sess.

tions to adjourn, to delay reaching the Committee on Labor on Calendar Wednesday which intended to call up the federal employment practices bill. When a further point of no quorum was made, Mr. Dan R. McGehee, of Mississippi, made the point of order that the point of no quorum was dilatory. Speaker Sam Rayburn, of Texas, overruled the point of order, stating that a “point of no quorum is a question of very high privilege.”

After the yeas and nays had been had on a motion to dispense with further proceedings under a call of the House, Mr. L. Mendel Rivers, of South Carolina, moved that the House adjourn. Mr. Christian A. Herter, of Massachusetts, made a point of order against the motion on the ground the motion was dilatory. Due to the importance of the pending ruling by the Speaker, a call of the House ensued.

After debate on the Speaker’s power to hold motions dilatory, the Speaker ruled as follows:

. . . One of the greatest responsibilities any occupant of the Chair could assume would be to hold that motions are dilatory. However, that is not to say that the present occupant of the Chair will not, under certain circumstances, hold motions to be dilatory. In the weeks to come and for the remainder of this day the Chair will scrutinize very carefully motions that are made.

The Chair is going to put the motion to adjourn.

The question is on the motion offered by the gentleman from South Carolina [Mr. Rivers].

**§ 23.9 The Speaker, on a Calendar Wednesday, recognized the chairman of a committee to call up a bill in spite of repeated motions to adjourn, thereby inferentially holding such motions dilatory.**

On Feb. 15, 1950,<sup>(14)</sup> which was Calendar Wednesday, Speaker Sam Rayburn, of Texas, directed the Clerk to call the roll of committees and recognized the chairman of the Committee on the District of Columbia to call up a bill, ignoring repeated motions to adjourn (in effect holding them dilatory):

THE SPEAKER: The Clerk will call the committees.

The Clerk called the Committee on the District of Columbia.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair does not yield to the gentleman for a parliamentary inquiry at this time.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The Clerk has called the Committee on the District of Co-

lumbia. The Chair recognizes the gentleman from South Carolina [Mr. McMillan].

MR. SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn. That motion is always in order.

THE SPEAKER: The Chair has recognized the gentleman from South Carolina [Mr. McMillan].

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

MR. COLMER: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

**§ 23.10 A motion that the House adjourn will not be regarded as dilatory merely because the House has rejected such a motion an hour previously.**

On Feb. 22, 1950,<sup>(15)</sup> Speaker Sam Rayburn, of Texas, overruled a point of order that a motion to adjourn was dilatory:

THE SPEAKER: The gentleman from Florida [Mr. Sikes] moves that the House do now adjourn.

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

THE SPEAKER: The gentleman will state it.

14. 96 CONG. REC. 1811, 1812, 81st Cong. 2d Sess.

15. 96 CONG. REC. 2161, 81st Cong. 2d Sess.

MR. MARCANTONIO: Mr. Speaker, I submit the motion to adjourn is dilatory. While I recognize that intervening business has been transacted, such as voting on the motion to dispense with Calendar Wednesday business, it seems to me that the House had expressed its will on this matter about an hour ago and the House refused to adjourn. I think it is obvious to the Speaker that the House has refused to adjourn and the motion, therefore, is dilatory.

THE SPEAKER: The Chair has already entertained the motion. The question is on the motion offered by the gentleman from Florida.

**§ 23.11 The Chair overruled the point of order that a motion to strike out the enacting clause of a bill was dilatory where the Member offering the motion stated he was opposed to the bill “in its present form.”**

On Mar. 30, 1950,<sup>(16)</sup> Chairman Oren Harris, of Arkansas, overruled a point of order that a motion was dilatory:

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, a point of order.

16. 96 CONG. REC. 4424, 81st Cong. 2d Sess.

THE CHAIRMAN: The gentleman will state it.

MR. KEEFE: Mr. Chairman, I make the point of order against the preferential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.<sup>(17)</sup>

**§ 23.12 The Speaker announced that he would not hold a motion to be dilatory unless it was “obvious to everybody” that dilatory tactics were being used.**

On July 25, 1949,<sup>(18)</sup> the House was considering House Resolution

17. See also 95 CONG. REC. 5531, 81st Cong. 1st Sess., May 3, 1949 (a second motion that the committee rise and report back the bill with the recommendation that the enacting clause be stricken held not dilatory, where the first such motion was withdrawn).

18. 95 CONG. REC. 10095-97, 81st Cong. 1st Sess.

276, making in order the consideration of H.R. 3199, the Federal Anti-Poll Tax Act. A series of roll calls intervened to prevent or delay the question being put on its adoption. After the previous question had been ordered on the resolution, Speaker Sam Rayburn, of Texas, entertained a motion by Mr. Robert L. F. Sikes, of Florida, that the House adjourn. The Speaker then made the following statement:

The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

### *Motions Relating to Quorum*

**§ 23.13 Where a motion that the House resolve into Committee of the Whole had been offered, and pending that motion a unanimous-consent request to limit general debate had been made, the Chair declined to entertain a point of order of no quorum, being proscribed by Rule XV clause 6(e) from recognition for that purpose until the pending question had been put to a vote (notwithstanding precedents to the contrary established prior to adoption of that rule).**

During consideration of the District of Columbia appropriation bill for fiscal year 1978 (H.R. 9005) in the House on Sept. 16, 1977,<sup>(19)</sup> the following proceedings occurred:

MR. [WILLIAM H.] NATCHER [of Kentucky]: Madam Speaker, I 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 (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes, and pending that motion, Madam Speaker, I ask unanimous consent that general debate on the bill be limited to 1 hour, the time to be equally divided and controlled by the gentleman from California (Mr. Burgener) and myself.

THE SPEAKER PRO TEMPORE:<sup>(20)</sup> Is there objection to the request of the gentleman from Kentucky?

MR. [ROBERT E.] BAUMAN [of Maryland]: Reserving the right to object, I make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair is about to put the question, and the Chair has not yet put the question on the motion. Therefore, the point of order is out of order at this time.

MR. BAUMAN: Madam Speaker, Cannon's Precedents, volume VI, section 665, indicates that following a motion

19. 123 CONG. REC. 29601, 29602, 95th Cong. 1st Sess.

20. Barbara Jordan (Tex.).

to resolve into the Committee of the Whole, and pending a request for unanimous consent to fix control of the time for debate, a point of no quorum may be raised, and no business is in order until the presence of a quorum is ascertained.

THE SPEAKER PRO TEMPORE: The Chair would cite to the gentleman from Maryland the new rule, clause 6(e) of rule XV of the 95th Congress, that it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote. It is the ruling of the Chair, then, that the point of order is not in order at this time, inasmuch as the Chair has not put the question on the motion to resolve into Committee of the Whole.

Is there objection to the unanimous-consent request of the gentleman from Kentucky (Mr. Natcher)?

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Kentucky (Mr. Natcher). . . .

[The] motion was agreed to. . . .

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9005, with Mr. Fuqua in the chair.

**§ 23.14 A point of order in the House that a quorum is not present only lies when the Speaker has put the pending proposition or motion to a vote, although the Speaker may recognize for a motion**

**for a call of the House at any time within his discretion.**

On Apr. 20, 1978,<sup>(1)</sup> Speaker Pro Tempore James C. Wright, Jr., of Texas, responded to a parliamentary inquiry regarding a point of order that a quorum was not present. The proceedings were as follows:

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. OTTINGER: Mr. Speaker, it does not appear that there is a quorum on the floor of the House. Does a point of order lie at this time on that fact?

THE SPEAKER PRO TEMPORE: Not until the Chair puts the question on the motion to be offered by the gentleman from California (Mr. Danielson). At that point, it would be in order, under the rules. The Chair is not going to recognize anybody prior to that motion.

The Chair is going to recognize the gentleman from California (Mr. Danielson). If anyone wants to object to the vote on the ground that a quorum is not present, that would indeed be in order.

**§ 23.15 While a point of order of no quorum is not in order during debate in the House when the Speaker has not put a pending question to a vote, the Speaker retains the**

1. 124 CONG. REC. 10990, 95th Cong. 2d Sess.

**right to recognize any Member to move a call of the House, in his discretion under Rule XV, clause 6.**

On Mar. 30, 1977,<sup>(2)</sup> a resolution (H. Res. 445) providing for the consideration in the House as in the Committee of the Whole of another resolution (H. Res. 433, providing for the continuation of the Select Committee on Assassinations) was called up for immediate consideration following which a point of no quorum was made. The proceedings were as follows:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 445 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 445

*Resolved*, That upon the adoption of this resolution it shall be in order to consider the resolution (H. Res. 433) to provide for the continuation of the Select Committee on Assassinations, in the House as in the Committee of the Whole.

THE SPEAKER:<sup>(3)</sup> The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

MR. [J. J.] PICKLE [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present. I move a call of the House.

2. 123 CONG. REC. 9554, 95th Cong. 1st Sess.
3. Thomas P. O'Neill, Jr. (Mass.).

THE SPEAKER: The gentleman's point of order is not in order at this particular time.

MR. PICKLE: Mr. Speaker, I renew my point of order that a quorum is not present.

THE SPEAKER: The Chair recognizes the gentleman from Missouri (Mr. Bolling) to move a call of the House.

***Motion To Suspend the Rules***

**§ 23.16 If recognized for that purpose, a Member may move to suspend the rules and pass a bill with amendments and the fact that the amendments have not been considered or adopted by a committee does not prevent their consideration.**

On Apr. 8, 1975,<sup>(4)</sup> during consideration in the House of the Older Americans Act (H.R. 3922), Speaker Pro Tempore John J. McFall, of California, responded to a parliamentary inquiry as indicated below:

MR. [JOHN] BRADEMAs [of Ohio]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3922) to amend the Older Americans Act of 1965 to extend the authorizations of appropriations contained in such act, and for other purposes, as amended.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the*

4. 121 CONG. REC. 9203, 9204, 9213, 94th Cong. 1st Sess.

*United States of America in Congress assembled*, That this Act may be cited as the "Older Americans Amendments of 1975".

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I have a parliamentary inquiry. . . .

Mr. Speaker, does the gentleman from Indiana, representing the Committee on Education and Labor, have the right to offer so-called committee amendments that have been discussed with only a few members but never formally acted upon by the Committee on Education and Labor, since this bill is being offered under suspension of the rules?

THE SPEAKER PRO TEMPORE: The Chair will state, in answer to the parliamentary inquiry, that the gentleman has moved to suspend the rules and pass the bill in the form in which the bill was sent to the desk. So the answer to the gentleman's inquiry is: Yes, the motion is in order in the form in which it has been sent to the desk, with the amendments therein.

**§ 23.17 Recognition for a motion to suspend the rules is within the discretion of the Speaker and the previously announced scheduling of a House bill under suspension does not preclude the consideration of a similar Senate bill in lieu thereof if recognition is granted by the Speaker.**

On Mar. 16, 1964,<sup>(5)</sup> Mr. Chet Holifield, of California, moved to

5. 110 CONG. REC. 5291, 88th Cong. 2d Sess.

suspend the rules and pass the bill S. 2448, to amend the Atomic Energy Act. He moved to pass that bill instead of H.R. 9711, which had been scheduled for consideration under suspension of the rules and which dealt with the same subject matter. In response to a parliamentary inquiry, Speaker John W. McCormack, of Massachusetts, stated that recognition to suspend the rules was within the discretion of the Speaker:

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

MR. SAYLOR: Mr. Speaker, the House Calendar lists a bill to come up under suspension and it is a House bill. Does it not require unanimous consent to suspend the rules and take up a Senate bill?

THE SPEAKER: The Chair will advise the gentleman from Pennsylvania, under the rules of the House, the Speaker may recognize a Member on a motion to suspend the rules.

Is a second demanded?

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, I demand a second.

THE SPEAKER: Without objection, a second will be considered as ordered.

There was no objection.<sup>(6)</sup>

6. See also 80 CONG. REC. 2239, 2240, 74th Cong. 2d Sess., Feb. 17, 1936.

The Committee on Rules has reported and the House has adopted resolutions authorizing the Speaker

**§ 23.18 Pursuant to Rule XXVII clause 1, the Speaker may in his discretion decline to recognize a Member to move to suspend the rules.**

On Mar. 5, 1974,<sup>(7)</sup> a Member of the minority party attempted to gain recognition for a motion to suspend the rules:

REQUEST TO SUSPEND RULES  
AND CONSIDER HOUSE RESOLUTION 807

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I move that the rules be suspended and the House proceed to the consideration of the resolution, House Resolution 807, disapproving pay increases.

THE SPEAKER: <sup>(8)</sup> The Chair will state that the gentleman from Iowa has not consulted the Chair and the Chair is not going to recognize the gentleman from Iowa for that purpose.

The Chair would like to state further that the request of the gentleman from Iowa violates the "Gross" rule whereby he has requested that notification of suspensions be given 24 hours in advance.

to recognize Members for motions to suspend the rules on days other than suspension calendar days. See, for example, H. Res. 422, 107 CONG. REC. 16562, 16563, 87th Cong. 1st Sess., Aug. 21, 1961.

For detailed treatment of recognition to move to suspend the rules, see Ch. 21, supra.

7. 120 CONG. REC. 5316, 93d Cong. 2d Sess.
8. Carl Albert (Okla.).

MR. GROSS: What kind of a rule is that?

THE SPEAKER: The Gross rule.

**§ 23.19 In recognizing a Member to demand a second on a motion to suspend the rules (under a former rule), the Speaker gave preference to a member of the reporting committee who was opposed to the bill over another Member of the same party.**

On Feb. 20, 1967,<sup>(9)</sup> Speaker John W. McCormack, of Massachusetts, ruled as follows, on recognition to demand a second on the motion to suspend the rules and pass a bill (H.R. 2) reported from the Committee on Armed Services:

THE SPEAKER: Is a second demanded?

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I demand a second.

THE SPEAKER: For what reason does the gentleman from Michigan [Mr. Nedzi], a member of the committee, stand?

MR. [LUCIEN N.] NEDZI: Mr. Speaker, I demand a second.

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

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. YATES: The distinguished gentleman from Michigan is my good friend. Is it in order to inquire as to

9. 113 CONG. REC. 3829, 90th Cong. 1st Sess.

whether the gentleman from Michigan is opposed to the bill?

MR. NEDZI: I will allay the gentleman's fears. He is.

MR. YATES: I will withdraw.

THE SPEAKER: The Chair had not reached that point yet. The Chair would have asked that question.

Is the gentleman from Michigan opposed to the bill?

MR. NEDZI: I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies. Without objection, a second will be considered as ordered.

After the expiration of the 20 minutes of debate in favor of the motion, the Speaker then recognized Mr. Nedzi to control the 20 minutes against the motion.

*Parliamentarian's Note:* The Member demanding a second on the motion to suspend the rules was entitled to recognition for debate against the motion.<sup>(10)</sup>

Prior to the 102d Congress, certain motions to suspend the rules were required to be seconded, if demanded, by a majority by tellers, but this requirement was eliminated from Rule XXVII in the 102d Congress (see H. Res. 5, Jan. 3, 1991).

10. See 105 CONG. REC. 17600, 86th Cong. 1st Sess., Sept. 1, 1959.

For an occasion where the debate in opposition to the motion, allotted to the Member demanding the second, was transferred to another by unanimous consent, see §25.24, *infra*.

**§ 23.20 Under clause 2 of Rule XXVII,<sup>(11)</sup> a Member opposed to a motion to suspend the rules is entitled to control 20 minutes of debate in opposition to the motion; ordinarily, the ranking minority member of the reporting committee controls the 20 minutes of debate unless he is challenged at the time the allocation is made and does not qualify as being opposed to the motion.**

During consideration of the Equal Access Act (H.R. 5345) in the House on May 15, 1984,<sup>(12)</sup> the following proceedings occurred:

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5345) to provide that no Federal educational funds may be obligated or expended to any State or local educational agency which discriminates against any meetings of students in public secondary schools who wish to meet voluntarily for religious purposes.

11. *House Rules and Manual* §907 (1995). The provision providing for forty minutes of debate on a motion to suspend the rules was formerly contained in clause 3. Former clause 2 of Rule XXVII, requiring certain motions to suspend the rules to be seconded by a majority of tellers if demand was made, was repealed by H. Res. 5, 102d Cong. 1st Sess., Jan. 3, 1991.

12. 130 CONG. REC. 12214, 12215, 98th Cong. 2d Sess.

The Clerk read as follows:

H.R. 5345

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Equal Access Act". . . .*

THE SPEAKER PRO TEMPORE:<sup>(13)</sup> . . . The gentleman from Kentucky (Mr. Perkins) will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. William F. Goodling, ranking minority member of Committee on Education and Labor] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

MR. PERKINS: Mr. Speaker, I yield myself 4 minutes. . . .

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. FISH: Mr. Speaker, I am opposed to this bill. Do I have a right to the full 20 minutes on our side?

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman from New York that his objection is not timely. The gentleman is too late. The gentleman from Pennsylvania (Mr. Goodling) controls the time.

MR. [GARY L.] ACKERMAN [of New York]: Mr. Speaker, does the gentleman from Pennsylvania oppose this bill? . . .

THE SPEAKER PRO TEMPORE: The Chair will state that any gentleman had the opportunity at the appropriate time to make the appropriate chal-

lenge. The Chair has ruled that the gentleman from Pennsylvania (Mr. Goodling) controls the time and is recognized for 20 minutes.

**§ 23.21 To control the time in opposition to a motion to suspend the rules and pass a bill, the Speaker recognizes a minority Member who is opposed to the bill, and if no minority member of the reporting committee qualifies to control the time in opposition, a minority Member who is opposed may be recognized.**

The following proceedings occurred in the House on May 4, 1981,<sup>(14)</sup> during consideration of the Cash Discount Act (H.R. 3132):

MR. [FRANK] ANNUNZIO [of Illinois]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3132) to amend the Truth in Lending Act to encourage cash discounts, and for other purposes. . . .

THE SPEAKER:<sup>(15)</sup> . . . The gentleman from Illinois (Mr. Annunzio) will be recognized for 20 minutes, and the gentleman from Delaware (Mr. Evans) will be recognized for 20 minutes.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I have a parliamentary inquiry.

14. 127 CONG. REC. 8323, 8324, 97th Cong. 1st Sess.

15. Thomas P. O'Neill, Jr. (Mass.).

13. Wyche Fowler, Jr. (Ga.).

THE SPEAKER: The gentleman will state it.

MR. WALKER: May I inquire, Mr. Speaker, is the gentleman from Delaware (Mr. Evans) opposed to the bill?

THE SPEAKER: Is the gentleman from Delaware (Mr. Evans) opposed to the bill?

MR. [THOMAS B.] EVANS [Jr.] of Delaware: No; Mr. Speaker, I am not opposed to the bill.

THE SPEAKER: Is the gentleman from Pennsylvania (Mr. Walker) opposed to the bill?

MR. WALKER: Yes; Mr. Speaker, I am.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Walker) is entitled to the time that the gentleman from Delaware (Mr. Evans) would have had.

So the gentleman from Illinois (Mr. Annunzio) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. Walker) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Annunzio).

*Parliamentarian's Note:* Representative Barney Frank, of Massachusetts, a majority party member of the Banking Committee, desired recognition to control the time in opposition, but a minority Member opposed is entitled to recognition over a majority Member even if on the committee.

**§ 23.22 The Speaker accorded priority of recognition to demand a second on a motion to suspend the rules (under a former rule) to a minority**

**member of the committee reporting the bill who qualified as being opposed to the motion.**

On Sept. 20, 1976,<sup>(16)</sup> during consideration of H.R. 14319 (the Clinical Laboratory Improvement Act) in the House, the following proceedings occurred:

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14319) to amend the Public Health Service Act and the Social Security Act to revise and improve the authorities under those acts for the regulation of clinical laboratories, as amended.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

Section 1. This Act may be cited as the "Clinical Laboratory Improvement Act of 1976". . . .

THE SPEAKER PRO TEMPORE:<sup>(17)</sup> Is a second demanded?

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Speaker, I demand a second.

MR. [TIM LEE] CARTER [of Kentucky]: Mr. Speaker, I demand a second.

16. 122 CONG. REC. 31328, 31333, 94th Cong. 2d Sess.

All three Members demanding a second were minority Members, with Mr. Carter ranking on the committee reporting the bill, Mr. Broyhill junior on that committee, and Mr. Symms not on the committee.

17. John J. McFall (Calif.).

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Speaker, I demand a second.

THE SPEAKER PRO TEMPORE: Is each of the gentlemen who request a second opposed to the bill?

MR. SYMMS: I am opposed to the bill, Mr. Speaker.

MR. BROYHILL: I am opposed to the bill, Mr. Speaker.

MR. CARTER: Mr. Speaker, so am I, in its present form.

MR. SYMMS: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. SYMMS: Mr. Speaker, did the gentleman from Kentucky (Mr. Carter) say that he is opposed to the bill?

THE SPEAKER PRO TEMPORE: The Chair will state that the gentleman from Kentucky (Mr. Carter) did say he is opposed to the bill, in its present form.

MR. CARTER: Mr. Speaker, I withdraw my demand for a second.

MR. BROYHILL: Mr. Speaker, I demand a second.

THE SPEAKER PRO TEMPORE: Is the gentleman from North Carolina opposed to the bill?

MR. BROYHILL: I am, Mr. Speaker.

THE SPEAKER PRO TEMPORE: Without objection, a second will be considered as ordered.

There was no objection.

*Parliamentarian's Note:* Prior to the 102d Congress, certain motions to suspend the rules were required to be seconded, if demanded, by a majority by tellers,

but this requirement was eliminated from Rule XXVII in the 102d Congress (see H. Res. 5, Jan. 3, 1991).

### *Motion To Discharge—Who May Move*

**§ 23.23 The Speaker may recognize any Member who signed a motion to discharge to call up that motion, and points of order as to who shall control the bill if the motion is agreed to should be made when the question of consideration of the bill in the Committee of the Whole is moved.**

On Oct. 12, 1942,<sup>(18)</sup> Mr. Joseph A. Gavagan, of New York, who had signed a petition to discharge a bill from committee, moved the discharge of the bill and was recognized by Speaker Sam Rayburn, of Texas, for 10 minutes on the motion. Mr. Sam Hobbs, of Alabama, made a point of order against the motion—partly on the ground that Mr. Gavagan did not have the authority to call up the motion to discharge.

The Speaker ruled:

The rule states that the Chair may recognize any Member who signed the petition to make the motion just made

**18.** 88 CONG. REC. 8066, 77th Cong. 2d Sess.

by the gentleman from New York [Mr. Gavagan], whom the Chair has recognized for that purpose.

*Parliamentarian's Note:* Recognition in opposition to the motion to discharge is extended to members of the committee sought to be discharged in the order of rank.<sup>(19)</sup> The proponents of a successful motion to discharge are entitled to prior recognition to debate the discharged bill.<sup>(20)</sup>

### ***Motion To Postpone***

**§ 23.24 A motion to postpone consideration of a measure being considered in the House is in order after the measure is under consideration but before the manager has been recognized to control debate thereon (the measure being "under debate" within the meaning of clause 4, Rule XVI, and the Member in charge not being taken from the floor).**

On May 30, 1980,<sup>(1)</sup> during consideration of House Joint Res-

19. See 80 CONG. REC. 336, 337, 74th Cong. 2d Sess., Jan. 13, 1936.

20. See 75 CONG. REC. 12911, 72d Cong. 1st Sess., June 14, 1932. For a complete discussion of recognition for the motion to discharge, see Ch. 18, *supra*.

1. 126 CONG. REC. 12821, 12822, 96th Cong. 2d Sess.

olution 554 (supplemental Federal Trade Commission appropriation for fiscal year 1980) in the House, the following proceedings occurred:

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, pursuant to the rule adopted a few moments ago, I call up the joint resolution (H.J. Res. 554) making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980, for consideration in the House.

The Clerk read the joint resolution, as follows:

H.J. RES. 554

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sum is appropriated . . . for the fiscal year ending September 30, 1980. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Ashbrook moves to postpone further consideration of House Joint Resolution 554 until June 10, 1980.

MR. WHITTEN: Mr. Speaker, I move that the motion offered by the gentleman from Ohio (Mr. Ashbrook) be laid on the table.

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it. . . .

[T]he motion to table the motion to postpone consideration was agreed to.

*Parliamentarian's Note:* Under clause 4, Rule XVI, all the mo-

2. Michael L. Synar (Okla.).

tions except the motion to amend may be made in the House after consideration of a measure has begun and before the Member in charge has control of the floor. An amendment may not be offered until the Member in charge yields the floor for that purpose or the previous question is voted down.

### ***Motion To Reconsider***

#### **§ 23.25 A motion to reconsider must be offered by a Member who voted on the prevailing side of the question to be reconsidered.**

During consideration of House Resolution 660 (in the matter of Representative Charles H. Wilson) in the House on May 29, 1980,<sup>(3)</sup> the following proceedings occurred:

MR. [ALLEN E.] ERTEL [of Pennsylvania]: Mr. Speaker, I was in the House when the previous speaker . . . evidently brought in material which was not in the record before the committee, which in my judgment means there has been surprise to the defense in this case in the fact that the gentleman brought up evidence, which is a document from the State of California.

Mr. Speaker, it seems to me in fairness we are required to give the defendant or the accused in this case, whatever we want to call him, an opportunity to rebut that because, in

3. 126 CONG. REC. 12663, 96th Cong. 2d Sess.

fact, he did not have the opportunity of cross-examination and to see the document. We do not know the authenticity of that document.

Now, the defendant is faced with that fact. It seems to me in fairness we ought to continue these proceedings until he has an opportunity to examine the document and give him an opportunity to answer it in detail.

I would ask the Chair, is there any procedure where I can make a motion so that we can handle this in a fair and expeditious manner and give him the opportunity to respond to that and to get the evidence from California? . . .

THE SPEAKER:<sup>(4)</sup> The only motion available that the Chair would know of, unless the gentleman from Florida would yield, would be the motion for reconsideration, if the gentleman voted on the prevailing side of the motion of the gentleman from California (Mr. Rousselot). That was a motion to postpone to a day certain, which was defeated.

MR. ERTEL: Mr. Speaker, I did vote on the prevailing side not to postpone. I would not have voted not to postpone, except for this what I consider to be a very unfair procedure.

I would make that motion, if I could get unanimous consent. I would request that.

Mr. Speaker, I move to reconsider the vote to postpone.

THE SPEAKER: The gentleman moves to reconsider the vote on the motion to postpone.

### ***Motion To Resolve Into Committee of the Whole***

#### **§ 23.26 Motions that the House resolve into the Committee**

4. Thomas P. O'Neill, Jr. (Mass.).

**of the Whole for initial or further consideration of separate bills pursuant to separate special orders adopted by the House are of equal privilege, and the Speaker may exercise his discretionary power of recognition as to which bill shall be next eligible for consideration.**

Where the Committee of the Whole had risen following completion of general debate but prior to reading of a bill for amendment under the five-minute rule, the Speaker Pro Tempore indicated in response to parliamentary inquiries that he would exercise his power of recognition to permit consideration of another bill, rather than return to the bill under the five-minute rule. The proceedings of Sept. 22, 1982,<sup>(5)</sup> were as follows:

MR. [WALTER B.] JONES of North Carolina: . . . I make a motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Bennett) having assumed the chair, Mr. Simon, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5543) to establish an ocean and coastal resources management and

development fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund, had come to no resolution thereon.

MR. JONES of North Carolina: Mr. Speaker, I have a parliamentary inquiry. . . .

Was it not proper that the bill should have been read for amendments while we were sitting at the Committee of the Whole?

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> The Committee has risen now, and the Chair does not know of any way of automatically going back at this point to do that. If the Committee of the Whole had proceeded to consider the bill for amendment, it would have conflicted with a determination made by the leadership as to the legislative schedule, so the House should not resume consideration of the bill anyway at this point. In other words, the leadership had indicated that we would have general debate only today. . . .

MR. JONES of North Carolina: . . . Would I have the privilege as the Chairman of this committee to move that the House resolve itself into the Committee once again?

THE SPEAKER PRO TEMPORE: The Chair's understanding is that the leadership does not want to entertain that motion, which would conflict with the legislative schedule.

**6. Charles E. Bennett (Fla.).**

See Rule XXIII, clause 2 (adopted in the 98th Cong. 1st Sess., Jan. 3, 1983) for the process whereby the Speaker declares the House in Committee of the Whole pursuant to the terms of a special order.

5. 128 CONG. REC. 24690, 24691, 97th Cong. 2d Sess.

Somebody has sent for the gentleman from California (Mr. Waxman), who will make a motion of equal privilege, to arrive, and he is undoubtedly on his way. The Chair would be glad to respond to any further conversation that the gentleman would want to have on this subject which would be in order, until the gentleman arrives.

MR. [JOEL] PRITCHARD [of Washington]: Mr. Speaker, I have a parliamentary inquiry.

Is it the ruling of the Chair that we cannot by unanimous consent go back into the Committee?

THE SPEAKER PRO TEMPORE: The Chair is following the wishes of the leadership and, therefore, would not recognize any Member for the purpose of moving that the House resolve itself into the Committee of the Whole for further consideration of the bill at this time.

What the gentleman might do, he might contact the Speaker, perhaps after the next matter is taken care of. But it should not be done at this point without the consent of the Speaker.

The gentleman from California (Mr. Waxman) has now arrived, and he is recognized.

MR. [HENRY A.] WAXMAN [of California]: Mr. Speaker, I 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 (H.R. 6173) to amend the Public Health Service Act . . . .

**§ 23.27 Recognition is first accorded the manager of a bill to move that consideration of a bill be resumed in Committee of the Whole.**

The Committee of the Whole having risen and reported to the House that it had come to no conclusion on the bill<sup>(7)</sup> under consideration therein, the Chair stated in response to parliamentary inquiries that the bill remained pending in the Committee of the Whole and that its consideration could be resumed when the manager of the bill moved to resolve into the Committee of the Whole for its further consideration, at a time to be determined by the leadership and the House when the House was in session. The proceedings of Nov. 3, 1977,<sup>(8)</sup> were as follows:

MR. [LEO J.] RYAN [of California]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:<sup>(9)</sup> The gentleman will state it.

MR. RYAN: Mr. Speaker, I inquire, along with the gentleman from Connecticut, with regard to the status of [H.R. 9179]. We spent several hours yesterday and today on this legislation, and the purpose of my parliamentary inquiry is to find out where the bill stands and when and if at any time it will be brought up again. We ought to have a chance to bring this bill to the vote today. We are just about to ad-

7. H.R. 9179, a bill to amend the Foreign Assistance Act with respect to the Overseas Private Investment Corporation.
8. 123 CONG. REC. 36918, 36919, 95th Cong. 1st Sess.
9. William H. Natcher (Ky.).

journal and we will come back on the 29th and for a couple of days then. Will there be the opportunity then for the leadership to bring this up again?

THE SPEAKER PRO TEMPORE: The Chair would like to advise the gentleman from California that when a motion is made to go back into the Committee of the Whole, for further consideration of H.R. 9179, further action on that bill would take place. . . .

As the gentleman from California well knows, by previous order of the House the House will recess at 2:15 today. Following the recess, after 3 o'clock a motion to resolve into the Committee of the Whole would be in order. That would be after the recess takes place.

MR. RYAN: In the event it does not take place today, is it possible to take that legislation up tomorrow?

THE SPEAKER PRO TEMPORE: That would be a matter to be determined by the leadership and by the House.

MR. RYAN: And under the rules already adopted by this House for recess purposes, would it be possible to take that bill up during the time we are scheduled to come back, after the 29th of November?

THE SPEAKER PRO TEMPORE: Following the recess, is that what the gentleman has in mind?

MR. RYAN: Yes.

THE SPEAKER PRO TEMPORE: The Chair could recognize the manager of the bill for that purpose.

***Motions in Committee of the Whole: Motion To Limit Debate***

**§ 23.28 While it is customary for the Chair to recognize**

**the manager of the pending bill to offer motions to limit debate, any Member may, pursuant to Rule XXIII clause 6, move to limit debate at the appropriate time in Committee of the Whole.**

The following proceedings occurred in the House on July 31, 1975:<sup>(10)</sup>

MR. [WAYNE L.] HAYS of Ohio: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER:<sup>(11)</sup> The gentleman will state it.

MR. HAYS of Ohio: Would it be in order for a person not a member of the committee to move to close debate on whatever pending amendment there might be, and all amendments thereto, to this bill when we go into the Committee of the Whole?

THE SPEAKER: It is the practice and custom of the House that the Chair looks to the manager of the bill for motions relating to the management of the bill.

MR. HAYS of Ohio: If I made the motion—and I will make it more specific—would it be out of order or in violation of the rules?

THE SPEAKER: A proper motion could be entertained at the proper time.

MR. HAYS of Ohio: I am prepared to make such a motion and I will seek the proper time.

***Order of Amendments***

**§ 23.29 When a general appropriation bill has been read,**

10. 121 CONG. REC. 26223, 94th Cong. 1st Sess.

11. Carl Albert (Okla.).

**or considered as read, for amendment in its entirety, the Chair (after entertaining points of order) first entertains amendments which are not prohibited by clause 2(c) of Rule XXI, and then recognizes for amendments proposing limitations not contained or authorized in existing law pursuant to clause 2(d) of Rule XXI, subject to the preferential motion that the Committee of the Whole rise and report the bill to the House with such amendments as may have been agreed to.**

The following proceedings occurred in the Committee of the Whole on Oct. 27, 1983,<sup>(12)</sup> during consideration of H.R. 4139 (Department of Treasury and Postal Service appropriations for fiscal 1984):

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN:<sup>(13)</sup> The gentleman will state his parliamentary inquiry.

MR. SMITH of New Jersey: Mr. Chairman, would it be in order at this time to offer a change in the language that would not be considered under the House rules to be legislating on an appropriations bill?

12. 129 CONG. REC. 29630, 29631, 98th Cong. 1st Sess.

13. Philip R. Sharp (Ind.).

THE CHAIRMAN: The Chair will first entertain any amendment to the bill which is not prohibited by clause 2(c), rule XXI, and will then entertain amendments proposing limitations pursuant to clause 2(d), rule XXI.

MR. SMITH of New Jersey: Mr. Chairman, I offer an amendment.

MR. [BRUCE A.] MORRISON of Connecticut: Mr. Chairman, I reserve a point of order against the amendment.

THE CHAIRMAN: The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Smith of New Jersey: On page 49, immediately after line 2, add the following new section:

"Sec. 618. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions. . . .

MR. MORRISON of Connecticut: Mr. Chairman, I would like to be heard on my point of order. . . .

Mr. Chairman, my point of order is that this amendment constitutes a limitation on an appropriation and cannot be considered by the House prior to the consideration of a motion by the Committee to rise.

THE CHAIRMAN: The Chair must indicate to the gentleman that no such preferential motion has yet been made.

The gentleman is correct that a motion that the Committee rise and report the bill to the House with such amendments as may have been adopted takes precedence over an amendment proposing a limitation.

MR. MORRISON of Connecticut: Mr. Chairman, then I move that the committee do now rise. . . .

THE CHAIRMAN: . . . It would be more appropriate if a motion to rise and report the bill to the House with such amendments as have been adopted, pursuant to clause 2(d), rule XXI were offered instead. . . .

MR. [EDWARD R.] ROYBAL [of California]: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that bill, as amended, do pass.

[The motion was rejected.]

MR. SMITH of New Jersey: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Smith of New Jersey: On page 49, immediately after line 2, add the following new section:

“Sec. 618. No funds appropriated by this Act shall be available to pay for an abortion. . . .

*Parliamentarian's Note:* Mr. Smith was the only Member seeking recognition to offer a limitation after the preferential motion was rejected and could have been preempted by a member of the Appropriations Committee or a more senior member offering an amendment since principles governing priority of recognition would remain applicable. A Member who has attempted to offer a limitation before the motion to rise and report is rejected is not guaranteed first recognition for a limitation amendment.

### ***Motion To Rise***

#### **§ 23.30 The motion that the Committee of the Whole rise**

**is privileged and may be offered during the pendency of a motion to limit debate or immediately upon the adoption of that motion.**

The proceedings of Oct. 7, 1974, are discussed in § 23.31, infra.

### ***Motions Relating to Enacting Clause—May Be Offered While Motion To Close or Limit Debate Pending***

**§ 23.31 The preferential motion under Rule XXIII, clause 7, that the Committee of the Whole rise with the recommendation that the enacting or resolving clause be stricken may be offered while the motion to limit debate is pending.**

On Oct. 7, 1974,<sup>(14)</sup> the following proceedings occurred in the Committee of the Whole during consideration of House Resolution 988 (to reform the structure, jurisdiction, and procedures of House committees):

MR. [RICHARD] BOLLING [of Missouri]: Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentlewoman from Washington (Mrs. Hansen), and all amendments thereto, conclude in 5 hours.

14. 120 CONG. REC. 34170, 34171, 93d Cong. 2d Sess.

THE CHAIRMAN:<sup>(15)</sup> The question is on the motion.

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. BOLLING: Mr. Chairman, I demand a recorded vote. . . .

[Several parliamentary inquiries ensued at this point.]

MR. [DAVID T.] MARTIN of Nebraska: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Martin of Nebraska moves that the Committee rise and report the resolution H. Res. 988 to the House with the recommendation that the resolving clause be stricken out.

THE CHAIRMAN: The Chair would like to ask the gentleman from Nebraska, is the gentleman opposed to this resolution?

MR. MARTIN of Nebraska: I am, Mr. Chairman.

THE CHAIRMAN: The gentleman qualifies to make the motion.

The gentleman from Nebraska is recognized for 5 minutes in support of his motion.

MR. BOLLING: Mr. Chairman, I wish to propound a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BOLLING: Mr. Chairman, my understanding of the situation is that the question that is now pending is on the motion that I made to limit debate on the amendment in the nature of a substitute offered by the gentlewoman from Washington (Mrs. Hansen) and all amendments thereto.

My parliamentary inquiry is this: If that motion carries, my intention is to move that the Committee then rise.

Mr. Chairman, is there anything unparliamentary in that?

THE CHAIRMAN: The gentleman's motion in that event would be in order.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Dingell moves the Committee do now rise.

THE CHAIRMAN: The question is on the motion offered by the gentleman from Michigan (Mr. Dingell).

[After rejection of the motion, the Chair put the question on Mr. Martin's motion:]

THE CHAIRMAN: The question is on the motion offered by the gentleman from Nebraska (Mr. Martin) to strike the resolving clause.

[The preferential motion was rejected.]

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry. . . .

[A]s I understand the motion, the motion is to limit the time to 5 hours on the issue itself, the Hansen amendment and all amendments thereto; is that true?

THE CHAIRMAN: The Chair will now state the question.

The gentleman from Missouri (Mr. Bolling) moves that debate on the Hansen amendment in the nature of a substitute, and all amendments thereto be limited to 5 hours. . . .

The question is on the motion offered by the gentleman from Missouri (Mr. Bolling) that all debate on the amendment in the nature of a substitute offered by the gentlewoman from Washington (Mrs. Hansen), and all amend-

15. William H. Natcher (Ky.).

ments thereto, be limited to 5 hours, on which a recorded vote has been demanded.

A recorded vote was ordered.

*Parliamentarian's Note:* While the provisions of clause 7 of Rule XXIII, relating to the privileged status of a motion to strike the enacting words, refer only to "bills," the motion has been applied in Committee of the Whole to a simple resolution, since it is the only motion available to enable a test vote on whether to proceed with consideration of a resolution during the five-minute rule in Committee of the Whole, and since similar language in Rule XXIII, clause 6, permitting motions to limit debate on "bills" has consistently been construed to apply to simple resolutions being considered in Committee of the Whole.

**§ 23.32 The motion to strike or recommend striking the enacting clause is preferential to the motion to close debate.**

The proceedings of June 28, 1995,<sup>(16)</sup> demonstrate that the motion to strike the enacting clause is preferential to the motion to close debate. The Committee of the Whole had under consideration H.R. 1868, the Foreign Op-

16. 141 CONG. REC. p. \_\_\_\_, 104th Cong. 1st Sess.

erations, Export Financing, and Related Programs Appropriations Act of 1996:

MR. [PORTER J.] GOSS [of Florida]: Mr. Chairman, I move that all debate on the Goss amendment and all amendments thereto close immediately.

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, I have a preferential motion at the desk.

THE CHAIRMAN: The Clerk will report the preferential motion.

Mr. Volkmer moves that the Committee do now rise and report the bill back to the House with recommendation that the enacting clause be stricken.

MR. VOLKMER: Mr. Chairman, the attempt by the gentleman from Florida [Mr. Goss] to limit debate on this very important amendment of the gentleman from California [Ms. Pelosi] to the gentleman's amendment, I do not think is appropriate at this time.

On July 13, 1995,<sup>(17)</sup> a motion to limit debate was made during consideration of H.R. 1977, the Department of the Interior and Related Agencies Appropriations Act of 1996, followed by a motion to recommend striking the enacting clause.

MR. [RALPH] REGULA [of Ohio]: Mr. Chairman, I move to limit debate on title I and all amendments thereto to 90 minutes not including vote time.

MR. [DAVID R.] OBEY [of Wisconsin]: Mr. Chairman, I offer a privileged mo-

17. 141 CONG. REC. p. \_\_\_\_, 104th Cong. 1st Sess.

tion. I move that the Committee rise and report the bill back to the House with a recommendation that the enacting clause be stricken.

Mr. Chairman, what is at issue here, in my view, is whether or not this House is going to be able to conduct the business at reasonable times in public view or whether we are going to be reduced to making virtually every major decision in subcommittees and on the floor at near midnight, with minimal public attention and minimal public understanding and minimum attention. . . .

MR. REGULA: Mr. Chairman, I oppose the motion.

I was not a party to the earlier negotiations. The gentleman from Illinois [Mr. Yates] and I discussed a possible agreement here that we would finish title I with time limits on the amendments that remain. . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Wisconsin [Mr. Obey].

The question was taken; and the Chairman announced that the noes appeared to have it.

#### RECORDED VOTE

MR. OBEY: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 236, not voting 36, as follows: . . .

On one occasion, when a preferential motion to close debate was before the Committee of the Whole, the Chair declined to recognize a Member to offer another privileged motion until the pend-

ing motion had been disposed of. On Mar. 26, 1965,<sup>(18)</sup> Adam C. Powell, of New York, Chairman of the Committee on Education and Labor, offered the privileged motion that all debate close on the pending title of H.R. 2362, the Elementary and Secondary Education Act of 1965, reported by his committee. Chairman Richard Bolling, of Missouri, advised Members that the motion to close debate was not debatable. Mrs. Edith S. Green, of Oregon, then sought recognition to offer a preferential motion. The Chairman ruled that since the preferential motion to close debate was before the Committee of the Whole, no Member could be recognized to offer another preferential motion until the pending motion was disposed of.

#### *—Qualification To Offer: Opposition to Bill*

#### **§ 23.33 To obtain recognition to offer a motion that the Committee of the Whole rise and report a bill to the**

18. 111 CONG. REC. 6098, 6099, 89th Cong. 1st Sess. See §23.31, supra, indicating that while a motion to limit debate is pending, the preferential motion that the Committee of the Whole rise with the recommendation that the enacting clause be stricken may be offered.

**House with the recommendation that the enacting clause be stricken, a Member, if challenged, must qualify by stating that he is opposed to the bill.**

On May 3, 1949,<sup>(19)</sup> Mr. Hale Boggs, of Louisiana, offered the motion that the Committee of the Whole rise and report the pending bill back to the House with the recommendation that the enacting clause be stricken. Mr. Joseph W. Martin, Jr., of Massachusetts, made the point of order that Mr. Boggs was not opposed to the bill. Chairman Jere Cooper, of Tennessee, inquired of Mr. Boggs whether he was opposed to the bill. When Mr. Boggs stated he was in favor of the bill, the Chairman ruled he did not qualify for recognition to offer the motion.

On May 6, 1950,<sup>(20)</sup> Mr. Boggs offered the motion that the Committee rise and report back the pending bill with the recommendation the enacting clause be stricken. Mr. John Taber, of New York, made the point of order that Mr. Boggs had not stated that he was opposed to the bill. Chairman Cooper inquired whether Mr. Boggs qualified and Mr. Boggs

19. 95 CONG. REC. 5531, 81st Cong. 1st Sess.

20. 96 CONG. REC. 6571, 81st Cong. 2d Sess.

stated he was opposed to the bill, thereby qualifying to offer the motion.<sup>(1)</sup>

**—Two Members Recognized To Speak**

**§ 23.34 The Chair recognizes only two Members to speak on the preferential motion that the Committee of the Whole rise and report with the recommendation that the enacting clause be stricken.**

The principle described above was illustrated on Dec. 18, 1975,<sup>(2)</sup> in the Committee of the Whole during consideration of the Airport and Airway Development Act Amendments of 1975 (H.R. 9771):

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Conte moves that the Committee do now rise and report the

1. In recognizing a Member in opposition to the motion, which is debated five minutes for and five minutes against, the Chairman extends priority to a member of the committee handling the bill (see 96 CONG. REC. 2597, 81st Cong. 2d Sess., Mar. 1, 1950). For detailed discussion of the motion that the Committee of the Whole rise and report back the bill with the recommendation that the enacting clause be stricken, see §§ 77–79, *infra*, and Ch. 19, *supra*.
2. 121 CONG. REC. 41799, 41800, 94th Cong. 1st Sess.

bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN:<sup>(3)</sup> The gentleman from Massachusetts (Mr. Conte) is recognized for 5 minutes in support of his amendment. . . .

THE CHAIRMAN: The Chair recognizes the gentleman from California (Mr. Anderson).

MR. [GLENN M.] ANDERSON of California: Mr. Chairman, I rise in opposition to the gentleman's motion and yield back the balance of my time.

Mr. Anderson having used only a small portion of his time to speak against the motion, Mr. Garry E. Brown, of Michigan, sought recognition to speak against the motion. The Chair declined to recognize him, since only two Members may be recognized to speak on the motion.

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. Conte).

The preferential motion was rejected.

### —*Ten-minute Debate*

**§ 23.35 Only ten minutes of debate, five for and five against, are permitted on a preferential motion that the Committee of the Whole rise and report a bill to the House with the recommenda-**

3. George E. Brown, Jr. (Calif.).

**tion that the enacting clause be stricken.**

During consideration of H.R. 12452 (the comprehensive employment and training amendments of 1978) in the Committee of the Whole on Aug. 9, 1978,<sup>(4)</sup> the following proceedings occurred:

MR. [RONALD V.] DELLUMS [of California]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Dellums moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

MR. DELLUMS: Mr. Chairman, I do not seek this vehicle as a parliamentary tactic. I make it with deadly seriousness. . . .

MR. [RONALD A.] SARASIN [of Connecticut]: Mr. Chairman, I rise in opposition to the preferential motion.

THE CHAIRMAN:<sup>(5)</sup> The gentleman from Connecticut (Mr. Sarasin) is recognized for 5 minutes.

MR. SARASIN: Mr. Chairman, I rise in opposition to the preferential motion offered by the gentleman from California (Mr. Dellums). . . .

THE CHAIRMAN: The question is on the preferential motion offered by the gentleman from California (Mr. Dellums).

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Chairman, I rise in opposition to the preferential motion.

4. 124 CONG. REC. 25248, 25249, 95th Cong. 2d Sess.

5. William H. Natcher (Ky.).

THE CHAIRMAN: The Chair will state that all time for debate on the preferential motion has expired.

The question is on the preferential motion offered by the gentleman from California (Mr. Dellums).

The preferential motion was rejected.

*Parliamentarian's Note:* While Mr. Hawkins as manager of the bill would have been recognized first in opposition to the motion if he had sought recognition at the time Mr. Sarasin was recognized, he was not entitled to recognition after Mr. Sarasin had concluded.

**—Preferential Motion and Debate Thereon Where Debate Time Has Been Limited**

**§ 23.36 A limitation of all debate time on a bill and all amendments thereto to a time certain does not preclude the offering of a preferential motion to rise with the recommendation that the enacting clause be stricken, nor debate thereon during time remaining under the limitation; and where the remaining time for debate on a bill and all amendments thereto is consumed by debate on a preferential motion, an amendment pending when the preferential motion was offered is voted on without further debate, if that**

**amendment was not printed in the Record.**

On Oct. 6, 1981,<sup>(6)</sup> during consideration of H.R. 4560 (Labor, Health and Human Services appropriations for fiscal year 1982) in the Committee of the Whole, the following proceedings occurred:

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto conclude not later than 5 o'clock.

THE CHAIRMAN:<sup>(7)</sup> Is there objection to the request of the gentleman from Kentucky?

MR. [THEODORE S.] WEISS [of New York]: . . . I wonder if the distinguished gentleman from Kentucky (Mr. Natcher) would not agree that a 6 o'clock time frame would be more appropriate?

MR. NATCHER: Mr. Chairman, I would accept the recommendation, and so move.

THE CHAIRMAN: Is there objection to the request of the gentleman from Kentucky? . . .

There was no objection.

THE CHAIRMAN: The time will be limited to 6 o'clock. . . .

MR. [TRENT] LOTT [of Mississippi]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Lott moves that the Committee do now rise and report the

6. 127 CONG. REC. 23361, 23362, 23396, 23397, 97th Cong. 1st Sess.

7. Don Fuqua (Fla.).

bill back to the House with the recommendation that the enacting clause be stricken out. . . .

MR. WEISS: Mr. Chairman, at the time the gentleman from Kentucky (Mr. Natcher) requested unanimous consent that debate be terminated at 6 o'clock, we were given assurances that all the amendments that . . . any Member had to offer would be entertained. So I now raise the point of order that in fact the gentleman is proceeding out of the regular order that was agreed to.

THE CHAIRMAN: The gentleman from Mississippi (Mr. Lott) has offered a preferential motion which is in order and not precluded by the unanimous-consent agreement, and under the unanimous-consent agreement, the gentleman from Mississippi is recognized for 2½ minutes. . . .

MR. LOTT: Mr. Chairman, I take this time to make one brief point. This bill is over budget, whether it be the President's budget or the first concurrent resolution on the budget passed by this House. This bill is over budget whether you look at outlays or budget authority. . . .

THE CHAIRMAN: The gentleman from Kentucky (Mr. Natcher) is recognized for 2½ minutes.

MR. NATCHER: . . . When we started debate on this bill, the Members will recall that I said that at the proper time we would offer an amendment to take out of this bill \$74 million in budget authority. We offered the amendment, and the \$74 million was taken out. That put us in line with the section 302 target for discretionary budget authority. . . .

THE CHAIRMAN: All time has expired. The question is on the preferential mo-

tion offered by the gentleman from Mississippi (Mr. Lott).

The preferential motion was rejected.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from New Hampshire (Mr. Gregg).

MR. [JOSEPH M.] GAYDOS [of Pennsylvania]: Mr. Chairman, I make a point of order.

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

MR. GAYDOS: Mr. Chairman, I am asking the Chair whether or not I have 5 minutes to respond to the amendment as offered by the gentleman from New Hampshire (Mr. Gregg).

THE CHAIRMAN: All time for debate on the bill and on the pending amendment has expired.

The question is on the amendment offered by the gentleman from New Hampshire (Mr. Gregg). . . .

So the amendment was rejected.

MR. [DONALD J.] PEASE [of Ohio]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: Is the gentleman's amendment printed in the Record?

MR. PEASE: It is, Mr. Chairman. It is amendment No. 1.

[Mr. Pease was subsequently recognized to debate the amendment.]

*Parliamentarian's Note:* During debate on the preferential motion, there was discussion of a prospective motion to recommit. For discussion of the distinction between a motion to recommit pending a vote on a motion to strike the enacting clause, and the motion to recommit pending final passage, see § 15, supra.

**§ 23.37 Debate on a preferential motion in Committee of the Whole to strike the enacting clause, and a vote on that motion, takes precedence over remaining debate on a pending amendment on which time has been limited and allocated; thus, where a Member offers a preferential motion to strike the enacting clause in order to obtain five minutes of debate on the pending amendment on which debate has been limited and allocated, the Chair must put the question on the preferential motion immediately after debate thereon, unless unanimous consent is given to combine that debate with time remaining under the allocation on the amendment.**

The following proceedings occurred in the Committee of the Whole on June 25, 1986,<sup>(8)</sup> during consideration of H.R. 5052 (military construction appropriations for fiscal 1987):

MR. [W. G.] HEFNER [of North Carolina]: Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments hereto end in 20 minutes.

8. 132 CONG. REC. 15500-502, 99th Cong. 2d Sess.

THE CHAIRMAN:<sup>(9)</sup> Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE CHAIRMAN: Members standing at the time the unanimous-consent request was agreed to will be recognized for 2 minutes each. . . .

MR. [RONALD V.] DELLUMS [of California]: Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN: The gentleman from California (Mr. Dellums) is recognized for 5 minutes in support of his preferential motion.

MR. DELLUMS: Mr. Chairman, I will not insist upon my motion that the Committee do now rise. I simply use this extraordinary tactic in order to gain some opportunity to speak on this terribly important matter. I think that we ought to limit debate only on issues that are noncontroversial. . . .

THE CHAIRMAN: The time of the gentleman from California (Mr. Dellums) has expired.

MR. DELLUMS: Mr. Chairman, I still have 1 minute on the earlier request.

THE CHAIRMAN: The preferential motion takes preference over the 1 minute.

MR. DELLUMS: Mr. Chairman, I still have 1 minute after the preferential motion is voted up or down; is that not correct, Mr. Chairman.

THE CHAIRMAN: The gentleman is correct. Does the gentleman desire to take that now?

MR. DELLUMS: That is my request, and then I would logically conclude my discussion, Mr. Chairman, if I may.

9. William J. Hughes (N.J.).

THE CHAIRMAN: Without objection, the gentleman may proceed for 1 additional minute, on the preferential motion, in lieu of his 1 minute allocated on the pending amendment.

There was no objection.

**—Where Debate Time Has Expired**

**§ 23.38 The 10 minutes of debate otherwise permitted on a preferential motion to recommend that the enacting clause be stricken is not available where all time for debate under the five-minute rule on a bill and all amendments thereto has expired.**

On Apr. 9, 1976,<sup>(10)</sup> during consideration of the military procurement authorization bill (H.R. 12438) in the Committee of the Whole, the following proceedings occurred:

MR. [MELVIN] PRICE [of Illinois]: Mr. Chairman, I ask unanimous consent that all debate on the remainder of the bill, title VII and all amendments thereto, close in 10 minutes.

THE CHAIRMAN PRO TEMPORE:<sup>(11)</sup> Is there objection to the request of the gentleman from Illinois?

There was no objection. . . .

THE CHAIRMAN PRO TEMPORE: All time for debate has expired. . . .

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer a preferential motion.

10. 122 CONG. REC. 10245, 10246, 10249, 94th Cong. 2d Sess.

11. John Brademas (Ind.).

The Clerk read as follows:

Mr. Harkin moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause of H.R. 12438 be stricken.

THE CHAIRMAN PRO TEMPORE: The gentleman's motion is not debatable, in that all time has expired.

The question is on the preferential motion offered by the gentleman from Iowa (Mr. Harkin).

The preferential motion was rejected.

**§ 23.39 When the Committee of the Whole has limited debate on the bill and all amendments thereto to a time certain, even a preferential motion to strike the enacting clause is not debatable if offered after the expiration of time for debate.**

On Aug. 1, 1984,<sup>(12)</sup> during consideration of H.R. 6028 (Departments of Labor and Health, Education and Welfare appropriations for fiscal 1985) in the Committee of the Whole, the following proceedings occurred:

THE CHAIRMAN:<sup>(13)</sup> All time has expired.

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I have a preferential motion at the desk.

THE CHAIRMAN: The Clerk will state the motion.

12. 130 CONG. REC. 21869, 98th Cong. 2d Sess.

13. Don Fuqua (Fla.).

The Chair will first advise the gentleman that it is not debatable at this point under the unanimous-consent agreement.

MR. DANNEMEYER: Mr. Chairman, I have a parliamentary inquiry. . . .

Is it not true that on behalf of this motion this Member would have 5 minutes?

THE CHAIRMAN: All debate on the bill and all amendments to the bill under the unanimous-consent agreement was to end at 1:30, unless amendments had been printed in the Record.

MR. DANNEMEYER: This is not an amendment.

THE CHAIRMAN: All debate on the bill ended at 1:30, under the unanimous-consent agreement.

MR. DANNEMEYER: Maybe this Member does not understand, but the preferential motion takes precedence over the time limitation that has been agreed to; does it not?

THE CHAIRMAN: It could be offered, but there will be no debate on the preferential motion.

MR. DANNEMEYER: This Member would have no time on behalf of it?

THE CHAIRMAN: The gentleman would not have any time under the unanimous-consent agreement.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry. . . .

The time limitation was on the bill itself; is that correct?

THE CHAIRMAN: The gentleman is correct.

MR. WALKER: The preferential motion deals with a specific motion before the House which would be my understanding, would permit the gentleman

5 minutes of time to debate his motion. That is the pattern that I have understood we have used before when time limitations have been declared. Is this a change of policy on the part of the Chair?

THE CHAIRMAN: The Chair will state that the precedents of the House are that when the time limit is on the entire bill, that includes all motions thereto.

MR. WALKER: So that the Chair is ruling that this motion is a part of the debate on the bill?

THE CHAIRMAN: That is correct.

### *—Priority in Recognition of Members in Opposition*

**§ 23.40 The Chair normally recognizes the manager of a bill for five minutes if he rises in opposition to a preferential motion that the enacting clause be stricken, and no preference in recognition is granted to the minority.**

An illustration of the proposition described above occurred on Apr. 23, 1975,<sup>(14)</sup> in the Committee of the Whole during consideration of the Vietnam Humanitarian Assistance Act (H.R. 6096):

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

14. 121 CONG. REC. 11505, 11506, 94th Cong. 1st Sess.

Mr. O'Neill moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN:<sup>(15)</sup> The Chair recognizes the gentleman from Massachusetts (Mr. O'Neill) in support of his preferential motion. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I rise in opposition to the preferential motion offered by the gentleman from Massachusetts (Mr. O'Neill).

MR. [PIERRE S.] DU PONT [IV, of Delaware]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. DU PONT: Mr. Chairman, my parliamentary inquiry is this: Does the grant of time by the Chairman to the gentleman from Pennsylvania (Mr. Morgan) preclude anyone on the minority side from rising in opposition to the preferential motion and being heard?

THE CHAIRMAN: The Chair will say that that is correct.

MR. DU PONT: Under the rules, is not time designated to the minority side?

THE CHAIRMAN: The Chair will state that is not a prerogative of the minority on a preferential motion of this sort.

**§ 23.41 The chairman of a committee managing a bill is entitled to recognition for debate in opposition to a motion that the Committee rise and report the bill to the**

15. Otis G. Pike (N.Y.).

**House with the recommendation that the enacting clause be stricken, over the minority manager of the bill.**

The following proceedings occurred in the Committee of the Whole on Apr. 28, 1983,<sup>(16)</sup> during consideration of House Joint Resolution 13 (nuclear weapons freeze):

THE CHAIRMAN:<sup>(17)</sup> When the Committee of the Whole rose on Thursday, April 21, 1983, pending was the committee amendment in the nature of a substitute which is considered as an original resolution for the purpose of amendment. All time for debate on the text of the resolution had expired.

Are there further amendments?

PREFERENTIAL MOTION OFFERED BY MR. AU COIN

MR. [LES] AU COIN [of Oregon]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. AuCoin moves that the committee do now rise and report the resolution back to the House with the recommendation that the resolving clause be stricken out.

THE CHAIRMAN: The gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes in support of his preferential motion. . . .

MR. [WILLIAM S.] BROOMFIELD [of Michigan]: Mr. Chairman, I rise in opposition to the preferential motion.

16. 129 CONG. REC. 10425, 98th Cong. 1st Sess.

17. Matthew F. McHugh (N.Y.).

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin] [Chairman of Committee on Foreign Affairs]: Mr. Chairman, I rise in opposition to the preferential motion and ask for a vote.

THE CHAIRMAN: The gentleman from Wisconsin (Mr. Zablocki) is recognized for 5 minutes in opposition to the preferential motion.

**§ 23.42 Priority of recognition in opposition to a preferential motion to recommend that the enacting clause be stricken is accorded to a member of the committee reporting the bill.**

During consideration of the Clean Air Act Amendments of 1976 (H.R. 10498) in the Committee of the Whole on Sept. 15, 1976,<sup>(18)</sup> the following proceedings occurred:

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Wright moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

THE CHAIRMAN:<sup>(19)</sup> The gentleman from Texas (Mr. Wright) is recognized for 5 minutes in support of his preferential motion. . . .

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, I rise in opposition to the motion.

18. 122 CONG. REC. 30469, 30470, 94th Cong. 2d Sess.

19. J. Edward Roush (Ind.).

THE CHAIRMAN: Is the gentleman on the committee?

MR. MCCORMACK: No, I am not; but I rise in opposition to the motion.

THE CHAIRMAN: For what purpose does the gentleman from Florida (Mr. Rogers) seek recognition? . . .

MR. MCCORMACK: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman from Washington will state his point of order.

MR. MCCORMACK: Mr. Chairman, there is a motion on the floor. I rise in opposition to it.

As I understand, under the rules, one Member is allowed 5 minutes to speak in opposition to a motion like this.

THE CHAIRMAN: The Chair will state that what the gentleman says is absolutely true.

However, the Chair recognizes the gentleman from Florida [Mr. Rogers, a member of the committee and manager of the bill] who is on his feet, if he seeks recognition in opposition to the preferential motion.

**§ 23.43 Members of the committee managing the bill have priority of recognition for debate in opposition to a preferential motion that the Committee of the Whole rise and report the bill back to the House with the recommendation that the enacting clause be stricken.**

The following proceedings occurred in the Committee of the Whole on May 5, 1988,<sup>(20)</sup> during

20. 134 CONG. REC. 9955, 100th Cong. 2d Sess.

consideration of the Department of Defense authorization for fiscal 1989 (H.R. 4264):

THE CHAIRMAN PRO TEMPORE:<sup>(1)</sup> Does any Member desire to rise in opposition to the preferential motion? Members of the committee have priority.

MR. [JOHN G.] ROWLAND of Connecticut: Mr. Chairman, I rise in opposition to the motion.

THE CHAIRMAN PRO TEMPORE: The gentleman from Connecticut is recognized for 5 minutes.

**—Motion Not Affected by Special Rule Prohibiting Pro Forma Amendments**

**§ 23.44 A special rule governing consideration of a bill in Committee of the Whole which prohibits the Chair from entertaining pro forma amendments for the purpose of debate does not preclude the offering of a preferential motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken, since that motion is not a pro forma amendment and must be voted on (or withdrawn by unanimous consent).**

On May 4, 1983,<sup>(2)</sup> the Committee of the Whole had under

1. Kenneth J. Gray (Ill.).

2. 129 CONG. REC. 11072, 98th Cong. 1st Sess.

consideration House Joint Resolution 13, calling for a freeze and reduction in nuclear weapons. House Joint Resolution 13 was being considered pursuant to a special rule agreed to on Mar. 16,<sup>(3)</sup> and a special rule providing for additional procedures for consideration, including the prohibition of pro forma amendments offered for purposes of obtaining debate time, agreed to on May 4.<sup>(4)</sup> A preferential motion was offered:

MR. [ELLIOTT H.] LEVITAS [of Georgia]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Levitas moves that the Committee rise and report the resolution back to the House with the recommendation that the resolving clause be stricken.

MR. [THOMAS J.] DOWNEY of New York: Mr. Chairman, I have a point of order.

THE CHAIRMAN PRO TEMPORE:<sup>(5)</sup> The gentleman will state his point of order.

MR. DOWNEY of New York: Mr. Chairman, my understanding of the rule is that there is a provision in the rule that prohibits motions of this sort for the purpose of debate time. Is that correct?

THE CHAIRMAN PRO TEMPORE: The Chair will advise the gentleman it only prohibits pro forma amendments, not

3. H. Res. 138, 129 CONG. REC. 5666, 98th Cong. 1st Sess.

4. H. Res. 179, 129 CONG. REC. 11037, 98th Cong. 1st Sess.

5. Leon E. Panetta (Calif.).

preferential motions such as the gentleman has offered.

***Motions To Recommit, Commit, or Refer***

**§ 23.45 In recognizing Members to move to recommit, the Speaker gives preference first to the ranking minority member of the committee reporting the bill, if opposed to the bill, and then to the remaining minority members of that committee in the order of their rank.**

On June 18, 1957,<sup>(6)</sup> the House was considering H.R. 6127, the Civil Rights Act of 1957. In response to a parliamentary inquiry, Speaker Sam Rayburn, of Texas, stated that the order of recognition for a motion to recommit would be in the order of rank of minority members of the committee reporting the bill, the Committee on the Judiciary. When two minority members of the committee arose to offer the motion, the Speaker recognized the member higher in rank:

MR. [JOSEPH W.] MARTIN [Jr., of Massachusetts]: Mr. Speaker, on a motion to recommit, for over 20 years it has been the custom for the minority leader to select the Member who shall make that motion. The leader has se-

lected a member of the committee who is absolutely opposed to the bill. My parliamentary inquiry is, does he have preference over someone who would move to recommit with instructions but who at the same time would not vote for the bill even if the motion to recommit should prevail? So I propound the inquiry whether a gentleman who is absolutely opposed to the bill, who led the fight for the jury trial amendment in the committee, would have preference over someone who would not vote for the bill even in the event a motion to recommit prevailed.

THE SPEAKER: The Chair in answer to that will ask the Clerk to read the holding of Mr. Speaker Champ Clark, which is found in volume 8 of Cannon's Precedents of the House of Representatives, section 2767.

The Clerk read as follows:

The Chair laid down this rule, from which he never intends to depart unless overruled by the House, that on a motion to recommit he will give preference to the gentleman at the head of the minority list, provided he qualifies, and then go down the list of the minority of the committee until it is gotten through with. And then if no one of them offer a motion to recommit the Chair will recognize the gentleman from Kansas [Mr. Murdock], as the leader of the third party in the House. Of course he would have to qualify. The Chair will state it again. The present occupant of the chair laid down a rule here about a year ago that in making this preferential motion for recommitment the Speaker would recognize the top man on the minority of the committee if he qualified—that is, if he says he is opposed to the bill—and so on down to the end of the minority list of the committee.

6. 103 CONG. REC. 9516, 9517, 85th Cong. 1st Sess.

MR. MARTIN: Will the Clerk continue the reading of the section? I think there is a little more to it than that.

THE SPEAKER: If the gentleman desires, the Clerk will read the entire quotation. The Clerk will continue to read.

The Clerk read as follows:

Then, if no gentleman on the committee wants to make the motion, the Speaker will recognize the gentleman from Illinois, Mr. Mann, because he is the leader of the minority. Then, in the next place, the Speaker would recognize the gentleman from Kansas, Mr. Murdock. But in this case, the gentleman from Kansas, Mr. Murdock, is on the Ways and Means Committee, which would bring him in ahead, under that rule, of the gentleman from Illinois, Mr. Mann.

MR. MARTIN: The Chair does not think that preference should be given to an individual who was going to make a motion to recommit and who was absolutely opposed to the bill?

THE SPEAKER: The Chair is not qualified to answer a question like that. The Chair in response to the parliamentary inquiry of the gentleman from Massachusetts will say that the decision made by Mr. Speaker Champ Clark has never been overturned, and it has been upheld by 1 or 2 Speakers since that time, especially by Mr. Speaker Garner in 1932.

In looking over this list, the Chair has gone down the list and will make the decision when someone arises to make a motion to recommit. The Chair does not know entirely who is going to seek recognition.

MR. [RICHARD H.] POFF [of Virginia]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. POFF: I am, Mr. Speaker.

MR. [RUSSELL W.] KEENEY [of Illinois]: Mr. Speaker, I also offer a motion to recommit, and I, too, am opposed to the bill.

THE SPEAKER: In this instance the Chair finds that no one has arisen who is a member of the minority of the Committee on the Judiciary until it comes down to the name of the gentleman from Virginia [Mr. Poff]. He ranks the gentleman from Illinois [Mr. Keeney] and is therefore senior. Under the rules and precedents of the House, the Chair therefore must recognize the gentleman from Virginia [Mr. Poff].<sup>(7)</sup>

**§ 23.46 In response to a parliamentary inquiry the Speaker stated that recognition to offer a motion to recommit is the prerogative of a Member opposed to the bill, that the Speaker will first look to minority members of the committee reporting the bill in their order of seniority on the committee, second to other Members of the minor-**

7. Where recognition is required by rule or precedent to pass to the opposition, the Speaker inquires whether the Member seeking recognition is opposed in fact to the measure or motion. For general discussion of rights to recognition of the opposition after rejection of an essential motion, see §15, supra. For full treatment of recognition for the motion to recommit, see Ch. 23, supra.

**ity and finally to majority Members opposed to the bill; thus, a minority Member opposed to a bill but not on the committee reporting it is entitled to recognition to offer a motion to recommit over a majority Member who is also a member of the committee.**

On July 10, 1975,<sup>(8)</sup> during consideration of H.R. 8365 (Department of Transportation appropriations) in the House, the Speaker put the question on passage of the bill and then recognized Mr. William A. Steiger, of Wisconsin, a minority Member, to offer a motion to recommit. The proceedings were as follows:

THE SPEAKER:<sup>(9)</sup> The question is on the passage of the bill.

MR. STEIGER of Wisconsin: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. STEIGER of Wisconsin: I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies. The Clerk will report the motion to recommit.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I have a parliamentary inquiry. . . .

Mr. Speaker, the gentleman is not a member of the Committee on Appropriations. As I understand the rule, a

member of the Committee on Appropriations must offer a motion to recommit.

The gentleman who offered the motion is not on the Committee on Appropriations.

THE SPEAKER: A member of the minority has priority over all the members of the majority, regardless of whether he is on the committee.

MR. YATES: Mr. Speaker, may I continue with my statement on the point of order.

THE SPEAKER: You may.

MR. YATES: "Cannon's Precedents" states, Mr. Speaker, that if a motion is offered by a person other than a member of the committee, a member of the committee takes precedence in offering a motion to recommit.

THE SPEAKER: A motion to recommit is the prerogative of the minority, and the Chair so rules and so answers the parliamentary inquiry.

MR. YATES: Mr. Speaker, may I refer the attention of the Chair to page 311.

I am quoting from page 311 of "Cannon's Precedents."

A member of the committee reporting the measure and opposed to it is entitled to recognition to move to recommit over one not a member of the committee but otherwise qualified.

And, Mr. Speaker, it cites volume 8, page 2768.

THE SPEAKER: The Chair desires to call the attention of the gentleman on the question of the motion to "Deschler's Procedure" chapter 23, section 13. It provides that in recognizing Members who move to recommit, the Speaker gives preference to the minority Member, and these recent precedents are consistent with the one cited by the gentleman from Illinois.

<sup>8</sup> 121 CONG. REC. 22014, 22015, 94th Cong. 1st Sess.

<sup>9</sup> Carl Albert (Okla.).

What the gentleman is saying is that because he is a member of the Committee on Appropriations, he is so entitled. The Chair has not gone over all the precedents, but the Chair can do it if the gentleman desires him to do so.

The rule is not only that a member of the minority on the Committee on Appropriations has preference over a majority member, but any Member from the minority is recognized by the Speaker over any Member of the majority, regardless of committee membership.

MR. YATES: Mr. Speaker, if the Speaker will permit me to continue—

THE SPEAKER: The only exception is when no Member of the minority seeks to make a motion to recommit.

MR. YATES: Mr. Speaker, in that respect may I say that "Cannon's Precedents" is clear on that point; that where none of those speaking, seeking recognition, are members of the committee and otherwise equally qualified, the Speaker recognizes the Member from the minority over the majority.

But the point is, Mr. Speaker, that I am a member of the committee where the gentleman offering the motion to recommit on the minority side is not a member of the committee.

I suggest, therefore, that under the precedents, I should be recognized.

THE SPEAKER: The Chair will state that in order that there can be no mistake the Chair will ask the Clerk to read the following passage from the rules and manual of the House.

The Clerk read as follows (from section 788):

Recognition to offer the motion to recommit, whether in its simple form

or with instructions, is the prerogative of a Member who is opposed to the bill (Speaker Martin, Mar. 29, 1954, p. 3692); and the Speaker looks first to minority members of the committee reporting the bill, in order of their rank on the committee (Speaker Garner, Jan. 6, 1932, p. 1396; Speaker Byrns, July 2, 1935, p. 10638), then to other Members on the minority side (Speaker Rayburn, Aug. 16, 1950, p. 12608). If no Member of the minority qualifies, a majority Member who is opposed to the bill may be recognized (Speaker Garner, Apr. 1, 1932, p. 7327).

THE SPEAKER: The Chair states that that definitely settles the question, and the Chair recognizes the gentleman from Wisconsin to offer the motion to recommit.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Steiger of Wisconsin moves to recommit the bill H.R. 8365 to the Committee on Appropriations.

**§ 23.47 A minority member of a committee reporting a bill is entitled to recognition to offer a motion to recommit, if opposed to the bill, over a minority Member not on the committee, although the Speaker may have failed to notice the committee member seeking recognition at the time the noncommittee Member sought to offer a motion but before it was reported by the Clerk.**

During consideration of the Department of Agriculture appro-

priation bill for fiscal 1976 (H.R. 8561) in the House on July 14, 1975,<sup>(10)</sup> the following proceedings occurred:

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:<sup>(11)</sup> Is the gentleman opposed to the bill?

MR. ROUSSELOT: Yes, I am, Mr. Speaker.

MOTION TO RECOMMIT OFFERED BY MR.  
MICHEL

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: The gentleman from Illinois is the ranking member of the Committee on Appropriations.

MR. ROUSSELOT: Mr. Speaker, I believe I was recognized.

THE SPEAKER: The Chair did not see the gentleman from Illinois.

MR. MICHEL: Mr. Speaker, I was on my feet and I was standing right here. I had the motion at the desk. I was just standing here as a matter of courtesy.

THE SPEAKER: The Chair was at fault in that the Chair did not see the gentleman from Illinois because the gentleman from California was addressing the Chair and the Chair was looking in that direction.

The Chair now recognizes the gentleman from Illinois (Mr. Michel).

MR. ROUSSELOT: Mr. Speaker, I believe I was recognized and the Clerk

was proceeding with the motion to recommit.

THE SPEAKER: The Chair did not see the gentleman from Illinois (Mr. Michel) who was entitled to recognition being the senior member on the Committee on Appropriations and entitled to recognition, and the motion to recommit had not been reported by the Clerk.

The Chair recognizes the gentleman from Illinois (Mr. Michel).

**§ 23.48 Until a Member desiring to offer a motion to recommit has had his motion read by the Clerk, he is not entitled to the floor so as to prevent another Member from seeking recognition to offer another recommittal motion.**

During consideration of the State Department authorization bill (H.R. 3303) in the House on Apr. 24, 1979,<sup>(12)</sup> it was demonstrated that the fact that the Chair has inquired of a Member seeking recognition to offer a motion to recommit whether he qualifies as being opposed to the bill does not confer recognition on that Member, where the Chair has not directed the Clerk to report the motion. The proceedings were as follows:

THE SPEAKER:<sup>(13)</sup> The question is on the engrossment and third reading of the bill.

10. 121 CONG. REC. 22620, 94th Cong. 1st Sess.

11. Carl Albert (Okla.).

12. 125 CONG. REC. 8360, 8361, 96th Cong. 1st Sess.

13. Thomas P. O'Neill, Jr. (Mass.).

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I have a motion at the desk.

THE SPEAKER: The Chair is aware that the gentleman is standing and the Chair intends to recognize the gentleman. . . .

Is there any member of the committee that desires to make a motion to recommit on the minority side? . . .

MR. BAUMAN: Mr. Speaker, I have a motion at the desk.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. BAUMAN: Mr. Speaker, I am opposed to the bill.

THE SPEAKER: The Clerk will—

MR. BAUMAN: Mr. Speaker, I was recognized.

THE SPEAKER: The Chair under the precedents of the House, will recognize the gentleman from Michigan to make a motion if he qualifies. . . .

MR. BAUMAN: Mr. Speaker, had not the Speaker said to the gentleman from Maryland, "Is the gentleman opposed to the bill?"

And the gentleman from Maryland was thus recognized.

THE SPEAKER: The Chair appreciates that the gentleman is opposed to the bill; but under the precedents of the House, the Clerk has not reported the motion. . . .

MR. BAUMAN: I make a point of order against recognizing the gentleman from Michigan or anyone else, because he did not rise in a timely fashion to make the motion. Once the

Chair recognizes a Member, the precedents will support the fact that he has the right to offer the motion.

THE SPEAKER: On the point of order, the gentleman's motion has not been read yet; so the Chair will recognize the gentleman from Michigan, a senior member of the committee, who is standing. . . .

MR. [WILLIAM S.] BROOMFIELD [of Michigan]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the bill?

MR. BROOMFIELD: Yes, I am, Mr. Speaker. . . .

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. Broomfield moves to recommit the bill, H.R. 3363, to the Committee on Foreign Affairs. . . .

MR. BAUMAN: Mr. Speaker, the gentleman makes a point of order that the gentleman is not in order in making the motion, since another Member had already been recognized. The Chair has already conferred that recognition and had inquired whether or not the gentleman from Maryland was opposed.

THE SPEAKER: In the opinion of the Chair, until the motion has been read, the gentleman has not been recognized for that purpose.

MR. BAUMAN: Well, the gentleman did not yield to anyone else to offer a motion.

THE SPEAKER: The gentleman had not been recognized for that purpose and consequently—the Chair asked the gentleman if he was in opposition. The gentleman replied. The gentleman was not then recognized for that purpose.

That is the statement and the opinion of the Chair. The Chair did not recognize the gentleman by directing the Clerk to report the motion. The Chair is trying to follow the precedents of the House.

Now, the Chair has ruled on the gentleman's point of order and the gentleman from Michigan is entitled to 5 minutes. The Chair so recognizes the gentleman from Michigan (Mr. Broomfield).

**§ 23.49 The ranking minority member of the Committee on Appropriations, who had voted in favor of the passage of a continuing appropriations bill after having stated his opposition to the bill in order to obtain recognition to offer an unsuccessful motion to recommit (without instructions), addressed the House on a following day to explain and to apologize for his failure to vote against the bill.**

On Sept. 25, 1979,<sup>(14)</sup> during consideration of House Joint Resolution 404 (continuing appropriations) in the House, the following proceedings occurred:

THE SPEAKER:<sup>(15)</sup> The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

14. 125 CONG. REC. 26152, 26153, 96th Cong. 1st Sess.

15. Thomas P. O'Neill, Jr. (Mass.).

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Does the gentleman qualify?

MR. CONTE: I do, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conte moves to recommit the joint resolution (H.J. Res. 404) to the Committee on Appropriations.

THE SPEAKER: Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER: The question is on the motion to recommit.

The motion to recommit was rejected.

THE SPEAKER: The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [GERALD B.] SOLOMON [of New York]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 203, not voting 23, as follows: . . .

On Sept. 28, 1979,<sup>(16)</sup> Mr. Conte was recognized to make the following statement:

(Mr. Conte asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

16. 125 CONG. REC. 26810, 96th Cong. 1st Sess.

MR. CONTE: Mr. Speaker, on Tuesday, September 25, 1979, when the House considered House Joint Resolution 404, the fiscal year 1980 continuing resolution . . . I voted "aye." . . .

However, I should have voted "nay."

As the record of debate shows, I offered a motion to recommit House Joint Resolution 404 to the Committee on Appropriations.

The Speaker asked me if I qualified to offer the motion. As the ranking member of the Appropriations Committee I assumed I was qualified and so stated.

Upon further reflection and counseling with my friends and colleagues, I came to realize that the honorable, if not the technical, duty of a Member offering a motion to recommit is to vote against the bill on final passage.

Thus, I wish to take this occasion to apologize to the House for my error in not adhering to the strong expectation that an author of an unsuccessful motion to recommit will in turn vote "nay" on final passage.

**§ 23.50 The previous question having been ordered on a simple resolution in the House, a motion to recommit with or without instructions is in order; it must be offered by a Member who is opposed to the resolution, and is not debatable.**

The following proceedings occurred in the House on June 10, 1980:<sup>(17)</sup>

17. 126 CONG. REC. 13801, 13819, 96th Cong. 2d Sess.

THE SPEAKER:<sup>(18)</sup> The unfinished business is the further consideration of the resolution (H. Res. 660) in the matter of Representative Charles H. Wilson.

The Clerk will report the resolution.

The Clerk read the resolution as follows:

*Resolved,*

(1) That Representative Charles H. Wilson be censured;

(2) That Representative Charles H. Wilson be denied the chair on any committee or subcommittee of the House of Representatives . . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Speaker, I move the previous question on the resolution, as amended.

The previous question was ordered.

MR. [PAUL N.] McCLOSKEY [Jr., of California]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. McCLOSKEY: Yes I am, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McCloskey moves to recommit the resolution (H. Res. 660) to the Committee on Standards of Official Conduct with instructions to report the same to the House forthwith with the following amendment. . . .

THE SPEAKER: The question is on the motion to recommit offered by the gentleman from California (Mr. McCloskey). . . .

18. Thomas P. O'Neill, Jr. (Mass.).

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 97, nays 308, answered “present” 4, not voting 24. . . .

**§ 23.51 Where there was pending in the House under the hour rule a resolution and a committee amendment in the nature of a substitute, the Chair indicated that an amendment to the committee amendment could be offered only if the manager yielded for that purpose or if the previous question were rejected, and that a motion to recommit with instructions containing a direct amendment could not be offered if the committee substitute were adopted (since it is not in order to further amend a measure already amended in its entirety).**

On Mar. 22, 1983,<sup>(19)</sup> after House Resolution 127 was called up for consideration in the House, Speaker Pro Tempore John F. Seiberling, of Ohio, responded to several parliamentary inquiries, as indicated below:

MR. [FRANK] ANNUNZIO [of Illinois]: Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res.

127), providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the 1st session of the 98th Congress.

THE SPEAKER PRO TEMPORE: The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 127

*Resolved*, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section . . . .

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert: That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section . . . .

Sec. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, \$1,316,057; Committee on Agriculture, \$1,322,669; Committee on Armed Services, \$1,212,273 . . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Speaker, I have a parliamentary inquiry. . . .

If this Member from California would now offer an amendment to the total in this resolution . . . would that amendment now be in order?

THE SPEAKER PRO TEMPORE: The Chair would rule that the amendment would be in order if the gentleman from Illinois (Mr. Annunzio) would yield to the gentleman from California . . . .

19. 129 CONG. REC. 6447, 6448, 6455, 98th Cong. 1st Sess.

MR. DANNEMEYER . . . What if we were successful in defeating the previous question with respect to this issue? If we did, would an amendment to reduce spending consistent with what I stated previously then be in order?

THE SPEAKER PRO TEMPORE: The Chair would advise the gentleman if the previous question were defeated a germane amendment to the committee amendment would be in order at that time. . . .

MR. DANNEMEYER: I have a further parliamentary inquiry, Mr. Speaker.

We have a motion to commit which is available at the conclusion of a matter of this type. Is the procedure under which this process is now considered by the floor such that the motion to commit can be used with instructions to reduce spending by a certain amount or is it a motion to recommit without instructions?

THE SPEAKER PRO TEMPORE: If the committee amendment in the nature of a substitute is agreed to no further direct amendment could be made by a motion to recommit.

**§ 23.52 The ten minutes of debate permitted on a motion to recommit with instructions by clause 4 of Rule XVI applies only to a bill or joint resolution and not to a simple resolution.**

During consideration of House Resolution 1097 (relating to investigative funds for the Committee on the Judiciary) in the House on Mar. 29, 1976,<sup>(20)</sup> a motion to recommit was offered, as follows:

20. 122 CONG. REC. 8444, 94th Cong. 2d Sess.

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:<sup>(1)</sup> Is the gentleman opposed to the resolution?

MR. ASHBROOK: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Ashbrook moves that House Resolution 1097 be recommitted to the Committee on House Administration with instructions that said committee forthwith report back to the House said resolution with the following amendment, to wit: on page 2, line 11 of the resolution add the following new sentence: "Not to exceed \$300,000 of the total amount provided by this resolution shall be used to carry out activities within the jurisdiction of the Committee on the Judiciary under the provisions of rule X, clause (M) (19) of the Rules of the House of Representatives.

MR. ASHBROOK: Mr. Speaker, may I be recognized for 5 minutes?

THE SPEAKER: The rule regarding debate does not apply to a motion to recommit a resolution.

The question is on the motion to recommit.

**§ 23.53 The Speaker has taken the floor to be recognized for five minutes pursuant to clause 4 of Rule XVI in opposition to a motion to recommit a bill with instructions.**

On Dec. 18, 1979,<sup>(2)</sup> during consideration of H.R. 5860 (author-

1. Carl Albert (Okla.).

2. 125 CONG. REC. 36838, 36840, 96th Cong. 1st Sess.

izing loan guarantees to the Chrysler Corporation) in the House, the following proceedings occurred:

MR. [J. WILLIAM] STANTON [of Ohio]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER:<sup>(3)</sup> Is the gentleman opposed to the bill?

MR. STANTON: I am, Mr. Speaker, in its present form.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Stanton moves to recommit the bill H.R. 5860 to the Committee on Banking, Finance and Urban Affairs with instructions to report back the same forthwith with the following amendment: On page 23, after line 18, add the following new section: . . .

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I rise in opposition to the motion to recommit. . . .

Today I rise as Tip O'Neill, the Congressman, not as a Democrat or a Republican, just as a fellow that has been in public life for 43 years. I have seen recessions and depressions, upturns and downturns. . . .

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion to recommit.

### —*Motion To Commit*

#### § 23.54 A Member seeking recognition to offer a motion to

3. Thomas P. O'Neill, Jr. (Mass.).

**commit a concurrent resolution after the previous question has been ordered, pursuant to clause 1 of Rule XVII, must qualify by being opposed to the resolution (whether or not the concurrent resolution has been reported from committee).**

On Nov. 28, 1979,<sup>(4)</sup> the following proceedings occurred in the House during consideration of the second concurrent resolution on the budget for fiscal year 1980 (S. Con. Res. 53):

THE SPEAKER PRO TEMPORE:<sup>(5)</sup> Pursuant to the order of the House of November 27, the previous question is considered as having been ordered.

MR. [DELBERT L.] LATTA [of Ohio]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: Is the gentleman opposed to the concurrent resolution?

MR. LATTA: I am, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. Latta moves to commit Senate Concurrent Resolution 53 to the Committee on the Budget with the following instructions: For fiscal year 1980, after excluding the National Defense and Veterans Affairs functions, reduce the remaining total amount of new budget authority and total amount of outlays by two percent . . . . The Committee on

4. 125 CONG. REC. 33904, 33914, 96th Cong. 1st Sess.

5. James C. Wright, Jr. (Tex.).

the Budget is further instructed to report S. Con. Res. 53 back to the House promptly with these changes.

**§ 23.55 Where the previous question had been ordered on a privileged resolution electing minority Members to committees, a minority Member offered a motion to commit the resolution to a select committee to be appointed by the Speaker with instructions to report back forthwith with an amendment increasing the number of minority Members on the Committee on Ways and Means by two.**

On Jan. 28, 1981,<sup>(6)</sup> during consideration of House Resolution 45 (electing minority Members to standing committees) in the House, Minority Leader Robert H. Michel, of Illinois, offered the resolution and the proceedings that followed were as indicated below:

MR. MICHEL: Mr. Speaker, I offer a privileged resolution (H. Res. 45), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 45

Resolution designating membership on certain standing committees of the House

*Resolved,* That the following named Members, Delegates, and

6. 127 CONG. REC. 1142, 1144, 1146, 197th Cong. 1st Sess.

Resident Commissioner be, and they are hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON AGRICULTURE . . .

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

MR. MICHEL: Mr. Speaker, I yield myself such time as I might consume. . . .

I have no more requests for time, Mr. Speaker, but before moving the previous question, I would simply advise the membership of the House that the parliamentary situation is such that the gentleman from Mississippi (Mr. Lott), after the previous question has been ordered, will move to commit. That is a nondebatable motion, and there will be a vote immediately following which will give Members an opportunity to express themselves on the substitute which is embodied in the gentleman's motion.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I offer a motion to commit.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. Lott moves to commit the resolution (H. Res. 45) to a select committee to be appointed by the Speaker and to be composed of nine members not more than five of whom shall be from the same political party, with instructions to report the same back to the House forthwith with the following amendment:

7. Thomas P. O'Neill, Jr. (Mass.).

Strike all after the resolving clause and insert in lieu thereof the following:

The following named Members . . . be, and they are hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON WAYS AND  
MEANS . . .

[T]he motion to commit was rejected.

*Parliamentarian's Note:* The motion to commit under clause 1 of Rule XVII is applicable to simple resolutions and may create a select committee with instructions to report back forthwith with a germane amendment. The Member offering the motion need not qualify as opposed where the resolution is offered from the floor as privileged and has not been reported from committee, and the minority party has no prior right to recognition in such a situation. As noted by Mr. Michel, a motion to commit is not debatable after the previous question has been ordered on a resolution, but is amendable unless the previous question is separately ordered thereon.

**§ 23.56 It is the prerogative of the minority, prior to adoption of the rules, to offer a motion to commit the resolution adopting the rules; and instances have occurred where, the previous question having been ordered on a**

**resolution adopting the rules of the House, the Minority Leader has offered a motion to commit the resolution to a select committee with instructions to report back to the House within a specified number of days with an amendment.**

The following proceedings occurred in the House on Jan. 3, 1983: <sup>(8)</sup>

#### RULES OF THE HOUSE

THE SPEAKER: <sup>(9)</sup> The question is on ordering the previous question. . . .

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 156, answered “present” 1, not voting 12, as follows: . . .

The result of the vote was announced as above recorded.

MR. MICHEL: Mr. Speaker, I offer a motion to commit.

THE SPEAKER: Is the gentleman opposed to the resolution?

MR. MICHEL: Indeed I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to commit.

The Clerk read as follows:

8. 129 CONG. REC. 49–51, 98th Cong. 1st Sess.
9. Thomas P. O'Neill, Jr. (Mass.).

Mr. Michel moves to commit the resolution, House Resolution 5, to a select committee to be appointed by the Speaker and to be composed of ten members, not more than six of whom shall be from the same political party, with instructions to report the same back to the House within two legislative days with only the following amendment: Strike clause "(5)" relating to restrictions on the offering of certain amendments to appropriations bills, and redesignate succeeding clauses accordingly. . . .

THE SPEAKER: Without objection, the previous question is ordered on the motion to commit.

There was no objection.

THE SPEAKER: The question is on the motion to commit. . . .

So the motion to commit was rejected.

Similarly, in the 97th Congress,<sup>(10)</sup> the Minority Leader offered a motion to commit the resolution to a select committee with instructions to report back to the House within seven calendar days with an amendment:

MR. MICHEL: Mr. Speaker, I offer a motion to commit.

The Clerk read as follows:

Mr. Michel moves to commit the resolution (H. Res. 5) to a select committee to be appointed by the Speaker and to be composed of nine members, not more than five of whom shall be from the same political party, with instructions to report the same back to the House within 7 calendar days with the following amendment:

**10.** 127 CONG. REC. 98, 111-13, 97th Cong. 1st Sess., Jan. 5, 1981.

On page 10, after line 8, add the following:

(19) In rule X, clause 6(a) is amended by adding the following new subparagraph:

"(3) The membership of each committee (and of each subcommittee, task force or subunit thereof), shall reflect the ratio of majority to minority party members of the House at the beginning of this Congress. . . .

THE SPEAKER PRO TEMPORE:<sup>(11)</sup> Without objection, the previous question is ordered on the motion to commit.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the motion to commit. . . .

So the motion to commit was rejected.

*Parliamentarian's Note:* On the opening day of the 63d Congress, a motion to commit the resolution adopting the rules to a select committee with instructions "to report back to the House a substitute therefor, together with the views and recommendations of the select committee, in substance as follows . . ." was held in order by Speaker Champ Clark.<sup>(12)</sup> At the beginning of the 65th Congress, the motion to commit with instructions to report back forthwith with an amendment to the rules was offered and not challenged.<sup>(13)</sup>

**11.** Bill Alexander (Ark.).

**12.** See 8 Cannon's Precedents §2755.

**13.** See also the proceedings of Dec. 6, 1915, at the beginning of the 64th Congress.

Under modern practice, the motion to commit should not include instructions to report “forthwith” a rules change which would be immediately effective, particularly since the view is now held that, prior to adoption of the rules, a resolution to adopt the rules is not subject to amendment unless the previous question is voted down or the Member in control yields for that purpose.<sup>(14)</sup> Generally, the defeat of the previous question is considered the only method by which the minority may offer an amendment to the rules proposed by the majority, although the question may depend upon the extent to which the Chair would rely upon House rules (such as Rule XVII, permitting the motion to commit with instructions to report back forthwith with an amendment) prior to adoption of the rules. It should also be noted that where a Member of the minority offers a motion to commit the resolution adopting the rules, such Member need not qualify as opposed to the resolution.<sup>(15)</sup>

—*Motion To Refer*

**§ 23.57 While recognition to offer a motion to recommit a**

14. See Ch. 1 §9.3, supra.

15. See, for example, 127 CONG. REC. 98, 112, 97th Cong. 1st Sess., Jan. 5, 1981.

**bill or joint resolution (previously referred to committee) under clause 4 of Rule XVI is the prerogative of the minority party if opposed to the bill, recognition to offer a motion to refer under clause 1 of Rule XVII after the previous question has been moved or ordered on a resolution (not previously referred to committee) does not depend on party affiliation or upon opposition to the resolution.**

During consideration of House Resolution 1042 (directing the Committee on Standards of Official Conduct to investigate the unauthorized publication of the report of the Select Committee on Intelligence) in the House on Feb. 19, 1976,<sup>(16)</sup> the following proceedings occurred:

MR. [SAMUEL S.] STRATTON [of New York]: I rise to a question involving the privileges of the House, and I offer a privileged resolution.

The Clerk read the resolution as follows:

16. 122 CONG. REC. 3914–21, 94th Cong. 2d Sess.

## H. RES. 1042

Resolution requiring that the Committee on Standards of Official Conduct inquire into the circumstances leading to the public publication of a report containing classified material prepared by the House Select Committee on Intelligence

Whereas the February 16, 1976, issue of the Village Voice, a New York City newspaper, contains the partial text of a report or a preliminary report prepared by the Select Committee on Intelligence of the House, pursuant to H. Res. 591, which relates to the foreign activities of the intelligence agencies of the United States and which contains sensitive classified information . . . Now, therefore, be it

*Resolved*, That the Committee on Standards of Official Conduct be and it is hereby authorized and directed to inquire into the circumstances surrounding the publication of the text and of any part of the report of the Select Committee on Intelligence, and to report back to the House in a timely fashion its findings and recommendations thereon.

THE SPEAKER:<sup>(17)</sup> The gentleman from New York (Mr. Stratton) is recognized for 1 hour. . . .

MR. STRATTON: I yield for the purposes of debate only to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill). . . .

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, some of the Members have been curious as to why the gentleman from New York (Mr. Stratton) has the floor at this time and why the resolution is privileged.

It is privileged because he believes that the rules of the House and the

processes of the integrity of the House have been transgressed.

I believe that Mr. Stratton's motion to usurp the normal procedure is transgressing on the rights of all our membership here, and especially the rights of the members of the Rules Committee which normally would have jurisdiction over this issue. We should demand the normal course. We should not just say, "Here, we will send this to the Ethics Committee and the Ethics Committee will make an investigation, because we are going to bypass the Committee on Rules." That is exactly what Mr. Stratton desires. I want the Members to know that when the time comes, after the hour provided to the gentleman from New York (Mr. Stratton) is over, and after that gentleman has moved the previous question, that I will rise, and I will expect that the Speaker will recognize me and I will then move, at that time, that, pursuant to clause 1 of rule XVII, that the resolution be referred to the Committee on Rules. . . .

MR. STRATTON: Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

THE SPEAKER: Without objection, the previous question is ordered.

There was no objection.

MR. O'NEILL: Mr. Speaker, pursuant to rule XVII, clause 1, I move to refer the resolution to the Committee on Rules.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman from Maryland will state the point of order.

MR. BAUMAN: Mr. Speaker, I make the point of order that the gentleman's

17. Carl Albert (Okla.).

motion comes too late. The Chair has already put the previous question and it has been moved.

THE SPEAKER: The motion to refer a resolution is in order after the previous question is ordered under clause 1, rule XVII. . . .

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, the gentleman from Massachusetts, the distinguished majority leader, has offered, in effect, a motion to recommit the original resolution. Is it not true that under the practices and procedures of this House one who is opposed to the motion and who is on the minority side of the aisle is entitled to control of the motion to recommit? Would I not be entitled to preference over the gentleman from Massachusetts in offering a motion to recommit which is, in effect, what the gentleman from Massachusetts has offered?

THE SPEAKER: The gentleman is referring to the procedure under rule XVI. In this rather unique situation, the resolution has not been before a committee and the House technically cannot recommit a resolution that has never been previously referred to committee. This is a motion to commit or refer under rule XVII and not a motion to recommit under clause 4, rule XVI.<sup>(18)</sup>

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

The question this gentleman would like to put is when a question of privilege is before the House, is a motion to refer which would, in effect, avoid a final vote on the question of privilege, in order prior to a vote on the question of privilege itself?

THE SPEAKER: It is. The remedy of the House is to vote down, if the House is in opposition, to vote down the motion of the gentleman from Massachusetts.

The question is on the motion to refer offered by the gentleman from Massachusetts (Mr. O'Neill).

The question was taken; and the Speaker announced that the yeas appeared to have it.

MR. O'NEILL: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 172, nays 219, answered “present” 2, not voting 39, as follows: . . .

So the motion was rejected.

The result of the vote was announced as above recorded.

*Parliamentarian's Note:* If the Majority Leader had offered the motion to refer under clause 1 of Rule XVII when the previous question was moved but before it was ordered, the motion to refer would itself have been debatable as well as amendable.

Under Rule XXIII, clause 7,<sup>(19)</sup> when a bill is reported from the Committee of the Whole with an adverse recommendation, a motion to refer the bill to any committee with or without instructions is in order pending a vote on the motion to strike the enacting clause in the House.

Right of recognition to offer a motion to recommit pending final

18. See also 2 Hinds' Precedents §1456.

19. See *House Rules and Manual* §875 (1995).

passage, which is the prerogative of the minority if opposed, should be distinguished from the right of recognition for a motion to refer under Rule XXIII clause 7 pending a vote in the House on a motion to strike out the enacting clause. In the latter case, a Member seeking recognition need not be opposed to the bill, since the motion to refer in this case is a measure designed to avert final adverse disposition of the bill. As stated by Speaker Frederick H. Gillett, of Massachusetts, on May 19, 1924 (see 8 Cannon's Precedents §2629), "apparently the provision for a motion to refer was inserted so that the friends of the original bill might avert its permanent death by referring it again to the committee, where it could again be considered in the light of the action of the House." By the same reasoning, Speaker Gillett pointed out, rejection of the motion to refer should not give the right of recognition to sponsors of the bill, but to one supporting the motion to strike the enacting clause.

**§ 23.58 A motion to refer (where the previous question has not been ordered on the pending proposition) is debatable for one hour, controlled by the Member offering the motion.**

During consideration of House Resolution 142 (to expel Charles C. Diggs, Jr.) in the House on Mar. 1, 1979,<sup>(20)</sup> the following exchange occurred:

MR. [NEWT] GINGRICH [of Georgia]: Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 142) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H.R. 142

*Resolved*, That Charles C. Diggs, Jr., a Representative from the Thirtieth District of Michigan, is hereby expelled from the House of Representatives.

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. Wright moves to refer House Resolution 142 to the Committee on Standards of Official Conduct.

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

**§ 23.59 Pursuant to clause 4 of Rule XVI, a motion to refer takes precedence over a motion to amend and the Chair recognizes the Member seeking to offer the preferential motion before the less preferential motion is read.**

The following proceedings occurred in the House on Aug. 13,

20. 125 CONG. REC. 3746, 96th Cong. 1st Sess.

1. Thomas P. O'Neill, Jr. (Mass.).

1982,<sup>(2)</sup> during consideration of House Resolution 560 (waiving certain points of order against H.R. 6957, Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1983). The previous question having been rejected, an amendment to the resolution was offered, then ruled out of order as not germane.

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, in view of the ruling of the Chair,<sup>(3)</sup> I have a substitute rule at the desk.

MR. [LEO C.] ZEFERETTI [of New York]: Mr. Speaker, I offer a preferential motion.

MR. LOTT: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER:<sup>(4)</sup> The gentleman will state his parliamentary inquiry.

MR. LOTT: Mr. Speaker, should not the substitute rule be read first, before the preferential motion?

THE SPEAKER: A preferential motion to refer takes precedence over the motion to amend, as ascertained by the Chair's inquiry "for what purpose did the gentleman rise?"

The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. Zeferetti moves to refer House Resolution 560 to the Committee on Rules.

2. 128 CONG. REC. 20977, 97th Cong. 2d Sess.
3. An amendment in the nature of a substitute previously offered by Mr. Lott was ruled out of order as not germane.
4. Thomas P. O'Neill, Jr. (Mass.).

**§ 23.60 The motion to refer a resolution offered as a question of the privileges of the House, which is in order pending the demand for the previous question or after the previous question is ordered, is not subject to debate; and a Member offering the motion need not qualify as stating his opposition to the resolution since it has not been reported from committee but has been offered as an original proposition on the floor of the House.**

On Apr. 28, 1983,<sup>(5)</sup> the House had under consideration a resolution,<sup>(6)</sup> presented as a question of the privileges of the House, of refusal to comply with a subpoena duces tecum issued by a U.S. District Court served on the Clerk for the production of records in his custody (documents of a select committee from a prior Congress).

THE SPEAKER PRO TEMPORE:<sup>(7)</sup> The gentleman from Washington (Mr. Foley) is recognized for 1 hour. . . .

[After debate:]

MR. [THOMAS S.] FOLEY [of Washington]: . . . Mr. Speaker, I move the previous question on the resolution.

5. 129 CONG. REC. 10417, 10423, 10424, 98th Cong. 1st Sess.
6. H. Res. 176, concerning privileges of the House related to investigative records of the Select Committee on Aging.
7. George E. Brown, Jr. (Calif.).

MR. [F. JAMES] SENSENBRENNER [Jr., of Wisconsin]: Mr. Speaker, I offer a motion to refer.

The Clerk read as follows:

Mr. Sensenbrenner moves to refer the resolution to the Committee on the Judiciary.

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the motion to refer.

There was no objection.

[The motion to refer was rejected, the previous question was ordered, the resolution agreed to.]

**§ 23.61 When a resolution is offered as a question of privilege and is debatable under the hour rule, a motion to refer is in order before debate begins and is debatable for one hour under the control of the offeror of the motion.**

On Mar. 4, 1985,<sup>(8)</sup> during consideration of House Resolution 97 (to seat Richard D. McIntyre as a Member from Indiana) in the House, the following proceedings occurred:

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I rise to a question of privilege.

Mr. Speaker, I send to the desk a privileged resolution (H. Res. 97) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

8. 131 CONG. REC. 4277, 99th Cong. 1st Sess.

H. RES. 97

Whereas a certificate of election to the House of Representatives always carries with it the presumption that the State election procedures have been timely, regular, and fairly implemented; and . . .

Whereas the presumption of the validity and regularity of the certificate of election held by Richard D. McIntyre has not been overcome by any substantial evidence or claim of irregularity: Now, therefore be it

*Resolved*, That the Speaker is hereby authorized and directed to administer the oath of office to the gentleman from Indiana, Mr. Richard D. McIntyre.

*Resolved*, That the question of the final right of Mr. McIntyre to a seat in the 99th Congress is referred to the Committee on House Administration.

THE SPEAKER PRO TEMPORE: <sup>(9)</sup> The gentleman states a valid question of privilege.

The Chair recognizes the gentleman from Arkansas (Mr. Alexander).

MR. [WILLIAM V.] ALEXANDER [of Arkansas]: Mr. Speaker, I move that the resolution be referred to the Committee on House Administration.

THE SPEAKER PRO TEMPORE: The gentleman is recognized.

MR. ALEXANDER: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. ALEXANDER: Mr. Speaker, for what period of time am I recognized?

THE SPEAKER PRO TEMPORE: The gentleman is entitled to 1 hour under that motion, during which time the gentleman from Arkansas controls the time.

9. James C. Wright, Jr. (Tex.).

MR. ALEXANDER: Mr. Speaker, does the minority wish time on the motion?

MR. MICHEL: Yes.

MR. ALEXANDER: Mr. Speaker, I would yield 30 minutes for purposes of debate only, to the gentleman from Illinois (Mr. Michel).

### *Motions To Instruct Conferees*

**§ 23.62 A member of the minority is first entitled to recognition for a motion to instruct conferees, on a bill being sent to conference, other factors influencing recognition being equal.**

On Oct. 31, 1939,<sup>(10)</sup> a resolution asking for a conference on a bill with Senate amendments was offered and agreed to. Mr. Hamilton Fish, Jr., of New York, the ranking minority member of the Committee on Foreign Affairs, with jurisdiction over the bill, and Mr. James A. Shanley, of Connecticut, a majority member of the committee, arose simultaneously to offer a motion to instruct the conferees on the bill.

Speaker William B. Bankhead, of Alabama, ruled that Mr. Fish was entitled to prior recognition for the motion if he so desired.<sup>(11)</sup>

10. 85 CONG. REC. 1092-1105, 76th Cong. 2d Sess.

11. For full discussion of the motion to instruct conferees, see Ch. 33, *infra*.

### *Motions To Adjourn*

**§ 23.63 A motion to adjourn is not in order while a Member has the floor unless he yields for the motion.**

On Oct. 18, 1945,<sup>(12)</sup> Mr. Edward E. Cox, of Georgia, who had the floor, yielded to Mr. John Edward Sheridan, of Pennsylvania, at the latter's request. Mr. Sheridan then moved that the House adjourn, and Speaker Sam Rayburn, of Texas, inquired of Mr. Cox whether he yielded for that purpose. Mr. Cox replied:

Mr. Speaker, I do not yield for that purpose, and the gentleman should not have taken advantage of the courtesy I extended to him.<sup>(13)</sup>

**§ 23.64 The Chair cannot refuse to recognize a Member having the floor for a motion to adjourn.**

On Mar. 16, 1945,<sup>(14)</sup> Mr. Robert F. Jones, of Ohio, objected to the vote on a question to recommit on the ground that a quorum was not present. A call of the House was ordered and a quorum failed to vote. Mr. Clare E. Hoffman, of Michigan, was recognized for a

12. 91 CONG. REC. 9814, 79th Cong. 1st Sess.

13. For general discussion of the motion to adjourn, see Ch. 40, *infra*.

14. 91 CONG. REC. 2379, 2380, 79th Cong. 1st Sess.

parliamentary inquiry and then stated that if there was not a quorum, he moved that the House adjourn. Speaker Sam Rayburn, of Texas, asked him to withhold his request and Mr. Hoffman responded "If the Chair is refusing recognition, I will." The Speaker stated that he could not so refuse recognition for a motion to adjourn. Mr. John W. McCormack, of Massachusetts, then moved adjournment and the motion was agreed to.<sup>(15)</sup>

**§ 23.65 A Delegate to the House may offer the motion to adjourn (in this instance while serving as Acting Majority Leader).**

On Jan. 9, 1981,<sup>(16)</sup> Mr. Fofu I. F. Sunia, the Delegate from American Samoa, made the following motion:

MR. SUNIA: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until Tuesday, January 13, 1981, at 12 o'clock noon.

*Parliamentarian's Note:* A non-voting Delegate may offer any motion except the motion to recon-

15. The Chair may decline to recognize for a motion to adjourn which is dilatory (see §§ 23.8–23.10, 23.12, supra).
16. 127 CONG. REC. 248, 97th Cong. 1st Sess.

sider, but he may not vote on any motion so offered.

**§ 23.66 While the motion to adjourn takes precedence over any other motion under clause 4 of Rule XVI, the Speaker may through his power of recognition recognize the Majority Leader by unanimous consent for one minute to announce the legislative program prior to entertaining the motion to adjourn; and on one occasion, the Speaker recognized the Majority Leader to announce the program for the remainder of the day and declined to recognize a Member to offer a motion to adjourn pending that announcement, although the Majority Leader had neglected to obtain unanimous consent to address the House for one minute. The Speaker then suggested that decorum would best be maintained by unanimous-consent permission to announce the leadership program pending a motion to adjourn.**

On Dec. 14, 1982,<sup>(17)</sup> the following proceedings occurred in the House:

17. 128 CONG. REC. 30549, 30550, 97th Cong. 2d Sess.

THE SPEAKER:<sup>(18)</sup> The Chair recognizes the majority leader, the gentleman from Texas (Mr. Wright).

MR. [DENNY] SMITH of Oregon: Mr. Speaker, I have a preferential motion I send to the desk.

THE SPEAKER: The gentleman will be seated. The Speaker has the right of recognition.

MR. SMITH of Oregon: Mr. Speaker, I have a preferential motion.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Regular order, Mr. Speaker.

THE SPEAKER: The Chair recognizes the majority leader, the gentleman from Texas (Mr. Wright).

#### LEGISLATIVE PROGRAM

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Speaker, let me simply announce for the benefit of the Members that it is our intention now to have no further votes tonight. We plan to take up the things that we put off last night in order that Members might go and attend the reception in the White House, the remaining suspension, as was agreed with the Republican leadership and our leadership last night, but we will not have any votes. We will roll the votes until tomorrow, let the votes be the first thing tomorrow.

MR. SMITH of Oregon: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman will state his preferential motion.

MR. SMITH of Oregon: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The question is on the preferential motion offered by the gentleman from Oregon (Mr. Smith).

The question was taken, and the Speaker announced that the noes appeared to have it.

MR. SMITH of Oregon: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 122, nays 202, not voting 109, as follows: . . .

#### ANNOUNCEMENT BY THE SPEAKER

THE SPEAKER: The Chair will make the following statement:

It is the usual and customary practice in this House that when we come to the end of a proceeding, as we did, that the majority leader then announces the program for the remainder of the night. The majority leader had informed me that he was going to make that announcement. Normally it is a unanimous-consent request, and that is what the Chair anticipated that the majority leader would do.

It is the prerogative and the duty of the Speaker of the House to run this body in an expeditious manner and he should be informed when motions are going to be made, whether they are privileged or otherwise, and when he is suddenly confronted with a privileged motion, then it is my opinion, while the Chair appreciates that he follows the rules of the House, it does not improve the decorum of the House. The Speaker at all times tries to be fair, and thought he was being fair with the Members when he was recognizing the majority leader to inform the membership what the program was for the remainder of the evening.

#### § 23.67 On one occasion, the Speaker Pro Tempore having attempted by unanimous consent to adjourn the House

18. Thomas P. O'Neill, Jr. (Mass.).

**at the end of special-order speeches, there being an objection by a minority Member on the floor, the Member objecting was then recognized to move adjournment; there was no majority Member on the floor at the time.**

The following proceedings occurred in the House on May 23, 1984:<sup>(19)</sup>

THE SPEAKER PRO TEMPORE:<sup>(20)</sup> Without objection, the House stands adjourned.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: Does the gentleman from Pennsylvania (Mr. Walker) have a motion?

MR. WALKER: Mr. Speaker, I have always wanted to do this.

THE SPEAKER PRO TEMPORE: The Chair is going to recognize the gentleman from Pennsylvania (Mr. Walker).

MR. WALKER: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 37 minutes p.m.) the House adjourned until tomorrow, Thursday, May 24, 1984, at 10 a.m.

### **§ 23.68 Where the two Houses have adopted a concurrent**

**resolution permitting an adjournment of the House to a day certain in excess of three days upon motion made by the Majority Leader or a Member designated by him, the Speaker may recognize the Member so designated to move to adjourn pursuant to the concurrent resolution, over another Member whose motion to adjourn if agreed to would only permit the House to adjourn overnight.**

On Aug. 4, 1983,<sup>(1)</sup> the following proceedings occurred in the House:

THE SPEAKER PRO TEMPORE:<sup>(2)</sup> The Chair recognizes the gentleman from Texas.

MR. [HANK] BROWN of Colorado: Mr. Speaker, I have a privileged motion. I move the House adjourn.

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman from Texas.

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Speaker, pursuant to House Concurrent Resolution 153, I move that the House do now adjourn.

The motion was agreed to.

19. 130 CONG. REC. 13960, 98th Cong. 2d Sess.

20. Sander M. Levin (Mich.).

1. 129 CONG. REC. 23244, 98th Cong. 1st Sess.

2. William H. Gray, 3d (Pa.).