California was not in good order in the subsequent period immediately following those words having been uttered.

Accordingly, the Chair rules that without leave of the House, the gentlewoman from California may not proceed for the rest of today.

§ 55. References to Unreported Committee Proceedings; Discussion of Ethics Committee Deliberations

Under parliamentary law and under the practice of the House, it has been held a breach of order in debate to refer to committee proceedings which have not been formally reported to the House.[3] Under the more modern practice, where committee meetings and hearings are open to the public, the rationale for not permitting floor discussion of committee proceedings is tenuous. However, it is still true that the minutes of executive committee sessions may not be read, quoted from, or paraphrased in debate, unless the committee has voted to make the minutes public.[4]

A point of order must be made, however, and the Speaker does not on his own initiative call a Member to order for violating the rule.[5]

Clause 4(e)(2)(F) of Rule X requires a vote of the Committee on Standards of Official Conduct to authorize the public disclosure of the content of a complaint or the fact of its filing. That rule applies only to members of that committee and its staff; however, references in floor debate to the content of a complaint or the fact of its filing are nevertheless governed by the rules of order in debate. Unlike the calling up of a resolution of censure, the filing of a complaint does not embark the House on consideration of a proposition to which such references would be relevant. That a complaint may be pending in its own right rather than only as the assertion of a Member in debate does not legitimize reference even to the mere fact of its pendency much less to its content.[6]

Where the House has under consideration a resolution involving the conduct of a Member, a wider range of debate is permitted. In the context of a specific legislative proposal involving censure, reprimand, or expulsion, or a proposal advocating an investigation of misconduct, the facts

3. See Jefferson's Manual, *House Rules and Manual* §§ 319, 360 (1995).

4. See §§ 55.2–55.4, infra.

5. See § 55.4, infra.

6. See §§ 55.8 and 55.9, infra.

surrounding the resolution may be discussed, but even in these situations debate personally offensive has not been permitted.

References Prohibited

§ 55.1 Where improper references are made to committee proceedings not yet reported to the House, the remedy is to lodge a point of order against the reference.

On Feb. 7, 1935,[7] Mr. Sam D. McReynolds, of Tennessee, was discussing the manner in which the Committee on Appropriations, of which he was a member, had voted on H.R. 5255, an appropriations bill, then before the Committee of the Whole. Mr. Hamilton Fish, Jr., of New York, arose to make the point of order that Mr. McReynolds was speaking out of order in stating how a member of his committee voted, where the committee proceedings were not formally reported to the House. Chairman William N. Rogers, of New Hampshire, sustained the point of order.

Mr. McReynolds then raised a parliamentary inquiry:

> Mr. Chairman, when a member of a committee appears before this House and undertakes to state how he or she voted and says that the chairman of the committee misrepresented the matter, would the present occupant of the chair hold that the chairman of the committee could not say what the records show?
>
> THE CHAIRMAN: As the Chair understands it, the action to be taken is to make a point of order against the statement being made originally. This is the Chair's understanding of the rules.

§ 55.2 If a committee has not voted to make the proceedings of an executive session public, it is not in order in debate to read or quote from the minutes thereof.

On Apr. 5, 1967,[8] during debate on a resolution funding the Committee on Science and Astronautics, Mr. Joe D. Waggonner, Jr., of Louisiana, a member of the committee, began referring to proceedings of the committee and quoting dialogue from a session thereof. Mr. John W. Wydler, of New York, whose words were being quoted, stated a point of order that quotation in debate of minutes of an executive committee session was improper.

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

> The Chair would like to inquire of either the gentleman from Louisiana or

7. 79 CONG. REC. 1690, 74th Cong. 1st Sess.

8. 113 CONG. REC. 8411, 8412, 90th Cong. 1st Sess.

the gentleman from Texas whether the gentleman from Louisiana is reading from the executive session record? . . .

MR. [OLIN E.] TEAGUE of Texas: Mr. Speaker, it is my remembrance that what he is quoting was what took place at an executive session.

THE SPEAKER: The Chair would like to make the further inquiry as to whether or not the members in the executive session voted to make public what took place in the executive session?

MR. TEAGUE of Texas: It is my memory that we did not vote on that and it was not discussed.

THE SPEAKER: The Chair would suggest to the gentleman from Louisiana that he refrain from referring to what took place in the executive session.

Similarly, on Apr. 25, 1930,[9] when Mr. S. Wallace Dempsey, of New York, attempted to read from the minutes of his committee on a certain bill, Chairman William P. Holaday, of Illinois, sustained a point of order that Mr. Dempsey was out of order in bringing to the House floor the minutes of his committee and reading from them.[10]

Paraphrase of Minutes

§ 55.3 It is not in order in debate to paraphrase the minutes of the executive proceedings of a committee.

On June 26, 1961,[11] Mr. Bruce R. Alger, of Texas, stated that he had an exhibit consisting of the transcript of the record of the Committee on Public Works in executive session. He stated that since reading the transcript would be a violation of the House rules, he intended to paraphrase it. A point of order was made that the paraphrasing of a transcript of an executive session as well as the reading of it was prohibited by House rules. Speaker Pro Tempore Wilbur D. Mills, of Arkansas, sustained the point of order.[12]

Necessity of Point of Order

§ 55.4 While a Member may by unanimous consent divulge matters which occurred in a committee which have not been reported to the House, the Chair will not interpose restrictions on such remarks absent a point of order.

On July 28, 1939,[13] Mr. Matthew A. Dunn, of Pennsylvania,

9. 72 CONG. REC. 7773, 71st Cong. 2d Sess.

10. See also 104 CONG. REC. 12120–22, 85th Cong. 2d Sess., June 24, 1958; and 72 CONG. REC. 8931, 71st Cong. 2d Sess., May 14, 1930.

11. 107 CONG. REC. 11233, 87th Cong. 1st Sess.

12. See also 113 CONG. REC. 8411, 8412, 90th Cong. 1st Sess., Apr. 5, 1967; and 86 CONG. REC. 954, 76th Cong. 3d Sess., Feb. 1, 1940.

13. 84 CONG. REC. 10352, 76th Cong. 1st Sess.

was granted unanimous consent to proceed for an additional minute. He proceeded to divulge matters which occurred on the previous day in the Committee on Labor, of which he was a member. Mr. Joseph W. Martin, Jr., of Massachusetts, made a point of order that Mr. Dunn could not divulge such matters. Speaker William B. Bankhead, of Alabama, sustained the point of order, although Mr. Dunn objected that the Member speaking before him had similarly divulged matters occurring in a committee whose proceedings were not formerly reported to the House. The Speaker ruled as follows:

> The gentleman from Pennsylvania [Mr. Gross] did divulge matters which occurred before the committee, but no point of order was made, and, therefore, the Chair could not act on his own motion.[14]

Reliance on Statement of Speaking Member

§ 55.5 The Chair may rely on the statement of a Member that he is not quoting the proceedings of an executive session of a House committee.

On Feb. 1, 1940,[15] a point of order was made against the remarks of Mr. Frank B. Keefe, of Wisconsin, on the grounds that he was quoting testimony taken before an executive meeting of a House committee. The following exchange then took place:

> THE SPEAKER PRO TEMPORE:[16] If the gentleman from Wisconsin purports to discuss the executive proceedings of a committee it will not be in order.
>
> MR. KEEFE: I am not discussing the executive proceedings.
>
> THE SPEAKER PRO TEMPORE: But if he is just quoting on his own responsibility——
>
> MR. [FRANK E.] HOOK [of Michigan]: He has referred to the testimony.
>
> MR. KEEFE: I am quoting on my own responsibility.
>
> THE SPEAKER PRO TEMPORE: Does the gentleman purport to quote the proceedings of a committee in executive session?
>
> MR. KEEFE: No.
>
> THE SPEAKER PRO TEMPORE: If that is what the gentleman undertakes to do, the point of order will be sustained.
>
> MR. HOOK: Mr. Speaker, a point of order. I will have to ask, then, that the remarks, if any, referring to the testimony taken in the executive meeting be stricken.
>
> THE SPEAKER PRO TEMPORE: All the Chair knows is that the gentleman says he is not purporting to quote the proceedings of an executive session of a committee of this House. If that be true, the point of order is overruled.

Reference to Committee Action Permitted

§ 55.6 Where a Member introduced a resolution providing

14. See also the statement of Chairman William N. Rogers (N.H.) cited at § 55.1, supra.

15. 86 CONG. REC. 954, 76th Cong. 3d Sess.

16. R. Ewing Thomason (Tex.).

for an inquiry into the actions of a House subcommittee, another Member was permitted to refer to subcommittee proceedings to justify his point of order that the resolution was not privileged.

On June 30, 1958,[17] House Resolution 610, establishing a special committee to inquire into proceedings of the Subcommittee on Legislative Oversight of the Committee on Interstate and Foreign Commerce, was introduced in the House; the resolution alleged that the subcommittee had allowed the dissemination of defamatory testimony in violation of House rules.

Mr. Oren Harris, of Arkansas, made a point of order against the resolution, on the ground that it was not privileged. He referred to the proceedings of the subcommittee, in executive session, to justify his point of order.

Mr. Timothy P. Sheehan, of Illinois, arose to object to Mr. Harris' reference under the principle that a Member could not in debate refer to executive proceedings of committees and subcommittees. Speaker Sam Rayburn, of Texas, ruled as follows:

> . . . [H]ere is a question of privilege of the House being raised by the gentleman from Missouri [Mr. Curtis], and in order for the gentleman from Arkansas [Mr. Harris] to justify his point of order, he has got to discuss these matters. And, they are in the printed record.

§ 55.7 Where a question of House privilege involving the procedure of a conference committee is stated in debate, it is in order to state what occurred in the committee session but not in order to refer in a critical way to a named Senate conferee.

On July 29, 1935,[18] where a point of order was made against a Member who was discussing a question of privilege of the House involving the procedure of a conference committee, Speaker Joseph W. Byrns, of Tennessee, ruled that the Member could state what occurred in the conference committee but could not refer to or criticize a member of the Senate by name.

References to Matters Pending Before Committee on Standards of Official Conduct

§ 55.8 The Chair cautioned all Members to refrain from references in debate to the offi-

17. 104 CONG. REC. 12690, 12691, 85th Cong. 2d Sess.

18. 79 CONG. REC. 12011, 74th Cong. 1st Sess.

cial conduct of other Members where the Committee on Standards of Official Conduct had not filed a report on the conduct of a particular Member or where that Member's conduct was not the subject of a question of the privilege of the House then pending before the House, and similarly not to refer to the motivations of Members who may have filed complaints before that committee.

On June 14, 1988,[19] several one-minute speeches contained references to charges made by a Member against the Speaker:

MR. [NEWT] GINGRICH [of Georgia]: Mr. Speaker, every Member of the House should be offended by a June 10 letter sent to Members by the Democratic Congressional Campaign Committee. That letter says, "You were apparently duped by Newt." It goes on to suggest, "It has become obvious his actions are generated by self-serving partisan political motives."

That letter from the Democratic Congressional Campaign Committee insults the Committee on Ethics which voted unanimously to investigate the Speaker. It insults Common Cause, the Wall Street Journal, the Washington Post, the New York Times, and 35 other newspapers which have called for an investigation.

Frankly, this House is rapidly dividing up between those who favor openness, honesty and ethics and those who delay, obscure and defend unethical behavior.

The Democratic Congressional Campaign Committee has apparently chosen to cover up rather than clean up. . . .

MR. [WILLIAM M.] THOMAS of California: Mr. Speaker, I really do not understand what all the controversy is over the book, if we were talking about the book itself, the book, of course, being "Reflections of a Public Man." It only costs $6. I mean, what can one buy for $6 today? Not much. That is what it is—not much. . . .

The question is not over the book. It is over the procedures involved with the book. On that point, I totally agree with the Washington Post editorial this morning that said that if the procedures surrounding the book are not against the rules of the House of Representatives, then we ought to change the rules. . . .

MR. [MERVYN M.] DYMALLY [of California]: Mr. Speaker, I believe it was last Friday that the New York Times carried a story on the so-called Gingrich charges against the Speaker. In that article the gentleman from Georgia (Mr. Gingrich) openly admits that some of the charges were not founded, but he "just threw them in there for curiosity," recognizing very well that it would make partisan news. . . .

The politics involved in these charges, in my judgment, are shameful.

On June 15, 1988,[20] Speaker Pro Tempore Thomas S. Foley, of

19. 134 CONG. REC. 14317, 14318, 100th Cong. 2d Sess.

20. 134 CONG. REC. 14623, 100th Cong. 2d Sess.

Washington, made the following announcement:

> THE SPEAKER PRO TEMPORE: Before the Chair recognizes the distinguished gentleman from Kentucky, the Chair has an announcement.
>
> The Chair wishes to announce that clause 1 of rule XIV prevents Members in debate from engaging in "personalities." Clause 4 of that rule provides that if any Member transgress the rules of the House, the Speaker shall, or any Member may, call him to order.
>
> Members may recall that on December 18, 1987, the Chair enunciated the standard that debate would not be proper if it attempted to focus on the conduct of a Member about whom a report had not been filed by the Committee on Standards of Official Conduct or whose conduct was not the subject of a privileged matter then pending before the House. Similarly, the Chair would suggest that debate is not proper which speculates as to the motivations of a Member who may have filed a complaint before the Committee on Standards of Official Conduct against another Member.
>
> Thus, the Chair would caution all Members not to use the 1-minute period or special orders, as has already happened, to discuss the conduct of Members of the House in a way that inevitably engages in personalities.

Parliamentarian's Note: A complaint against the conduct of the Speaker should be presented directly for the action of the House and not by way of debate on other matters. On one occasion, Speaker Thomas B. Reed, of Maine, in sustaining a call to order, stated that criticism of past conduct of the Chair is out of order, not because the Chair is above criticism but because such piecemeal criticism is not conducive to the good order of the House.[1] Indeed, an insult to the Speaker has been held to raise a question of privilege not governed by the ordinary rule that disorderly words, to be actionable, need be taken down as soon as uttered.[2]

§ 55.9 Reference should not be made in debate to pending investigations undertaken by the Committee on Standards of Official Conduct, including suggestions of courses of action, nor should critical characterizations be made of members of that committee who have investigated a Member's conduct.

On Mar. 3, 1995,[3] the Chair responded to inquiries made about the propriety of remarks made by a Member with reference to certain investigations:

> MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Speaker, last year Members

1. 5 Hinds' Precedents § 5188.
2. 2 Hinds' Precedents § 1248.
3. 141 CONG. REC. p. ____, 104th Cong. 1st Sess. See also the proceedings of Apr. 1, 1992 (138 CONG. REC. p. ____, 102d Cong. 2d Sess.).

of the present majority complained about the investigation by Special Counsel Robert Fiske. They claimed that Fiske was a friend of the White House and that his investigation of Whitewater was not going far enough.

I ask the Members of the House to consider these facts. The current chairman of the House Ethics Committee cast the deciding vote for the Speaker in the 1989 whip's race. The chairman of the Ethics Committee seconded the nomination for Speaker this year. The chairman of our Ethics Committee last year tried to help our current Speaker by closing the pending Ethics Committee complaint against him.

Two other majority members of the House Ethics Committee have had personal dealings with the personal PAC of the Speaker, GOPAC, one of them as a contributor, and another as a recipient for his reelection.

Given these facts, I am sure those who call for a replacement of Special Counsel Fiske will now join me in calling for a special counsel to investigate the allegations against Speaker Gingrich, and it should not take 100 days.

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

THE SPEAKER PRO TEMPORE:[4] The gentleman will state his parliamentary inquiry.

MR. WALKER: Mr. Speaker, was not the entire speech of the gentleman from Missouri [Mr. Volkmer], just a moment ago, out of order, because it was a direct reference to Members of this body? . . .

THE SPEAKER PRO TEMPORE: Members should not refer to pending Standards Committee investigations.

MR. WALKER: I have a further parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WALKER: Beyond the pending ethics investigation, he also may have had personal references to the chairman of the Ethics Committee. Is that also not out of order?

THE SPEAKER PRO TEMPORE: Members should not so refer to the Standards Committee or any Members thereof.

MR. WALKER: A further parliamentary inquiry, Mr. Speaker. My understanding is that what the gentleman has just done in the House was a speech which was entirely out of order before the body; is that correct?

THE SPEAKER PRO TEMPORE: The Chair is responding in a general way to the proper debate in the House with respect to ethics investigations.

MR. WALKER: I thank the Chair.

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

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

MR. VOLKMER: Is the Chair ruling that it is improper for any Member to request a special counsel in an investigation being conducted by the Ethics Committee, which action has not been taken by the Ethics Committee?

THE SPEAKER PRO TEMPORE: Members should not refer to pending Standards Committee investigations, or suggest courses of action within that committee.

MR. VOLKMER: I thank the Chair.

4. John T. Doolittle (Calif.).