MR. DURBIN: One further inquiry. Does this limitation in terms of reference to personal conduct beyond factual conduct apply to those who serve in Government and the executive branch as well as the legislative branch?

THE SPEAKER PRO TEMPORE: It applies to the President of the United States.

MR. DURBIN: Does it apply to anyone else serving in the executive branch?

THE SPEAKER PRO TEMPORE: It applies to the President of the United States.

The gentleman from Michigan.

MR. [DAVID E.] BONIOR [of Michigan]: Parliamentary inquiry, Mr. Speaker, and this will be the final comment by me on this issue. We are eager to get on with the business of the House. But there are some very fundamental issues, as we have heard on the floor this morning, at stake here. We are being told that the Speaker is being placed above criticism and comments.

THE SPEAKER PRO TEMPORE: The gentleman is incorrect in drawing that conclusion.

## § 58. Criticism of Legislative Actions or Proposals

While it has been held unparliamentary to arraign the motives of Members [8] or their legislative actions, the content of an introduced bill or amendment can be criticized.[9] Whether a legislative action is good or bad, needed or not, is after all the essence of legislative deliberation.[10] The forces in society which sway legislative decisions are "fair game" in debate;[11] and it has been held within the bounds of propriety to indicate the relative importance of Member-sponsorship.[12] Criticism of legislative tactics has been upheld.[13]

### *Criticism of Bills*

#### § 58.1 Words uttered in debate criticizing a bill, as distinguished from a Member, are held in order.

On Jan. 31, 1946,[14] while the Committee of the Whole was considering a bill providing for appointment of fact-finding boards to investigate labor disputes, the following words were used by Mr. Emanuel Celler, of New York, in criticism of the bill: "and, to quote the Bible, 'would they be like a fool who returneth to his folly, or a dog that returneth to his vomit?'"

Speaker Sam Rayburn, of Texas, ruled that since the name of

**8.** See §§ 58.6, 58.12, infra.

**9.** See §§ 58.1, 58.3, 58.5, infra.

**10.** See § 58.4, infra.

**11.** See §§ 58.7–58.9, infra.

**12.** See § 58.2, infra.

**13.** See § 58.10, infra.

**14.** 92 CONG. REC. 675, 676, 79th Cong. 2d Sess.

no Member was mentioned, the words taken down were merely an opinion of a measure before the House and therefore not unparliamentary.

**§ 58.2 A statement in debate that if a certain Member sponsors a measure it would receive one or two votes was held in order.**

On June 12, 1934,[15] Mr. Claude A. Fuller, of Arkansas, stated in debate, referring to Mr. Charles V. Truax, of Ohio, "The very fact that he espouses a measure . . . is a self-evident fact that it will only receive 1 or 2 votes in the entire House." Speaker Henry T. Rainey, of Illinois, ruled that the words were not objectionable but a matter of judgment, and declined to sustain Mr. Truax's claim that the language was a deliberate falsehood.

### *Criticism of Amendments*

**§ 58.3 A statement in debate that an amendment offered to a bill would be viewed by every lawyer in America as having no effect on the bill was held in order.**

On Feb. 20, 1946,[16] Mr. Malcolm C. Tarver, of Georgia, stated as follows on an amendment to a bill for school lunch programs:

> . . . There is not a lawyer in America who is worthy to be called a lawyer but who knows that the adoption of this language neither adds to nor takes from a single item of the substance of this bill.

The Committee of the Whole rose and Speaker Sam Rayburn, of Texas, ruled that the language used was an opinion expressed on a measure which did not reflect upon the character of any Member, and was therefore in order.

**§ 58.4 A statement in debate that a member "has already admitted that his amendment does not make sense, and he will take any alternative that is offered" was held not a breach of order.**

On Jan. 21, 1964,[17] Mr. Peter H. B. Frelinghuysen, Jr., of New Jersey, stated of an amendment offered by Mr. Adam C. Powell, of New York, "Mr. Chairman, it seems to me the gentleman from New York has already admitted his amendment does not make sense, and he will take any alternative that is offered." Mr. Powell demanded that the words be taken down, and Speaker John W. McCormack, of Massachusetts,

15. 78 Cong. Rec. 11177, 73d Cong. 2d Sess.

16. 92 Cong. Rec. 1500, 1501, 79th Cong. 2d Sess.

17. 110 Cong. Rec. 756, 88th Cong. 2d Sess.

ruled that the words objected to were not violative of the rules of the House.

**§ 58.5 A reference to an amendment that "where I come from the people do not like slippery, snide, and sharp practices" was held in order as not reflecting on any Member.**

On July 26, 1951,[18] Mr. John J. Rooney, of New York, while discussing opposition amendments to a pending bill, stated as follows:

> . . . Where I come from great faith is put on a man's ability to stand up and fight for what he believes and what he thinks is best for the country. The people in my district do not like slippery, snide, and sharp practices.

Mr. Clare E. Hoffman, of Michigan, demanded that the words be taken down, and Speaker Sam Rayburn, of Texas, ruled as follows:

> . . . The Chair does not think that it should offend anybody for the gentleman from New York [Mr. Rooney] to brag of his constituents, as to their character or as to their ability. It appears to the Chair that these words were spoken with reference to an amendment and not with respect to a Member of the House of Representatives; and therefore, there is no reflection on any Member of the House.

**18.** 97 CONG. REC. 8968, 8969, 82d Cong. 1st Sess.

**§ 58.6 The Speaker ruled out of order remarks in debate characterizing the motivation for an amendment as "demagogic" and "racist."**

On Dec. 13, 1973,[19] the Committee of the Whole was considering H.R. 11450, the Energy Emergency Act. Mr. John D. Dingell, of Michigan, offered an amendment to prohibit the use of petroleum for the busing of school children beyond the nearest public school. In debate on the amendment, Ms. Bella S. Abzug, of New York, stated as follows:

> An amendment like this can only be demagogic or racist because it is only demagoguery or racism which impels such an amendment like this.

Mr. Robert E. Bauman, of Maryland, demanded that the words be taken down, and Ms. Abzug responded that her language had not in any way impugned the motives of Mr. Dingell.

The Committee rose and Speaker Carl Albert, of Oklahoma, ruled as follows:

> On May 4, 1943 . . . Speaker Rayburn held:
>
> Statement by Newsome of Minnesota that, "I do not yield to any more demagogues," held not in order.
>
> It is the opinion of the Chair that the statements reported to the House

**19.** 119 CONG. REC. 41270, 41271, 93d Cong. 1st Sess.

are within the framework of this ruling, and without objection the words are therefore stricken from the Record.

### *Criticism of Opponents*

**§ 58.7 A reference in debate accusing opponents of the repeal of a law of possessing blind, slavish, and shameful opposition to repeal was held in order as merely an argument for the repeal or amendment of a law.**

On Feb. 6, 1950,[20] Mr. Clare E. Hoffman, of Michigan, demanded that the following words used in debate by Mr. Anthony Cavalcante, of Pennsylvania, be taken down:

> Mr. Speaker, the friends of the Taft-Hartley law show the nature of their mind by their constant opposition to all congressional effort to pass laws that will protect labor against the predatory traits of their masters. This nature is seen in their blind opposition to the repeal of any part of that infamous law; in their slavish opposition to the passage of a more adequate and just social-security law; in their shameful opposition to a Federal national-health program; and in their illogical opposition to put teeth in the coal-mine inspection law.

Speaker Sam Rayburn, of Texas, ruled that the words were not unparliamentary since merely an argument for the repeal or amendment of law.

**§ 58.8 A statement in debate accusing colleagues who opposed a measure of "loose talk" was held merely an expression of opinion mentioning no Member by name and not a breach of order.**

On May 6, 1941,[1] the following words used in debate in the Committee of the Whole were demanded to be taken down:

> If everybody would talk as loosely and recklessly with the truth as some of these opponents of the administration measures that they are carrying on, it is no wonder there is confusion.

The Committee rose, and Speaker Sam Rayburn, of Texas, ruled that the language objected to simply expressed an opinion that certain things bring about confusion in the House and mentioned no Member of the House by name. Therefore the words were not violative of the rules of the House.

**§ 58.9 A statement in debate that sinister influences were working to the interest of certain Members allegedly conducting a filibuster was held not to be a breach of order.**

20. 96 Cong. Rec. 1513, 81st Cong. 2d Sess.

1. 87 Cong. Rec. 3670, 77th Cong. 1st Sess.

On Mar. 23, 1936,[2] the following words used in debate were demanded to be taken down:

> Owing to the fact that one or two men want to carry on a filibuster, opposed to the people of the District of Columbia receiving some relief. They are today being gouged by real-estate men. I wonder if the sinister influences are working to the best interests of these gentlemen.

The Committee of the Whole rose and the words objected to were reported to the House. Speaker Joseph W. Byrns, of Tennessee, ruled as follows:

> There is no reference in the language to just who is carrying on a filibuster, if one has been carried on during the day. [Laughter.] The Chair is not in position to say that there has been a filibuster carried on. We have had a number of roll calls. The Chair is not going to say officially that there has been an actual filibuster. No reference is made to any particular Member of the House in the remarks of the gentleman from Indiana.
>
> The Chair fails to see anything objectionable in the language referred to, and so holds.

### *"Withholding" Votes*

**§ 58.10 A statement in debate referring to a tactic of "withholding" votes until it could be determined whether they would be necessary on the pending question was held in order.**

On July 27, 1965,[3] the following words used in debate by Mr. Charles E. Goodell, of New York, were taken down:

> I would be very interested on this particular issue if we are going to have a repeat of the exhibition on the housing vote with the gentlemen withholding votes and seeing how they are necessary on the issue that comes before us. I hope that this will not be repeated.

Speaker John W. McCormack, of Massachusetts, overruled the point of order, stating that the remarks did not reflect on any Member's motives or votes.

### *Criticizing Action of House Conferees*

**§ 58.11 The Speaker has applied the rules governing propriety of debate to posters and charts in the Speaker's Lobby, ordering their removal if the language would have given rise to a challenge if uttered on the floor of the House.**

On June 5, 1930, the House discussed the action of the Speaker in ordering removed from the Speaker's Lobby placards posted

2. 80 CONG. REC. 4235, 74th Cong. 2d Sess.

3. 111 CONG. REC. 18441, 89th Cong. 1st Sess.

by a Member criticizing the action of House conferees on a particular bill (H.R. 2667, a tariff bill).[4]

Speaker Nicholas Longworth, of Ohio, stated that he had ordered removed the placard under his authority granted by Rule I clause 3, empowering him to exercise control over the corridors and passages and unappropriated rooms in the House side of the Capitol. The Speaker also stated that "the Chair was of the opinion that at least two of the sentences in that document were sentences which, if pronounced on the floor of the House, would have been subject to being taken down, and were not in order, and, by analogy, the Chair thinks it is even more improper to have such publications posted where no one can criticize them."

The Speaker read the following objectionable language of the placard:

> 3. The House conferees, in violation of the gentleman's agreement and in disregard of the positive mandate of the House, voted lumber used by the farmers on the dutiable list and polls and ties used by the public utilities on the free list.
>
> 4. The conferees are the servants of the House, not its masters. Will the Members by their votes condone the violation of the gentleman's agreement and the disregard of the positive mandate of the House on the part of its conferees?

The Speaker stated that the truth or falsity of the document was not material, but whether the document cast doubt upon the worthiness of the motives of the conferees was relevant to his decision.[5]

**§ 58.12 While it may be appropriate in debate to characterize the effect of an amendment as deceptive or hypocritical, the Speaker has ruled out of order words taken down in Committee of the Whole characterizing the motivation of a Member in offering an amendment as deceptive and hypocritical.**

During consideration of the Department of Education Organization Act of 1979 (H.R. 2444) in the Committee of the Whole, certain words used in debate were reported to the House and ruled out of order by the Speaker. The pro-

**4.** 72 CONG. REC. 10122, 10123, 71st Cong. 2d Sess.

**5.** Rule I clause 3, *House Rules and Manual* § 623 (1995) provides: "He [the Speaker] shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order."

ceedings of June 12, 1979,[6] were as follows:

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I expected resistance to this amendment and not necessarily my getting involved. I am not a member of this committee. But this amendment is probably the most detrimental to the main purposes of equal opportunity of education to the most needed segments of our society that has been presented thus far and probably could ever be presented. The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I demand that the words be taken down.

THE CHAIRMAN:[7] The Clerk will report the words objected to. . . .

THE CHAIRMAN: The Committee will rise. . . .

THE SPEAKER:[8] The Clerk will report the words objected to.

The Clerk read as follows: . . .

> The insidiousness of the amendment is compounded by the sponsor's deceptive—I should say hypocritical—presentation of this amendment, disguising it as a quota prohibition.

THE SPEAKER: The Chair is ready to rule.

The Chair, having read the references concerning deception and hypocrisy, will state that there have been previous opinions by the Chair that there is nothing wrong with using the word, "deceptive," or the word, "hypocritical," in characterizing an amendment's effect but when a Member so characterizes the motivation of a Member in offering an amendment that is not in order.

Consequently, the words in the last sentence read by the Clerk are unparliamentary and without objection, the offensive words are stricken from the Record.

## § 59. Criticism of Statements or Tactics in Debate

In order that free debate and discussion be preserved in the House, Members may argue with wide latitude against statements made on the floor by other Members.[9] But criticism of a Member's statements in debate may not extend to personal attacks,[10] and the use of certain derogatory terms, such as "disgraceful"[11] or "demagogic"[12] may be ruled out

**6.** 125 CONG. REC. 14461, 96th Cong. 1st Sess.

**7.** Lucien N. Nedzi (Mich.).

**8.** Thomas P. O'Neill, Jr. (Mass.).

**9.** See the statement of Speaker Pro Tempore John J. O'Connor (N.Y.) cited at § 59.2, infra.

**10.** See § 59.9, infra. For the rule against invoking personalities in debate, see § 60, infra. A Member may not impugn the motives of another for statements made in debate, see § 62, infra.

**11.** See §§ 59.3, 59.4, 59.9, infra.

**12.** See §§ 60.3–60.6, infra. See also 5 Hinds' Precedents §§ 5150, 5151,