At that time the request for a recorded vote on amendment No. 1 will be the unfinished business of the House. Twenty-five Members will need to stand at that time in order to obtain a recorded vote on that amendment as well as the other postponed questions in turn. There is no need for a Member making a request for a recorded vote to renew the request.

The Chair would also like to remind the Members that the first vote taken on the first amendment will be a 15-minute vote, and subsequent votes may be reduced to 5 minutes, if no business interferes between the votes.

It is now in order to consider amendment No. 5 printed in House Report 104–85. . . .

THE CHAIRMAN: All time has expired on this amendment.

The question is on the amendment offered by the gentleman from New Jersey [Mr. Smith].

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

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New Jersey [Mr. Smith] will be postponed.

Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 1 offered by the gentleman from Texas [Mr. Archer]; amendments en bloc offered by the gentleman from Texas [Mr. Archer]; amendment No. 3 offered by the gentleman from Missouri [Mr. Talent]; amendment No. 7 offered by the gentleman from Oregon [Mr. Bunn]; and amendment No. 8 offered by the gentleman from New Jersey [Mr. Smith]. . . .

THE CHAIRMAN: The pending business is the demand for a recorded vote on amendment No. 1 printed in House Report No. 104–85 offered by the gentleman from Texas [Mr. Archer] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

THE CHAIRMAN: A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 203, not voting 3. . . .

## § 55. Procedures During Postponed Proceedings

### *Precedence of Questions—Interruption of Series of Suspensions by Question of Privilege*

**§ 55.1 A resolution raising a question of the privileges of the House takes precedence over a motion to suspend the rules and may be offered and voted on between consideration of motions to suspend the rules on which the**

**Speaker has postponed record votes.**

On May 17, 1983,[4] before embarking on consideration of a revenue measure reported from the Committee on Ways and Means which was being brought up under the suspension procedure, the House considered and adopted a resolution, offered as a question of the privileges of the House under Rule IX,[5] to return to the Senate a similar revenue bill originated by that body. The question of privilege interrupted consideration of a series of suspension motions. The proceedings were as indicated below:

THE SPEAKER PRO TEMPORE:[6] Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

MR. [GEORGE E.] BROWN [Jr., of California]: Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2785), to amend the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act relating to the scientific advisory panel and to extend the authorization for appropriations for such Act, as amended. . . .

THE SPEAKER PRO TEMPORE:[7] The question is on the motion offered by the gentleman from Florida (Mr. Gibbons) that the House suspend the rules and pass the bill, H.R. 2602, as amended.

The question was taken.

MR. [FRANK] ANNUNZIO [of Illinois]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

THE SPEAKER PRO TEMPORE: Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 195) and ask for its immediate consideration. The Clerk read the resolution, as follows:

H. RES. 195

*Resolved*, That the bill of the Senate (S. 144) to ensure the continued expansion of international market opportunities in trade, trade in services, and investment for the United States and for other purposes, in the opinion of the House, contravenes the first clause of the seventh section of Article I of the Constitution of the United States and is an infringement of the privileges of this House, and that the said bill be respectfully returned to the Senate with a message communicating this resolution.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois (Mr. Rostenkowski) is recognized for 1 hour.

**4.** 129 CONG. R. 12467, 12486, 98th Cong. 1st Sess.

**5.** *House Rules and Manual* § 661a (1995).

**6.** John P. Murtha (Pa.).

**7.** Charles Roemer (La.).

MR. ROSTENKOWSKI: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is simple and straightforward. On April 21, 1983, the Senate completed its consideration of S. 144, a bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes, approved the bill and messaged it to the House of Representatives. As passed by the Senate, the bill contains several provisions relating to revenues. As such, the bill on its face clearly violates the prerogatives of the House of Representatives to originate revenue bills.

At times in the past, there has been some disagreement about the proper extent of the other body's authority to amend House-originated revenue bills. It is a matter of intense debate, and I have been known to express my views on that matter from time to time. In this instance, however, we need not discuss the specifics of the Senate amendment, since the Senate has taken it upon itself to directly originate an entire revenue bill. There can be no clearer case where the prerogatives of the House of Representatives have been disregarded by the other body.

Last Thursday, this matter was discussed by the Committee on Ways and Means; and it was unanimously agreed to follow the process of returning S. 144 to the Senate inasmuch as it contravenes the first clause of section 7 of article I of the Constitution.

MR. [BARBER E.] CONABLE [Jr., of New York]: Mr. Speaker, will the gentleman yield?

MR. ROSTENKOWSKI: I yield to the gentleman from New York.

MR. CONABLE: Mr. Speaker, I support the position taken by our distinguished chairman on this matter. I feel it should be returned to the other body, as he has indicated, and for the reasons he has stated.

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

THE SPEAKER PRO TEMPORE: Without objection, the previous question is ordered on the resolution.

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the resolution. A resolution was agreed to.

A motion to reconsider was laid on the table.

MR. ROSTENKOWSKI: Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2973, to repeal the withholding of tax from interest and dividends.

The Clerk read as follows:

H.R. 2973

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

(1) subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding of tax from interest and dividends) is hereby repealed, and. . . .

### *—Order of Taking Votes on Postponed Questions*

### § 55.2 Consideration of new motions to suspend the rules can take precedence over the votes on suspensions postponed from a preceding day.

In the 96th Congress, the practice of conducting a series of postponed votes was to have a 15-minute vote on the first vote in the series. Where new motions to suspend the rules were considered before taking up votes postponed from the preceding day, a 15-minute vote was utilized for the first vote in each series.

On Mar. 18, 1980,[8] the acting Majority Leader[9] announced that the consideration of motions to suspend the rules takes precedence over unfinished business (postponed roll call votes on motions to suspend the rules coming over from the previous day):

> MR. [JOHN] ROUSSELOT [of California]: I thank the gentleman for yielding.
>
> I have no substantive questions about this legislation, but I take this time to direct a question to the Speaker. Mr. Speaker, my question is, Why has the procedure of the House been changed? As I understand it, Mr. Speaker, the procedure has been altered so that the recorded vote on H.R. 5625 (the A. Phillip Randolph Institute Gold Medal) was put over from yesterday's suspension calendar. Normally that recorded vote would occur today, first thing.
>
> I wonder if the Speaker could explain to the House why that was changed?
>
> MR. ROSTENKOWSKI: Mr. Speaker, will the gentleman yield?
>
> MR. ROUSSELOT: I would be glad to yield to my colleague from Illinois (Mr. Rostenkowski).
>
> MR. ROSTENKOWSKI: It has been our custom on all suspensions to conclude the business of suspensions and then have the votes at the conclusion of all of the suspensions. There has never been any precedent set where we would vote on the suspensions we have concluded consideration on the day before.
>
> It has always been our practice to have concluded all of the suspensions and vote at the end of the day.

Later that same day,[10] the Speaker Pro Tempore[11] applied this practice, as follows:

> Pursuant to the provisions of clause 3 of rule XXVII, the unfinished business is the vote on the motion of the gentleman from Illinois (Mr. Annunzio) to suspend the rules and pass the bill, H.R. 5625, as amended, on which further proceedings were postponed on Monday, March 17, 1980, on which the yeas and nays are ordered.
>
> The Clerk read the title of the bill.
>
> THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Illinois (Mr. Annunzio) that the House suspend the rules and pass the bill, H.R. 5625, as amended, on which the yeas and nays are ordered.
>
> This will be a 15-minute vote, since it is a different series of suspension motions.

**8.** 126 CONG. REC. 5733, 96th Cong. 2d Sess.

**9.** Dan Rostenkowski (Ill.).

**10.** 126 CONG. REC. 5741, 96th Cong. 2d Sess., Mar. 18, 1980.

**11.** John P. Murtha (Pa.).

### *Method of Voting—Where Requests for Recorded Votes Are Postponed*

**§ 55.3 Where postponed proceedings resume in Committee of the Whole on a request for a recorded vote on an amendment which is deferred pursuant to an order of the House, the recorded vote is not automatically ordered but must be supported at the later time, when the question is put, by 25 Members seconding the demand.**

Where the request for a recorded vote is postponed, the Member making the request (the demand) need not renew his request when the question is again before the Committee or the House; but the Chair does not ascertain whether a sufficient number support the request until the time appointed to take the postponed votes. Chairman George E. Brown, Jr., of California, explained the effect of postponing requests for recorded votes under the rule as follows:[12]

> THE CHAIRMAN: All time for debate of the amendment offered by the gentleman from Florida [Mr. Stearns] has expired.
>
> The question is on the amendment offered by the gentleman from Florida [Mr. Stearns].
>
> The question was taken; and the Chairman announced that the noes appeared to have it.
>
> MR. [CLIFF] STEARNS [of Florida]: Mr. Chairman, I demand a recorded vote.
>
> THE CHAIRMAN: In accordance with the unanimous-consent request that was granted by the House earlier, the Chair will postpone further proceedings on the amendment offered by the gentleman from Florida [Mr. Stearns] until a later time. That means that at a later time the gentleman's request will be pending.
>
> MR. STEARNS: Mr. Chairman, as I understand it, a recorded vote is not automatic. I will have to go through this again.
>
> THE CHAIRMAN: The Chair will announce to the gentleman when it is an appropriate time for him to protect his request. The Chair will not overlook the gentleman.
>
> MR. STEARNS: Well, Mr. Chairman, I am just worried that I will not be here.
>
> Can I make a point of order that a quorum is not present and go through the whole procedure so it becomes an automatic vote so I will not have to depend upon my presence, my being here?
>
> Mr. Chairman, I am just saying that I want to make sure that this is an automatic vote and that it is not a vote dependent upon my being here.
>
> THE CHAIRMAN: Some Member will have to make a point of no quorum pending the request for a recorded vote, and at that point the Chair will put the request in the usual fashion.
>
> In other words, if enough Members stand, the gentleman will get a recorded vote. This will just expedite the proceedings.

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**12.** 140 CONG. REC. p. _____, 103d Cong. 2d Sess., June 27, 1994.

### —*Withdrawal of Request for Record Vote After Vote Is Postponed*

**§ 55.4 A request for a recorded vote on an amendment in Committee of the Whole on which proceedings have been postponed may be withdrawn, by unanimous consent, to allow the amendment to be disposed of as per the voice or division vote initially announced when the question was put.**

Like a reservation of a point of order or a reservation of the right to object to a unanimous-consent request, a request for a recorded vote inures to the benefit of every Member. The Member making the demand for the recorded vote may withdraw his demand, as a matter of right, when the question is yet before the Committee or when it is again put as unfinished business. Any other Member could then renew the demand. On July 26, 1995,[13] when the Commerce, Justice, State, and the Judiciary appropriation bill was under consideration in Committee of the Whole, the Member demanding a recorded vote on an amendment offered by Mrs. Jan Meyers, of Kansas, asked unanimous consent to withdraw his demand, since there had been intervening business and the Meyers amendment was no longer the pending business. The proceedings were as indicated:

> The Chairman:[14] The gentleman objects to the 20-minute time allocation.
>
> Is there objection to the request of the gentlewoman from Kansas [Mrs. Meyers] to offer an amendment to title V?
>
> There was no objection.
>
> MRS. MEYERS of Kansas: Mr. Chairman, I offer an amendment.
>
> THE CHAIRMAN: The Clerk will designate the amendment.
>
> The text of the amendment is as follows:
>
> > Amendment offered by Mrs. Meyers of Kansas: Page 97, line 8, strike "$217,947,000" and insert "$222,–325,000".
> >
> > Page 98, line 6, strike "$97,000,000" and insert "$92,622,000".
>
> MR. [HAROLD] ROGERS [of Kentucky]: Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes, and that the time be equally divided between the gentlewoman from Kansas [Mrs. Meyers] and the gentleman from New York [Mr. Forbes].
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Kentucky?
>
> There was no objection. . . .
>
> THE CHAIRMAN: All time has expired.

**13.** 141 CONG. REC. p. _____, 104th Cong. 1st Sess.

**14.** Steve Gunderson (Wisc.).

The question is on the amendment offered by the gentlewoman from Kansas [Mrs. Meyers].

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

MR. [MICHAEL P.] FORBES [of New York]: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentlewoman from Kansas [Mrs. Meyers] will be postponed.

MR. [JOSÉ E.] SERRANO [of New York]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. Serrano: Page 102, after line 20, insert the following:
>
> SEC. 609. None of the funds made available in this Act may be used for the Advisory Board for Cuba Broadcasting under section 5 of the Radio Broadcasting to Cuba Act. . . .

MR. FORBES: Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote on the Meyers amendment.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

MR. [ROGER F.] WICKER [of Mississippi]: Mr. Chairman, reserving the right to object, how did the Chair announce that vote on the voice vote?

THE CHAIRMAN: The ayes had it.

MR. WICKER: That the ayes had it?

THE CHAIRMAN: On the Meyers amendment, yes.

MR. WICKER: Mr. Chairman, I withdraw my reservation of objection reluctantly.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

MR. [JOHN J.] LAFALCE [of New York]: Mr. Chairman, reserving the right to object, what was the request that was made again?

MR. FORBES: I requested unanimous consent to withdraw my request for a recorded vote.

MR. LAFALCE: Further reserving the right to object, if this is an issue that will be settled, but if there is going to be an attempt made in conference or something or some other time in the future, I think that at some point in time there will not be.

Mr. Chairman, I withdraw my reservation of objection.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

There was no objection.

So, the amendment was agreed to.

### —*Repetition of Demand for Yeas and Nays or Recorded Vote*

**§ 55.5 Where one-fifth of the Members present have refused to order the yeas and nays on a motion to suspend the rules and that motion later becomes the pending or unfinished business of the House under the rule governing the Speaker's postponement authority,[15] a**

15. Rule I clause 5(b)(1), *House Rules and Manual* § 631 (1995).

**Member may still demand a recorded vote on the motion but may not renew his demand for the yeas and nays.**

During consideration in the House of the bill H.R. 12048, the Administrative Rule Making Reform Act of 1976, in the 94th Congress,[16] Speaker Carl Albert, of Oklahoma, put the question on a suspension motion and the following proceedings then devolved:

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, on that I demand the yeas and nays.

THE SPEAKER: Twelve Members have arisen, an insufficient number.

The yeas and nays were refused.

MR. STEIGER of Wisconsin: I am sorry, Mr. Speaker. I could not hear what the Speaker said.

THE SPEAKER: I said that 12 Members have arisen, an insufficient number.

MR. STEIGER of Wisconsin: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: Pursuant to the provisions of clause 3(b) of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

Does the gentleman from Wisconsin withdraw his point of order that there is no quorum?

MR. STEIGER of Wisconsin: Mr. Speaker, I withdraw my point of order. . . .

THE SPEAKER PRO TEMPORE:[17] The unfinished business is the question of suspending the rules and passing the bill, H.R. 12048, as amended.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Alabama (Mr. Flowers) that the House suspend the rules and pass the bill, H.R. 12048, as amended.

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

MR. [BOB] ECKHARDT [of Texas]: Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

MR. [WALTER] FLOWERS [of Alabama]: Mr. Speaker, a point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state the point of order.

MR. FLOWERS: Mr. Speaker, on the last recorded vote there were 400 Members present. Twenty percent of that would be 80.

THE SPEAKER PRO TEMPORE: The Chair will advise the gentleman that on recorded vote the rules require one-fifth of a quorum, which is 44.

A recorded vote is ordered.

**§ 55.6 Where further proceedings on a pending question have been postponed where there is objection to the vote for lack of a quorum, following a division vote and the refusal of the House to order the yeas and nays, the Speaker puts the question de novo when it is**

16. 122 CONG. REC. 31640, 31641, 31668, 94th Cong. 2d Sess., Sept. 21, 1976.

17. John J. McFall (Calif.).

**again the pending business but a request for a division vote and a demand for the yeas and nays cannot be repeated.**

On July 12, 1977,[18] Speaker Pro Tempore Thomas S. Foley, of Washington, put the question on a motion to suspend the rules and concur in a Senate amendment to a House bill. The proceedings were as indicated:

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from California (Mr. Danielson) that the House suspend the rules and concur in the Senate amendment to the bill H.R. 6893.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. Bauman) there were—ayes 44, noes 5.

MR. BAUMAN: Mr. Speaker, having explored all other possibilities, I now object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered as having been withdrawn. . . .

THE SPEAKER PRO TEMPORE: The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill H.R. 6893.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from California (Mr. Danielson) that the House suspend the rules and concur in the Senate amendment to the bill H.R. 6893.

The Clerk read the title of the bill.

The question was taken and the Speaker pro tempore announced that, in his opinion, two-thirds of the Members had voted in favor thereof.

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

THE SPEAKER PRO TEMPORE: The Chair will state that the yeas and nays have already been demanded and have been refused so that request is not in order.

MR. BAUMAN: Mr. Speaker, is it in order to ask for a division on this vote?

THE SPEAKER PRO TEMPORE: The Chair will state that a division has already been taken on the question.

MR. BAUMAN: Then an additional division is not permitted at this time?

THE SPEAKER PRO TEMPORE: That is correct. The yeas and nays have already been demanded and have been refused and prior to that a division vote had already been taken.

MR. BAUMAN: And it is out of order to renew the request for the yeas and nays?

THE SPEAKER PRO TEMPORE: The Chair will state that it is not in order to renew the request that the vote be taken by the yeas and nays.

MR. BAUMAN: I thank the gentleman.

**18.** 123 CONG. REC. 22487, 22488, 95th Cong. 1st Sess.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

Mr. Bauman could have demanded a recorded vote—as distinct from the yeas and nays—since that form of voting had not been attempted when the question was first put. An example of using a recorded vote following rejection of a demand for the yeas and nays is found in the proceedings of Sept. 21, 1976.[19]

### *Postponed Amendment Proceedings*

**§ 55.7 When consideration is resumed on amendments where requests for recorded votes have been demanded, but not ordered, the Chair: (1) directs the Clerk to re-report the amendment; (2) states the pending business to be the request for a recorded vote and states the result of the initial vote taken by voice or division; and (3) requests those Members seeking a recorded vote to stand and remain standing until counted.**

While a Member may announce his intention to ask for a recorded vote on an underlying first degree amendment, he cannot actually make that request until the question is put on the amendment; and that question necessarily is deferred until a pending second degree amendment is disposed of. On July 29, 1992, the House had under consideration the bill H.R. 5679, making appropriations for Veterans' Affairs, Housing and Urban Development.[20]

Before resolving into the Committee of the Whole, the following unanimous-consent agreement was entered into:[1]

MR. [LOUIS] STOKES [of Ohio]: Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 5679, the Chairman of the Committee of the Whole House on the State of the Union may postpone until a time not earlier than 8:30 p.m. this evening any recorded votes that may be requested on amendments after the vote on the pending amendment.

THE SPEAKER PRO TEMPORE:[2] Is there objection to the request of the gentleman from Ohio?

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, reserving the right to object, and I do not intend to object, I just want to make certain of one thing. There are going to be amendments to amendments, so I would inquire what happens in that kind of a situation.

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**19.** See § 55.5, supra.

**20.** 138 CONG. REC. 20202, 102d Cong. 2d Sess.

**1.** *Id.* at p. 20261.

**2.** Leon E. Panetta (Calif.).

THE SPEAKER PRO TEMPORE: Is the gentleman from Pennsylvania [Mr. Walker] addressing the question to the Chair, or to the gentleman from Ohio [Mr. Stokes]?

MR. WALKER: To the gentleman from Ohio, who has made the request.

MR. STOKES: Mr. Speaker, will the gentleman yield?

MR. WALKER: I yield to the gentleman from Ohio.

MR. STOKES: Mr. Speaker, I would assume that those would also be accomplished within the timeframe that we have referenced.

MR. WALKER: In other words, the amendment to the amendment would have to be waited upon and then we would have to go back and complete the amendment later on, is that correct?

MR. STOKES: If the gentleman will continue to yield, yes, that is correct.

MR. WALKER: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Ohio?

There was no objection.

Chairman Anthony C. Beilenson, of California, responded to several inquiries about this procedure and demonstrated the procedure followed *when it is the request for a recorded vote that is deferred*, and not a recorded vote which is already demanded and ordered by the requisite number of seconding Members. The proceedings were as follows:[3]

THE CHAIRMAN: All time has expired.

The question is on the amendment offered by the gentleman from Utah [Mr. Hansen] to the amendment offered by the gentleman from Utah [Mr. Owens].

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

MR. [JAMES V.] HANSEN [of Utah]: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN: Pursuant to the order of the House of earlier today, further proceedings on this request for a recorded vote are postponed until not earlier than 8:30 p.m.

The point of no quorum is considered as having been withdrawn.

MR. [WAYNE] OWENS of Utah: Mr. Chairman, I move to strike the last word.

Mr. Chairman, it will be my intention to seek a vote on my amendment only if the amendment to the amendment fails.

MR. [DON] SUNDQUIST [of Tennessee]: I have a parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. SUNDQUIST: Mr. Chairman, under the rules the gentleman cannot strike the last word before a vote. He is getting an extension of his time for debate.

THE CHAIRMAN: The Chair would advise the gentleman that the votes on both amendments, if two are requested, have been postponed. No amendment is pending. The statement of the gentleman from Tennessee is not in order.

**3.** 138 CONG. REC. 20286, 20288–91, 102d Cong. 2d Sess., July 29, 1992.

MR. SUNDQUIST: Mr. Chairman, we did not have a second vote. We had one vote on the amendment of the gentleman from Utah [Mr. Hansen].

THE CHAIRMAN: The Chair will state that the question cannot be put on the original amendment of Mr. Owens at this time. The Chair would advise the gentleman that that request will be in order at the proper time after the vote is later taken by the Committee on the Hansen amendment, after that amendment is voted on.

Does the gentleman from Utah [Mr. Owens] wish to complete his statement?

MR. OWENS of Utah: Mr. Chairman, I just wanted to explain to the House that I will seek a vote on my amendment if the vote on the amendment to the amendment is not successful. . . .

THE CHAIRMAN: The pending business is the demand of the gentleman from Massachusetts, Mr. Atkins, for a recorded vote on his amendment on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will rereport the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Atkins: Page 84, strike line 3 and all that follows through line 6 on page 85.

THE CHAIRMAN: Those in favor of taking the vote by recorded vote will rise and remain standing. . . .

MR. [GERALD B. H.] SOLOMON [of New York]: Mr. Chairman, I have a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his inquiry.

MR. SOLOMON: Mr. Chairman, could the Chair inform the body whether this particular vote coming up passed or failed? We are entitled to know that.

THE CHAIRMAN: The Chair already announced, he would say to his friend, the gentleman from New York, that the noes prevailed on a voice vote.

MR. SOLOMON: I thank the Chair. . . .

THE CHAIRMAN: The pending business is the demand of the gentleman from Utah [Mr. Hansen] for a recorded vote on his amendment to the amendment offered by the gentleman from Utah [Mr. Owens], on which the Chair had announced that the noes prevailed on a voice vote.

The Clerk will rereport the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hansen to the amendment offered by Mr. Owens of Utah: Strike "$4,961,500,000, to remain available until September 30, 1994" and insert in lieu thereof "$5,136,500,000, to remain available until September 30, 1994".

THE CHAIRMAN: Those in favor of taking this vote by recorded vote will stand and remain standing.

Evidently a sufficient number has arisen, and a recorded vote is ordered.

The Chair would remind Members that this, too, is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 181, noes 226, not voting 27. . . .

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Utah [Mr. Owens].

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. Owens of Utah: Page 76, line 21, strike "$5,226,500,000" and insert "$4,961,500,000".

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

MR. OWENS of Utah: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

THE CHAIRMAN: This too will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 249, noes 159, not voting 26, as follows: . . .

### —*Vote on Second Degree Amendment*

### § 55.8 Where a recorded vote on a second degree perfecting amendment is postponed, then the question on agreeing to the underlying first degree amendment is also necessarily postponed.

On July 26, 1995,[4] the House had under consideration in Committee of the Whole the appropriation bill (H.R. 2076) for the Departments of Commerce, Justice, State, and the Judiciary. The following parliamentary inquiry and the Chair's response illustrates the point of the headnote.

THE CHAIRMAN:[5] All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. Smith] to the amendment offered by the gentleman from Colorado [Mr. Skaggs].

MR. [DAVID E.] SKAGGS [of Colorado]: Mr. Chairman, I have a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. SKAGGS: Mr. Chairman, I believe this was characterized as a substitute.

THE CHAIRMAN: It is an amendment.

The question is on the amendment offered by the gentleman from New Jersey [Mr. Smith] to the amendment offered by the gentleman from Colorado [Mr. Skaggs].

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

MR. [CHRISTOPHER H.] SMITH of New Jersey: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: Pursuant to the order of the House today, further proceedings on the amendment offered by the gentleman from New Jersey [Mr. Smith], will be postponed.

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

THE CHAIRMAN: The gentleman will state it.

MR. SKAGGS: Mr. Chairman, I do not know that we have faced this particular parliamentary situation before in which proceedings have been sus-

4. 141 CONG. REC. p. _____, 104th Cong. 1st Sess.

5. Steve Gunderson (Wisc.).

pended on an amendment to an amendment, and we have not yet gotten to the underlying amendment. I would reserve at this time, if I may, therefore, the right to a recorded vote on the underlying amendment. I will not otherwise have an opportunity to ask for a vote in the House.

THE CHAIRMAN: The Chair would put the question on the underlying amendment to the committee after action on the amendment to the amendment was completed at a later point.

MR. SKAGGS: I thank the Chair for the clarification.

**§ 55.9 Where the Chairman of the Committee of the Whole postpones further proceedings on a request for a recorded vote on a second degree amendment, the question on the underlying first degree amendment may not be put (nor can a recorded vote be requested thereon) until the amendment thereto is disposed of at a subsequent time.**

On July 29, 1992,[6] the following proceedings occurred in the Committee of the Whole:

THE CHAIRMAN:[7] All time has expired.

The question is on the amendment offered by the gentleman from Utah [Mr. Hansen] to the amendment offered by the gentleman from Utah [Mr. Owens].

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

MR. [JAMES V.] HANSEN [of Utah]: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN: Pursuant to the order of the House of earlier today, further proceedings on this request for a recorded vote are postponed until not earlier than 8:30 p.m.

The point of no quorum is considered as having been withdrawn.

MR. [WAYNE] OWENS of Utah: Mr. Chairman, I move to strike the last word.

Mr. Chairman, it will be my intention to seek a vote on my amendment only if the amendment to the amendment fails.

MR. [DON] SUNDQUIST [of Tennessee]: I have a parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. SUNDQUIST: Mr. Chairman, under the rules the gentleman cannot strike the last word before a vote. He is getting an extension of his time for debate.

THE CHAIRMAN: The Chair would advise the gentleman that the votes on both amendments, if two are requested, have been postponed. No amendment is pending. The statement of the gentleman from Tennessee is not in order.

**§ 55.10 Where the Chair was given authority by a unani-**

6. 138 CONG. REC. 20286, 102d Cong. 2d Sess.

7. Anthony C. Beilenson (Calif.).

**mous-consent agreement to postpone requests for recorded votes "until a later time," the Chair interpreted his mandate to include the postponement of such requests on second degree amendments, but not to permit second degree amendments after a voice vote has been taken and announced on the first degree amendment.**

On June 24, 1994,[8] Chairman George E. Brown, Jr., of California, while presiding over the Committee of the Whole on an appropriation bill, answered a parliamentary inquiry relating to the offering of second degree amendments when he had been given authority to postpone votes on certain amendments until a later time in the proceedings of the Committee. The inquiries directed to the Chair were as follows:

MR. [HOWARD L.] BERMAN [of California]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BERMAN: Mr. Chairman, I understand that we are operating now under unanimous-consent request, as it applies to title V, in terms of rolling votes. How will that affect the ability to offer an amendment to any of the amendments that might be offered?

THE CHAIRMAN: Would the gentleman restate his parliamentary inquiry?

MR. BERMAN: The question is, we will now be proceeding to hear amendments to title V and rolling votes on any of the amendments where a vote is requested. If one wants to amend an amendment being offered to title V under this procedure, how would one do that and how would one get recognized?

THE CHAIRMAN: As the Chair understands the situation, on an amendment to the amendment, the vote on that would still be postponed until the end of debate on other amendments to title V.

MR. BERMAN: I have a further parliamentary inquiry. Could the Chair explain the order of votes on amendments? Are all votes on amendments being rolled? What is the first amendment that will be voted on when we go to a vote?

THE CHAIRMAN: The only request that has been postponed following the Chair's announcement that there would be a rolling of the votes has been the amendment offered by the gentleman from Florida [Mr. Stearns].

MR. BERMAN: Mr. Chairman, is there any amendment which has been excluded from the unanimous consent to roll each vote?

THE CHAIRMAN: No, not so far.

MR. BERMAN: So what is the nature of the unanimous-consent request that was granted?

THE CHAIRMAN: The unanimous-consent request was that the request for a recorded vote on amendments be postponed until the end of debate on further amendments to this title. This is

8. 140 CONG. REC. p. _____, 103d Cong. 2d Sess.

to be done at the Chair's discretion, after consultation with the chairman and the ranking member of the appropriations subcommittee.

MR. BERMAN: If I might make a last parliamentary inquiry, would it be in order after an amendment has been voted on, depending on the result of that amendment, to then offer an amendment, after all debate time has expired, to the next amendment, based on what had happened on an earlier amendment?

THE CHAIRMAN: The chairman is informed by the parliamentarian that such a second degree amendment would not be in order, if the question had been put earlier on the first degree amendment and the voice vote announced.

### —*Order of Taking Votes Where the Votes on Amendments Are Deferred*

### § 55.11 When the Committee of the Whole resumes proceedings on two consecutive amendments where requests for recorded votes were postponed by the Chair, the questions recur on the amendments in the same order in which the amendments were originally considered.

Where the Chair announces that the votes on two consecutive amendments will be deferred until both have been debated, the order of voting remains the same as the order of their consideration. The proceedings of Apr. 20, 1994, illustrate the order of voting where votes on amendments are postponed: [9]

THE CHAIRMAN: [10] It is now in order to consider amendment No. 37 printed in part 2 of the House Report 103–474.

MR. [BART] GORDON [of Tennessee]: Mr. Chairman, I offer an amendment.

THE CHAIRMAN: The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Gordon:

At the appropriate place in the bill add the following:

**SECTION . AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.**

Section 401(b)(8) the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

**SEC. . EFFECTIVE DATE.**

The amendment made by this Act shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

THE CHAIRMAN: Pursuant to the rule, the gentleman from Tennessee [Mr. Gordon] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

MR. [ALBERT R.] WYNN [of Maryland]: Mr. Chairman, I rise in opposition to the amendment.

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**9.** 140 CONG. REC. p. _____, 103d Cong. 2d Sess.

**10.** Robert G. Torricelli (N.J.).

THE CHAIRMAN: The gentleman from Maryland [Mr. Wynn] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. Gordon].

MR. [JACK] BROOKS [of Texas]: Parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The distinguished gentleman will state his parliamentary inquiry.

MR. BROOKS: Mr. Chairman, do I understand that the Chair is going to cluster these two votes and we will have one 15-minute vote and one 5-minute vote after the Gordon-Fields amendment?

THE CHAIRMAN: The Chair has that discretion under the rule, to cluster the votes.

MR. BROOKS: I would request the Chair to do so. It would expedite matters and save us 10 minutes.

MR. GORDON: Mr. Chairman, I have no objection to the request if my friend, the gentleman from Maryland [Mr. Wynn] has no objection.

MR. WYNN: Mr. Chairman, I have no objection.

THE CHAIRMAN: The Chair recognizes the gentleman from Tennessee [Mr. Gordon]. . . .

THE CHAIRMAN: All time on the amendment has expired.

The question is on the amendment offered by the gentleman from Tennessee [Mr. Gordon].

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

MR. [JACK] FIELDS of Texas: Mr. Chairman, I demand a recorded vote.

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

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. WYNN: Mr. Chairman, it is my understanding that because these two amendments were being clustered, the debate on both amendments would occur and then the votes on both amendments would follow subsequent to the debate on both amendments. Am I correct in that understanding? . . .

THE CHAIRMAN: Pursuant to House Resolution 401, as the Chair has stated, further proceedings on the amendment offered by the gentleman from Tennessee [Mr. Gordon] will be postponed until after the debate on the next amendment.

MR. FIELDS of Texas: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. FIELDS: The question is, Mr. Chairman, what is the order of vote when we do have a recorded vote?

THE CHAIRMAN: The vote will occur in the same order as would have occurred had the Chair not postponed the vote.

It is now in order to consider amendment No. 38 printed in part 2 of the House Report 103–474.

MR. WYNN: Mr. Chairman, I offer an amendment made in order by the rule.

THE CHAIRMAN: The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Wynn: At the appropriate place in the bill add the following: . . .

THE CHAIRMAN: All time has expired.

The question is on the amendment offered by the gentleman from Maryland [Mr. Wynn].

The question was taken, and the Chair announced that the ayes appeared to have it.

MR. FIELDS of Texas: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: Pursuant to House Resolution 401, further proceedings on the amendment offered by the gentleman from Maryland will be postponed until after further proceedings on the amendment offered by the gentleman from Tennessee [Mr. Gordon].

Pursuant to Resolution 401, proceedings will now resume on those amendments on which further proceedings were previously postponed and in the following order: Amendment No. 37, offered by the gentleman from Tennessee [Mr. Gordon], and then amendment No. 39, offered by the gentleman from Maryland [Mr. Wynn].

The Chair announces that in the event votes are ordered, the Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

## § 56. Postponed Proceedings and the Quorum Rule

### *Effect of Announcement of Absence of Quorum on Chair's Authority To Postpone Vote*

**§ 56.1 Where the absence of a quorum has been announced and an automatic vote ordered under Rule XV clause 4, the House may not, even by unanimous consent, conduct any business in the announced absence of a quorum.**

The Speaker's authority to postpone a vote taken in the House may not be exercised after a record vote has begun or once the absence of a quorum has been announced. The proceedings of July 13, 1983,[11] are illustrative. On that date, a vote on the Speaker's announced approval of the Journal was objected to on the ground that a quorum was not present. The Speaker declared that a quorum was indeed not present and directed an "automatic" call of the roll under Rule XV clause 5. When the electronic system then failed, an attempt was made to vacate the demand so that the House would not have to settle the question by using the time-consuming back-up device of having the Clerk call the roll. The proceedings were as follows:

THE SPEAKER:[12] The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MR. [BILL] ARCHER [of Texas]: Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

THE SPEAKER: The question is on the Chair's approval of the Journal.

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

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**11.** 129 CONG. REC. 18844, 98th Cong. 1st Sess.

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