

Chapter CCXV.¹

THE CALENDAR OF MOTIONS TO DISCHARGE COMMITTEES.

1. The rule for discharging committees. Sections 1007–1015.
 2. Privilege of the motion to discharge committees. Sections 1016–1018.
 3. Presenting the motion. Section 1019.
 4. Calling up the motion. Section 1019a, 1020.
 5. Bills requiring consideration in Committee of the Whole. Sections 1021, 1022.
 6. Unfinished business. Section 1023.
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1007. Any Member may file with the Clerk a motion to discharge a committee from the consideration of a public bill referred 30 days prior.

A motion may also be filed to discharge the Committee on Rules from the consideration of special orders referred to that committee seven days prior.

When a majority of the membership of the House has signed a motion it is entered on the Journal and referred to the Calendar of Motions to discharge committees.

After the motion has been on the calendar seven days any signer may call it up for consideration on second or fourth Mondays and the House proceeds to its consideration; if agreed to, any Member may move the immediate consideration of the bill which shall remain the unfinished business until disposed of.

If a motion to discharge the Committee on Rules prevails the House immediately votes on the adoption of the special order and if decided in the affirmative proceeds at once to its execution.

After any perfected motion to discharge has been acted on, no motion to discharge committees from the consideration of the same or any similar measure shall be considered that session and any others which may have been filed shall be stricken from the calendar.

Form and history of Section 4 of Rule XXVII.

Section 4 of Rule XXVII provides:

A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it 30 days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee 30 or more days without action: *Provided*, That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange

¹This chapter has no analogy with any previous chapter.

some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month, except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After 20 minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn, and, if said resolution is adopted, then the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: *Provided*, That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: *Provided further*, That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar on Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

This rule was adopted in its present form on January 3, 1935.¹ Originally all reports of committees were presented in the House on motion of the chairman of the committee or any other Member,² and the motion to discharge a committee from consideration of a bill seems to have been in frequent use in the practice of the House, as in the Senate.³

However, at a very early date the use of the motion was discontinued in the House, and as early as the Fortieth Congress⁴ was no longer privileged in the order of business.

¹ First session Seventy-fourth Congress, Record, p. 20.

² Jefferson's Manual, Sections XXVII, XLIII.

³ Standing Rules of the Senate, section 2, Rule XXVI.

⁴ Second session Fortieth Congress, Globe, p. 229.

The first record of an attempt to reestablish the privilege of the motion appears in the Forty-eighth Congress,¹ when a proposition to make in order the motion to discharge a committee from the consideration of a bill not reported within 30 days after reference, was rejected, yeas 56, nays 115.

Discussion of the subject continued at varying intervals, and resolutions embodying similar proposals were introduced from Congress to Congress until, in 1910,² the Committee on Rules reported, in lieu of such resolutions referred to it, a rule which was adopted without amendment as section 4 of Rule XXVIII.

The rule provided for filing with the Clerk motions to discharge committees from consideration of bills at any time after reference. Such motions were placed on a special calendar, to be called up on suspension days after the call of the Calendar for Unanimous Consent, and on being seconded by tellers, when called up, were placed on their appropriate calendar as if reported by the committee having jurisdiction.

The rule proved singularly ineffective, and in the revision of 1911,³ was amended by restricting the presentation of the motion to not less than 15 days after reference and requiring the reading of the bill by title only when the motion was called up to be seconded. It was also transferred from Rule XXVIII, becoming section 4 of Rule XXVII.

The rule in this form was employed to such advantage in obstructive tactics that in the second session of the Sixty-second Congress⁴ it was further amended by making it the third order of business on suspension days to follow the call of the Calendar for Unanimous Consent and the disposition of motions to suspend the rules.

This change rendered the rule inoperative, and it remained practically nugatory until the Sixty-eighth Congress,⁵ when the Committee on Rules reported a substitute which was agreed to after five days debate and under which a motion to discharge a committee when signed by 150 Members was entered on a special calendar and after seven days could be called up under privileged status. This rule was invoked but once⁶ and while on that occasion the bill to which it was applied failed to reach final consideration, so much time was consumed, 16 roll calls being had in one day⁷ during its consideration, that a further revision of the rule was affected in the succeeding Congress,⁸ making it still more difficult of operation. Under this revision the requirement of 150 Members was increased to 218 Members, a majority of the House, and further safeguards were included which rendered the rule wholly unworkable. Only one attempt⁹ was made to utilize it during the Sixty-ninth Congress and at the opening of the Seventy-second Congress¹⁰ it was completely redrafted and adopted in its present form with the exception that 145 signatures were sufficient to secure

¹ First session Forty-eighth Congress, Record, p. 964.

² Second session Sixty-first Congress, Record, p. 8439.

³ First session Sixty-second Congress, Record, pp. 18, 80.

⁴ Second session Sixty-second Congress, Record, p. 1685.

⁵ First session Sixty-eighth Congress, Record, p. 1143.

⁶ First session Sixty-eighth Congress, Record, p. 7874.

⁷ Record, p. 7885.

⁸ First session Sixty-ninth Congress, Record, p. 383.

⁹ Second session Sixty-ninth Congress, Record, p. 2160.

¹⁰ First session Seventy-second Congress, Record, pp. 10, 83.

reference to the Calendar. The amendment requiring a majority of the membership of the House was incorporated in the resolution providing for the adoption of the rules of the Seventy-fourth Congress.¹

The problem of formulating a practical provision for the discharge of committees is one of the oldest and most perplexing in the history of the rules. From the drafting of the first form of the discharge rule in the Sixty-first Congress until the adoption of the present form of the rule, no measure passed the House under any of its various modifications. In the 31 intervening sessions of the House no bill reached the stage of practical consideration through discharge of a committee under any of its provisions, until the Seventy-second Congress when under the routine provided by the present form of the rule, five measures were entered on the calendar, one² of which eventually passed the House. The discharge of a committee under the rule for the first time in a quarter of a century of continuous experiment indicates an approach to an effective form of this long-considered rule.

1008. Motions to discharge committees are filed with the Clerk and are not presented from the floor.

Members sign motions to discharge committees at the Clerk's desk during the session of the House and not elsewhere.

Those filing motions to discharge committees may notify Members either from the floor or by letter.

Signatures to a motion to discharge committees are not made public until the requisite number have signed and the motion appears in the Journal and Record.

On February 23, 1932,³ Mr. Robert S. Hall, of Mississippi, announced the filing of a motion to discharge the Committee on Rules from consideration of a resolution providing a special order for the consideration of a bill relating to drainage and irrigation districts reported by the Committee on Irrigation and Reclamation.

At the conclusion of his remarks, the Speaker⁴ said:

The Chair desires to make a statement to the House concerning petitions of this type. It is not necessary to present such petitions from the floor of the House of Representatives. Petitions of this character should be placed in the hands of the Clerk, and any Member desiring to sign such a petition must come to the Clerk's desk for the purpose of putting his signature to the petition.

Any Member desiring to file such a petition may file it with the Clerk and notify the Members as he may see proper, either from the floor or by written communications. These signatures can not be made public until the required number of Members have signed the petition.

1009. Motions to discharge committees are signed at the Clerk's desk during the session of the House and not otherwise.

On February 26, 1932,⁵ Mr. John J. O'Connor, of New York, in presenting a parliamentary inquiry, announced that a member of his State delegation, Mr. Anthony J. Griffin, was confined in a hospital and unable to attend the sessions of the

¹First session Seventy-fourth Congress, Record, p. 20.

²First session Seventy-second Congress, Record, p. 12042, 12853.

³First session Seventy-second Congress, Record, p. 4513.

⁴John N. Garner, of Texas, Speaker.

⁵First session Seventy-second Congress, Record, p. 4783.

House, and asked that the Clerk or some other officer of the House be delegated to carry to him for his signature the motion then pending at the Clerk's desk to discharge the Committee on the Judiciary from the consideration of the joint resolution relating to the repeal of the eighteenth amendment to the Constitution.

The Speaker¹ declined and said:

Undoubtedly the rule contemplates that petitions shall be filed at the Clerk's desk and that Members shall sign the same at the desk. It could not possibly be considered that it might be used as a sort of round robin, to be sent from place to place for the purpose of securing signatures of Members. The petition can only be signed while the House is in session. Speaker Longworth so held in the first ruling made, touching this particular matter.

It seems to the Chair that is a consistent and sensible interpretation of the rule.

Mr. O'Connor pointed out that on a number of occasions the Speaker had himself or through deputies administered the oath of office outside the Hall of the House to Members detained by illness.

The Speaker explained:

That is when the House gives specific authority for that purpose. If the House desired to give specific authority that this petition be carried to the hospital for the purpose of securing a signature, of course the House by vote can authorize that to be done; but the Chair does not think he has authority, under the rules, to permit the petition to leave the Clerk's desk, since it can only be signed while the House is in session.

Mr. O'Connor inquired if the Speaker would recognize him to move that the House authorize some one to submit the motion to Mr. Griffin for his signature.

The Speaker said:

The Chair would rather not do that.

Mr. O'Connor then asked if he could be recognized to submit the matter in the form of a request for unanimous consent.

The Speaker assented, and Mr. O'Connor asked unanimous consent that the motion be placed in the hands of the Clerk at the close of the day's session to be taken by him, or one of his deputies or a designated Member of Congress, to the naval hospital in Washington to be presented to Mr. Griffin for his signature and thereafter returned to the office of the Clerk.

The Speaker said:

The Chair will state that when 145 signatures are attached to the petition, under the rule, it is referred immediately to the calendar and is printed in the Journal and the Record, and additional signatures are not necessary. The Chair does not know that they could be included in the petition.

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

Objection being heard the request was denied.

1010. When called up under the rule a motion to discharge a committee is of the highest privilege and the Speaker declines to recognize for any matter not directly related to the proceedings.

Division of the time for debate under the rule is in accordance with the attitude of Members on the pending motion and party lines are not recognized.

Debate on the motion to discharge a committee is limited by the rule and the Speaker is constrained to deny recognition for request to extend the time.

¹John N. Garner, of Texas, Speaker.

On March 14, 1932,¹ Mr. J. Charles Linthicum, of Maryland, called up a motion² to discharge the Committee on the Judiciary under section 4 of Rule XXVII, from further consideration of the House joint resolution proposing an amendment to the eighteenth amendment to the Constitution.

Mr. Tilman B. Parks, of Arkansas, asked unanimous consent to extend his remarks in the Record by inserting a telegram received from the Young Men's Christian Association opposing the amendment.

The Speaker³ declined recognition for the purpose and said:

This rule is specific, and the Chair will not recognize any Member of the House for any other proposition. The Clerk will report the resolution by title.

The Clerk having reported the resolution by title, Mr. Bertrand H. Snell, of New York, the minority leader, asked that the 10 minutes for debate allowed those opposing the motion under the rule be divided and one-half apportioned to the minority side of the House.

The Speaker said:

The rule is specific. The gentleman from Maryland making the motion is entitled to 10 minutes, and if the chairman of the Committee on the Judiciary is opposed to the motion, he would be entitled to 10 minutes. If he is of the same opinion as the gentleman from Maryland on this particular motion, the Chair would recognize some one on the committee who desired to oppose it. Whether the gentleman from Texas, the chairman of the Judiciary Committee, will yield is a question for the gentleman from Texas.

Mr. Fiorello H. LaGuardia, of New York, then asked recognition to prefer a request for unanimous consent to extend the time allowed under the rule an additional 10 minutes.

The Speaker said:

It seems to the Chair that it is his duty to protect the rule. Being a Member of the House, he will say himself that he would object to any additional debate, taking as much responsibility as he can in the premises.

Mr. Leonidas Dyer, of Missouri, the ranking minority member of the committee, proposed to be discharged by the pending motion, inquired if he was not entitled by virtue of his position on the committee, and his opposition to the motion, to control half the time on one side or the other.

The Speaker ruled in the negative and recognized Mr. Linthicum for 10 minutes under the rule.

Debate having been concluded and the vote being taken by yeas and nays, the yeas were 187, the nays 227, and the motion to discharge the Committee on the Judiciary from the consideration of the joint resolution was not agreed to.

1010a. The proponents of a motion to discharge a committee are entitled to open and close debate thereon.

On March 28, 1932,⁴ the House was considering under the discharge rule a motion to discharge the Committee on Rules from consideration of a resolution providing a

¹First session Seventy-second Congress, Record, p. 6000.

²Record, p. 5058.

³John N. Garner, of Texas, Speaker.

⁴First session Seventy-second Congress, Record, p. 6947.

special order for the consideration of the bill (H. R. 4650), proposing relief for drainage and irrigation districts.

In the course of the discussion, Mr. Robert S. Hall, of Mississippi, who had opened the debate, inquired as to the status of the time.

The Speaker¹ replied that of the 10 minutes allotted under the rule, respectively, to Mr. Hall in support of the motion and Mr. Edward W. Pou, of North Carolina, in opposition to the motion, each had 5 minutes remaining, and he would recognize Mr. Hall to consume the remainder of his time.

Mr. Hall submitted that as the proponent of the pending motion he was entitled to close the debate.

The Speaker acquiesced and recognized Mr. Pou for five minutes. At the conclusion of Mr. Pou's remarks Mr. Hall consumed the remainder of the time.

1011. On the second and fourth Mondays motions to discharge committees conforming to the requirements of the rule are privileged and take precedence of business merely privileged under the general rules of the House.

On March 10, 1932,² Mr. Charles R. Crisp, of Georgia, from the Committee on Ways and Means, by direction of that committee, moved 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. 10235), the revenue bill. Pending the motion, Mr. Crisp asked unanimous consent that general debate on the bill continue over Saturday, a period which included the second Monday of the month.

Mr. John J. O'Connor, of New York, under reservation of the right to object, inquired if agreement to the special order provided in the request would interfere with the consideration of motions to discharge committees in order under the rule on that day.

The Speaker¹ replied:

The rule provides particularly that after the approval of the Journal it shall be in order to call up such a motion. There is no discretion in the hands of the House and the Chair so far as that rule is concerned. It is made for the purpose of forcing the consideration of a measure when the motion to discharge the committee has 145 signatures.

1012. A motion to discharge a committee having been agreed to, its proponents are entitled to prior recognition in debate and for allowable motions to expedite consideration.

Form of resolution providing for consideration of a bill taken from the Committee on Rules under motion to discharge and providing for consideration of a bill adversely reported by the committee to which it was referred.

On June 13, 1932,³ Mr. Wright Patman, of Texas, one of the signers of a motion to discharge the Committee on Rules from consideration of the resolution (H. Res. 220) providing for the consideration of H. R. 7726, the adjusted service compensation bill, which had been duly signed by 145 Members and which appeared in the

¹John N. Garner, of Texas, Speaker.

²First session Seventy-second Congress, Record, p. 5689.

³First session Seventy-second Congress, Record, p. 12844.

Journal and Record for June 4, 1932,¹ asked recognition to call up the motion for consideration.

The Speaker pro tempore² inquired:

Did the gentleman sign the petition?

Mr. Patman having answered in the affirmative, the Speaker pro tempore directed the Clerk to report the resolution by title. The Clerk read as follows:

House Resolution 220, a resolution to make the bill H. R. 7726, to provide for the immediate payment to veterans of the face value of their adjusted-service certificates, a special order of business.

Mr. Patman submitted that the resolution should be read in its entirety.

The Speaker pro tempore ruled:

No; just the title, under the rule; and the title has been read.

In response to an inquiry from Mr. Patman, the Speaker pro tempore explained:

With regard to the order of procedure, there will be 10 minutes debate in favor of the motion to discharge the committee and 10 minutes against it. A vote will then come on the motion to discharge the Rules Committee; and if that is favorable, a vote will immediately be had on the resolution from consideration of which the Rules Committee is discharged.

Debate having been exhausted, the question was taken on the pending motion. The yeas and nays were ordered, when the yeas were 226, the nays 175, and the motion to discharge the Committee on Rules from consideration of the resolution was agreed to.

The question recurring on the resolution, it was agreed to—yeas 225, nays 170, in the following form:³

Resolved. That upon the day succeeding the adoption of this resolution a special order be, and is hereby, created by the House of Representatives for the consideration of H. R. 7726, notwithstanding the adverse report on said bill. That on said day the Speaker shall recognize the Representative from the first district of Texas, Wright Patman, to call up H. R. 7726, a bill to provide for the immediate payment to veterans of the face value of their adjusted-service certificates, as a special order of business, and to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the said H. R. 7726. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the Member of the House requesting a rule for the considering of the said H. R. 7726 and a member of the House who is opposed to the said H. R. 7726, to be designated by the Speaker, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit. The special order shall be a continuing order until the bill is finally disposed of.

On motion of Mr. Thomas L. Blanton, of Texas, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

On Tuesday, June 14,⁴ the succeeding day, Mr. Charles R. Crisp, of Georgia, from the Committee on Ways and Means, submitted a parliamentary inquiry as

¹Record, p. 10720.

²Henry T. Rainey, of Illinois, Speaker pro tempore.

³For a shorter form consult the proceedings for May 10, 1932; Record, p. 9924.

⁴Record, p. 12911.

to whether the chairman of that committee, which had been discharged from consideration of the bill, or proponents of the motion to discharge the committee, were entitled to prior recognition in debate and for motions to expedite the bill when it was taken up for consideration in the House under the special order.

The Speaker pro tempore held that under the procedure of the House, the proponents of the motion to discharge were entitled to prior recognition in debate and in the management of the bill in the House and in Committee of the Whole.

Thereupon, the Speaker pro tempore recognized Mr. Patman to 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.

Debate on the bill continued through June 14 and 15¹ when it was passed by the House, yeas 211, nays 176.

1013. A bill to amend the Volstead Act by providing for the sale and taxation of beer was held not to be a bill “substantially the same” within the purview of section 4 of Rule XXVII as a resolution proposing the repeal of the eighteenth amendment.

On May 23, 1932,² Mr. John J. O'Connor, of New York, proposed to call up, under the discharge rule, a motion³ to discharge the Committee on Ways and Means from consideration of the bill (H. R. 10017) proposing to amend the Volstead Act by authorizing the sale and taxation of beer.

Mr. Thomas L. Blanton raised the question of order that the motion was not admissible for the reason that the rule forbade consideration of a motion to discharge a committee from consideration of a bill “substantially the same” as a bill previously considered under the rule at the same session. Mr. Blanton took the position that this provision was applicable as the bill referred to dealt with the same subject matter and was substantially similar in substance with the joint resolution (H. J. Res. 208) proposing the repeal of the eighteenth amendment previously considered under the rule.

The Speaker⁴ overruled the point of order and said:

In case a motion to discharge a committee from considering a bill authorizing 2 per cent beer was voted down, there could not be another motion for the purpose of voting on the question of 4 per cent beer, or even 1 per cent beer; but the question of amending the Constitution is one question and the question of legalizing beer is another. The House has passed on the question of a constitutional amendment but has not passed on the question of whether or not the House would provide a different definition of legalized beer.

The Chair overrules the point of order.

1014. The rule providing for motions to discharge committees does not authorize signature of such motions by proxy.

¹ Record, p. 13054.

² First session Seventy-second Congress, p. 10950.

³ Record, p. 10242.

⁴ John N. Garner, of Texas, Speaker.

There is no provision in the rules authorizing Members to vote by proxy.

On March 5, 1930,¹ Mr. Luther A. Johnson, of Texas, rising to a parliamentary inquiry, referred to a motion in writing on the Clerk's table, to discharge the Committee on Ways and Means from the consideration of the bill (H. R. 7825) to amend the World War veterans' act of 1924.

He explained that a colleague who was absent on account of illness desired to sign the motion and inquired if it would be in order for Members thus unavoidably absent to authorize the indorsement of their signatures to the motion by proxy.

The Speaker² replied:

Since the gentleman from Texas, Mr. Johnson, asked the Chair that question informally yesterday, the Chair has examined the question and feels very clear about how the rule should be construed.

Paragraph 4 of Rule XXVII relating to this subject reads as follows:

"A Member may present to the Clerk a motion in writing to instruct a committee to report within 15 days a public bill or resolution which has been referred to it 30 days prior thereto (but only one motion may be presented for each bill or resolution). The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. When a majority of the membership of the House shall have signed the motion it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to instruct committees."

It will be observed that the word "sign" is used. No provision whatever is made for any such thing as signing by proxy or by an agency of any sort. While it is true that in some cases Members are authorized to vote while absent, in committee proceedings, the Chair thinks that is purely a matter of courtesy with the committee. It is not a question of the rules of the House at all. There is no rule that the Chair knows of in the House of Representatives for any sort of proxy. No man can transfer his vote or permit another Member to vote for him, as I believe is the rule in the French Chamber of Deputies. A Member must vote in person.

There being no provision in the rule for anything else, the Chair is very clear that no Member can delegate to another the right to sign such a petition as this.

1015. A motion to discharge a committee from the consideration of a bill applies to the bill as referred to the committee and not as it may have been amended in the committee.

The House has no information relative to proceedings of a committee not officially reported by direction of the committee.

On February 25, 1932,³ Mr. Carl G. Bachmann, of West Virginia, rising to submit a parliamentary inquiry, called attention to a motion,⁴ then pending in the custody of the Clerk, for the discharge of the Committee on the Judiciary from further consideration of the joint resolution (H. J. 208) proposing an amendment to the eighteenth amendment to the Constitution. Mr. Bachmann explained that the

¹Second session Seventy-first Congress, Record, p. 4829.

²Nicholas Longworth, of Ohio, Speaker.

³First session Seventy-second Congress, Record, p. 4705.

⁴This motion with the required signatures appears at the close of the proceedings in both the Record and Journal for March 1, 1932; Record, p. 5058.

original resolution had been amended by the committee and in its modified form had been laid on the table in the committee, and asked which form of the resolution was affected by the motion to discharge and whether the original resolution as referred to the committee or the amended resolution as tabled by the committee would be taken up for consideration in the House if the committee was discharged.

The Speaker¹ ruled:

It is very plain under the rule that the motion to discharge, if agreed to, would bring out the joint resolution as originally introduced. The House has no knowledge of the statements made by the gentleman from West Virginia as to what happened in the Committee on the Judiciary. The only knowledge that the House has is that House Joint Resolution 208 was introduced and referred to the Committee on the Judiciary. Whatever petition is signed to bring the joint resolution out under the rule would have to be a petition to bring out the original resolution as sent to the Committee on the Judiciary.

1016. The House (overruling the Speaker) held the motion discharging a committee from the consideration of a bill to be of higher privilege on suspension day than the motion to resolve into Committee of the Whole for the consideration of revenue or appropriation bills.

On Monday, January 16, 1911,² a suspension day under the current rule, Mr. John A. T. Hull, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill.

Mr. John J. Fitzgerald, of New York, offered, as preferential, a motion to discharge the Committee on Ways and Means from the further consideration of the bill (H. R. 19784) to suspend the collection of duties on meats.

The Speaker³ ruled that the motion to go into Committee of the Whole to consider an appropriation bill took precedence of the motion to discharge a committee.

On an appeal by Mr. Fitzgerald, the House, by a vote of yeas 126, nays 146, declined to sustain the decision of the Chair.

1017. On December 18, 1922,⁴ it being a third Monday, Mr. Patrick H. Kelley, of Michigan, moved that the House resolve into Committee of the Whole House on the state of the Union to consider the naval appropriation bill.

Pending which, Mr. Carl Hayden, of Arizona, asked recognition to call up from the Calendar of Motions to Discharge Committees, then in effect, a motion to discharge the Committee on Interstate and Foreign Commerce from consideration of the bill (H. R. 263) amending the act to regulate commerce.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to resolve into Committee of the Whole to consider appropriation or revenue bills took precedence.

¹ John N. Garner, of Texas, Speaker.

² Third session Sixty-first Congress, Record, p. 965.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Fourth session Sixty-seventh Congress, Record, p. 641.

The Speaker¹ held that, under the rule, the motion to discharge took priority on suspension days, and recognized Mr. Hayden to call up the motion.

1018. The motion to discharge a committee has been held to take precedence of a motion to suspend the rules.

Recognition to call up motions from the Discharge Calendar is granted in the order in which entered on the calendar.

On Monday, December 19, 1910,² a day on which the calling up of motions from the Discharge Calendar and motions to suspend the rules were respectively in order in the rotation named, Mr. Charles E. Fuller, of Illinois, by direction of the Committee on Invalid Pensions, moved to suspend the rules and pass the bill (H. R. 29346) granting pensions to Civil War veterans.

Pending this motion, Mr. John J. Fitzgerald, of New York, proposed to call up from the Calendar of Motions to Discharge Committees a motion to discharge the Committee on Ways and Means from consideration of the bill (H. R. 19784) to suspend duties on meats, which motion was No. 19 on the calendar.

Thereupon Mr. James R. Mann, of Illinois, claimed the right to call up from the Discharge Calendar the motion to discharge the Committee on Post Offices and Post Roads from the further consideration of the bill (H. R. 21321) to codify the postal laws of the United States, which motion was No. 1 on the calendar.

The Speaker³ ruled:

This is a new rule. The gentleman from Illinois was recognized by the Chair to suspend the rules, a motion which ordinarily would be in order to-day over any other motion; but even after the bill referred to in the motion to suspend has been read, it seems to the Chair a motion to discharge the committee would take precedence under the terms of the rule. So that at this stage, it seems to the Chair, in construing this new rule, that the motion called up by the gentleman from New York would be in order. He seems, however, to be superseded as to that motion because the gentleman from Illinois calls up the first bill on the calendar. And if he insists upon that, it will take precedence of the motion of the gentleman from New York and also of the motion of the gentleman from Illinois. The Clerk will report the bill called up by the gentleman from Illinois.

1019. The time required after reference to calendar before motion to discharge may be presented does not begin to run until committee is appointed and organized.

On Monday, August 7, 1911,⁴ it being suspension day, Mr. Adolph J. Sabath, of Illinois, proposed to call up from the Calendar of Motions to Discharge Committees a motion to discharge the Committee on Immigration and Naturalization from consideration of the bill (H. R. 1343) to amend the immigration act.

Mr. William F. Murray, of Massachusetts, made the point of order that the bill had not been on the calendar the required number of days when the motion was entered.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Third session Sixty-first Congress, Record, p. 498.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ First session Sixty-second Congress, Record, p. 3710.

The Speaker¹ said:

It is the opinion of the Chair that a bill must have been referred to a committee for 15 days before it would be in order to move to discharge said committee from consideration of said bill. The committees were elected by the House on the 11th day of April, and 11 days plus 15 days, to wit, the 26th of April, would be the earliest day on which said motion could be entered, for in computing the time you can not include both days. This motion was placed on the calendar on April 19. Speaker Cannon held—on May 3, 1909, Sixty-first Congress, first session, page 1689—that until committees were appointed bills and resolutions that had been introduced in the House were not before these committees, and it was not privileged to move to discharge a committee on a resolution of inquiry 7 days after the introduction of such a resolution, as provided for by Rule XXII, clause 5. This discharge rule provides that it shall be in order to move to discharge a committee from further consideration of a bill referred to said committee 15 days prior to the motion. The intention of the rule is to allow the committee 15 days to consider the bill. This rule is a stringent one, and to discharge a committee under it is a reflection on the committee for tardiness of action. To say that the 15 days' notice should begin to run before a committee is in existence would work gross injustice upon such committee. This motion was placed on the Discharge Calendar 8 days after the organization of the Committee on Immigration and Naturalization, and, in the opinion of the Chair, was prematurely placed thereon. Therefore, the Chair is compelled to sustain the point of order.

1019a. Bills taken up for consideration from the discharge calendar are not subject to the prohibition provided by section 2 of Rule XXI interdicting consideration of appropriations not reported by the Committee on Appropriations.

Bills called up under motions to discharge committees from their further consideration are read by title only.

On March 12, 1934,² Mr. Wright Patman, of Texas, under section 4 of Rule XXVII, moved to discharge the Committee on Ways and Means from the further consideration of the bill (H.R. 1) to provide for controlled expansion of the currency and the immediate payment to veterans of the face value of their adjusted-service certificates.

Pending the motion, Mr. Blanton demanded the reading of the bill in full. The Speaker³ called attention to the provision of the rule requiring that bills so called up be read by title only. Whereupon, on motion of Mr. Blanton, by unanimous consent, the bill was ordered printed in full in the Record.

The question being taken on the pending motion, it was decided in the affirmative, yeas 313, nays 104, and the motion was agreed to. On motion of Mr. Patman, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

In the reading of the bill the following section was reached:

SEC. 2. (a) Payment of the face value of adjusted-service certificates under section 509 or 510 of the World War Adjusted Compensation Act, as amended, shall be made in United States notes not bearing interest. The Secretary of the Treasury is hereby authorized and directed to issue such notes in such amount as may be required to make such payment, and of the same wording, form, size, and denominations as United States notes issued under existing law, except that

¹ Champ Clark, of Missouri, Speaker.

² Second Session Seventy-third Congress, Record p. 4379.

³ Henry T. Rainey, of Illinois, Speaker.

the wording thereon shall conform to the provisions of this act. The Administrator of Veterans' Affairs and the Secretary of the Treasury are hereby authorized and directed jointly to prescribe rules and regulations for the delivery of such notes in payment under section 509 or 510 of the World War Adjusted Compensation Act, as amended.

(b) United States notes issued pursuant to the provisions of this act shall be lawful money of the United States and shall be maintained at a parity of value with the standard unit of value fixed by law. Such notes shall be legal tender in payment of all debts and dues, public and private, and shall be receivable for customs, taxes, and all public dues, and when so received shall be reissued. Such notes, when held by any national banking association or Federal Reserve bank, may be counted as a part of its lawful reserve. The provisions of sections 1 and 2 of the act of March 14, 1900, as amended (U.S.C., title 31, secs. 314 and 408), and section 26 of the Federal Reserve Act, as amended (U.S.C., title 31, sec. 409), are hereby made applicable to such notes in the same manner and to the same extent as such provisions apply to United States notes.

Mr. John Taber, of New York, made the point of order that the section carried an appropriation, and the Committee on Ways and Means, therefore, was without authority to report the bill.

The Chairman¹ overruled the point of order and said:

The section of the rule to which the gentleman from New York refers, and on which he relies to support his point of order, provides as follows:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations."

Now, this bill had not been reported by the Committee on Ways and Means, as the gentleman from New York suggests. It has not been reported by any committee. The committee having jurisdiction has been discharged from its further consideration, and it has been brought before the House under the provisions of the discharge rule specifically authorizing its consideration. The question as to whether it carries an appropriation, or does not carry an appropriation, is immaterial. The rule cited by the gentleman from New York does not apply, and the point of order is overruled.

1020. A member calling up a bill from the Discharge Calendar is precluded from making a point of order against it.

On August 7, 1911,² a Monday on which the consideration of motions on the Calendar of Motions to Discharge Committees was in order, Mr. Adolph J. Sabath, of Illinois, called up from the calendar a motion to discharge the Committee on Immigration and Naturalization from consideration of the bill (H. R. 1343) to amend the immigration act.

Having been recognized by the Speaker for that purpose, Mr. Sabath submitted the point of order that the bill had not been referred to the Committee on Immigration and Naturalization a sufficient number of days when the motion was filed.

Mr. Swagar Sherley, of Kentucky, made the point of order that, having called up the motion, Mr. Sabath was precluded from raising a question of order against it.

The Speaker³ sustained the point of order and said:

The Chair sustains the point of order that when a motion to discharge a committee from the consideration of a bill is called up the Member calling it up can not make a point of order against it.

¹ Clarence Cannon, of Missouri, Chairman.

² First session Sixty-second Congress, Record, p. 3710.

³ Champ Clark, of Missouri, Speaker.

1021. The House having discharged a committee under the former rule, it was held that the proper motion for consideration was, if a House Calendar bill, that the House proceed to immediate consideration; if a Union Calendar bill, that the House resolve into Committee of the Whole to consider the bill.

The requirement that a bill be considered in Committee of the Whole is not waived by the fact that the standing committee having jurisdiction has been discharged from consideration, and the bill is not on the calendar.

On Monday, May 5, 1924,¹ the first Monday of the month, immediately after the approval of the Journal, Mr. Alben W. Barkley, of Kentucky, called up from the calendar the motion to discharge the Committee on Interstate and Foreign Commerce for consideration of the bill (H. R. 7358) to provide for arbitration between carriers and their employees, a bill placed on the calendar April 11.

The question on agreeing to the motion to discharge the committee from further consideration of the bill, being taken, was decided in the affirmative, yeas 194, nays 181.

Whereupon Mr. Barkley moved that the House proceed to the immediate consideration of the bill. The motion was agreed to by a vote of yeas 197, nays 172.

Mr. Barkley then moved that the House resolve itself into the Committee of the Whole House on the state of the Union to consider the bill.

The Speaker announced that the yeas seemed to have it, when Mr. Barkley submitted that the House, having previously agreed to consider the bill, the second motion was superfluous and the House should have automatically resolved into the Committee of the Whole House on the state of the Union.

The Speaker² said:

This is the first time this rule has been interpreted, and the Chair thinks it is quite important that we should settle it now carefully and rightly. The rule under which we are proceeding provides that if the motion to discharge prevails, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of the bill. While the rule provides that the House shall proceed to the immediate consideration of the bill, yet in the case of a bill which must be considered in Committee of the Whole House on the state of the Union the Chair thinks that the proper motion would be not to proceed to immediate consideration but that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, because that is the procedure in other similar situations. One can not raise the question of consideration in the House on a bill that is on the Union Calendar, because it has been held that the way to raise the question of consideration in that situation is to 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. That motion raises the question of consideration. It seems to the Chair that it would establish a good precedent if the House should follow that analogy here and decide that when a bill from which the committee has been discharged is on the House Calendar, the proper motion is that the House proceed to its immediate consideration, but that when it is a bill that must be considered in Committee of the Whole, the motion would be to 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. It seems preposterous to say that we should first move to consider the bill and then move to go into the Committee of the Whole House on the state of the Union to consider it, which raises the same issue. Why would it not be well to follow the

¹First session Sixty-eighth Congress, Record, p. 7874.

²Frederick H. Gillett, of Massachusetts, Speaker.

analogies of ordinary procedure and hold that with a bill that must be considered in the Committee of the Whole House on the state of the Union, the proper way to raise the question of consideration is to move that the House resolve itself into the Committee of the Whole House on the state of the Union? In that way the question of consideration is raised immediately. When it is a bill which does not need consideration in the Committee of the Whole then the proper motion is that the House proceed to its immediate consideration.

The one question that it seems to the Chair as wise for us to have settled now, with a view to the procedure in the future, is as to whether, when a bill is one which requires to be considered in Committee of the Whole, there shall be two votes on that, one to consider the bill, and second, to go into Committee of the Whole; and the Chair does not criticize the gentleman from Kentucky in moving consideration. He followed the exact language of the rule, as was the proper and safe course. But the Chair thinks we might well decide now that for the future we might give the language a different interpretation. There are two ways of raising the question of consideration in the House—one by using that language and the other, in the case of bills on the Union Calendar, by moving to go into the Committee of the Whole for their consideration. Why should we not follow that precedent here and, in case of bills which impose a charge on the Treasury, move that the House proceed to its immediate consideration by moving that the House resolve itself into the Committee of the Whole House? Then we follow the spirit of the rule, if not its exact language, and save one roll call, and the Chair would be inclined, if it is a bill that requires the House to go into Committee of the Whole, that that motion should be made immediately, and then it would not be necessary to make the motion for immediate consideration.

1022. A motion to take up a bill, from the consideration of which a committee has been discharged, under the former rule, being rejected, the motion was held not to be again in order on the same Monday, but to retain its privilege, and be admissible on a subsequent first or third Monday.

Except in sessions ending by law, business admissible on the last six days of a session is not in order until the concurrent resolution providing for adjournment has passed both Houses.

On Monday, May 19, 1924,¹ pending a motion by Mr. Alben W. Barkley, of Kentucky, under the former rule, that the House resolve into the Committee of the Whole House on the state of the Union to consider the bill (H. R. 7358) to provide for arbitration between carriers and their employees, Mr. Royal C. Johnson, of South Dakota, as a parliamentary inquiry, asked what would be the status of this bill if the motion was decided in the negative.

The Speaker² said:

This may not be important at present, but it raises a question in the construction of this rule which may some day be important, and the Chair will state just how it lies in his mind.

The rule provides that when a bill is brought up the first day, if the question of consideration is voted down—and the Chair stated two weeks ago he thought that the question of consideration of a bill on the Union Calendar like this could be raised by moving to go into Committee of the Whole House on the state of the Union—if that was voted down the rule provides that the bill goes onto the ordinary calendar; but if it is not voted down it becomes a privileged question. The Chair is inclined to think that after the day when a bill first comes up, if the House has decided to consider it, after that when it is called up, either as at present to go into the Committee of the Whole or if the question of consideration should be raised in the case of a bill that was not on the Union Calendar, the Chair is disposed to think if that motion should be voted down that the bill would not lose its privilege; that it has attained its privilege the first day by consideration being given, and that instead of going to the calendar it would still be privi-

¹First session Sixty-eighth Congress, Record, p. 8894.

²Frederick H. Gillett, of Massachusetts, Speaker.

leged business on the days provided in the rule—the first and third Mondays; and reverting to the exact question to-day, if the motion to go into committee should be voted down, then this bill would be in order again two weeks from to-day, just as it is to-day, and would not lose its privilege and go to the calendar.

Mr. Barkley asked if rejection of the motion would dispose of the bill for that day.

The Speaker replied:

The Chair would think so, and that the suspension of the rules and Consent Calendar would then come up.

Mr. Barkley further inquired when the motion would be precluded under the clause prohibiting consideration of such business during the last six days of the session.

The Speaker said:

The last six days of the session are never determined on in the long session until near the close of the session. We never know when the last six days are until the concurrent resolution is passed providing for the adjournment. Unless that has been passed before two weeks from to-day, the Chair thinks it would still be privileged.

1023. Prior to revision of the rule making bills called up the continuing business until disposed of, bills remaining undisposed of at adjournment on Monday, instead of coming up as unfinished business on the following legislative day went over to the next Monday on which that class of business was again in order.

The Speaker held that while the courts may not construe a law in the light of debate attending its passage in the Legislature, the rules are to be interpreted according to views of their purport expressed at the time of adoption.

On Tuesday, May 6, 1924,¹ Mr. Martin B. Madden, of Illinois, from the Committee on Appropriations, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the District appropriation bill.

Mr. Alben W. Barkley, of Kentucky, offered, as preferential, a motion to resolve into the Committee of the Whole for the further consideration of the bill (H. R. 7358) to provide for arbitration between carriers and their employees, from which the Committee on Interstate and Foreign Commerce had been discharged and which was under consideration at adjournment on the preceding day.

The Speaker² said:

The Chair appreciates that this is an important question, because it is a precedent for the future conduct of the House under this rule. Let us consider the exact parliamentary status. The Chair recognized the chairman of the Committee on Appropriations to move to take up an appropriation bill which was partly finished. As against that the gentleman from Kentucky, who has charge of the bill considered yesterday under the discharge rule, moved to take up the bill, claiming it had a higher privilege. In order to recognize the gentleman from Kentucky, it must be shown that it has a higher privilege than an appropriation bill, because if they are of

¹First session Sixty-eighth Congress, Record, p. 7960.

²Frederick H. Gillett, of Massachusetts, Speaker.

equal privilege the Chair has the discretion in recognition, and that is conclusive. Therefore it must be maintained that this bill from which the committee was discharged has a higher privilege than an appropriation bill. The clause of the rule which we must interpret reads:

“If the motion prevails, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House.”

It is to be observed that the bill itself is not made privileged. Privilege is given only to the original motion to consider the bill; and the question which has been debated and which is really in issue is whether that applies simply to suspension days and so would not come up again for two weeks, or whether it is a continuing privilege and applies today.

It seemed to the Chair that the argument made by the gentleman from Georgia, Mr. Crisp, who was the author of the rule and its main advocate and proponent in the House when it was debated, very lucidly and conclusively stated the meaning of that rule. Of course it could be, by the mere phraseology of the rule, interpreted either way. It could be held to be privileged every day or only Mondays. The fact that it was made a clause of Rule XXVII, the suspension rule, would have some weight.

Then also the well-established law that business which is in order on a special day, if it is not finished, goes over to the next special day is a suggestive analogy. We have become accustomed to it on Calendar Wednesdays and on suspension days and on the Private Calendar days and it would seem to apply here. But what seems to the Chair conclusive is that when the rule was under consideration in the House the gentleman from Georgia, who was the author and chief advocate of the bill, stated in language which has been quoted on the floor—stated very explicitly—that the intention of the rule was that if a committee was discharged and the bill was not finished on that day it would go over until the next suspension day.

Now, that was stated more than once by him. It was in response to inquiries from Members as to what the proper interpretation of the rule was; and it seems to the Chair that it is very conclusive as to the meaning which the House, when it adopted that rule, understood and intended by it; that the House understood at the time that the business under that rule, if it came up on one Monday, as yesterday, and was not completed, went over for two weeks; and, while in the courts it may not be allowed to ascertain the meaning of a law by examining the debate in the Legislature, it seems to the Chair it is different here. The House only at this session debated this question and adopted this rule. The House was informed by the author of the rule what was intended. There was no remonstrance or difference of opinion that the Chair has been able to find at the time. The House apparently acquiesced in his explanation. And so it seems to the Chair that he is carrying out the purpose of the House in adopting this rule by deciding that the House intended that this language, which might be given either interpretation, was intended to mean that the business should go over for two weeks. So the Chair sustains the point of order.