

taining any dilatory or other intervening motions except one motion to adjourn.

MR. [ADOLPH J.] SABATH [of Illinois]: That is on the resolution itself, Mr. Speaker.

THE SPEAKER: On the resolution itself.

MR. COOLEY: My parliamentary inquiry was about the resolution after the discharge of the committee.

THE SPEAKER: That is exactly what the Chair was reading. It reads: "On the resolution." When the House votes to discharge the committee then the resolution is before the House for a vote.

MR. COOLEY: Under the general rules of the House providing for an amendment; or am I mistaken?

THE SPEAKER: This is not under the general rules of the House; this is under the discharge rule.

Discussion of Effect of Proposed Amendment

§ 5.12 The effect of a proposed amendment to the rules is a matter for debate and not within the jurisdiction of the Chair to decide on a parliamentary inquiry.

In the 90th Congress, in the course of debate on a resolution to amend the rules to permit joint sponsorship of bills, the following exchange took place:⁽⁹⁾

MR. [DURWOOD G.] HALL [of Missouri]: . . .

9. 113 CONG. REC. 10710, 90th Cong. 1st Sess., Apr. 25, 1967.

[W]ill the distinguished gentleman yield at this time for a parliamentary inquiry of the Chair, inasmuch as it is important that we try to envisage, in passing this legislation today, what effect it will have on the future rules of procedure in the House, and their application.

MR. [WILLIAM M.] COLMER [of Mississippi]: I yield to the gentleman from Missouri.

THE SPEAKER PRO TEMPORE:⁽¹⁰⁾ The Chair must advise the distinguished gentleman from Missouri that this is a matter for debate on a resolution pending and not a matter properly within the jurisdiction of the Chair on a parliamentary inquiry. It is up to the sponsor of the resolution to explain the terms of the resolution

§ 6. —Applicability; Construction

A rule⁽¹¹⁾ provides that the rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable. Similarly, the rules of the House are the rules of its committees and subcommittees so far as applicable.⁽¹²⁾ Thus, Members may appeal from decisions of the chairmen of their respective committees in the same manner as Members have a right

10. Carl Albert (Okla.).

11. Rule XXIII, *House Rules and Manual* § 877 (1973).

12. Rule XI, *House Rules and Manual* § 735 (1973).

to appeal from a decision of the Speaker or presiding officer in the House.⁽¹³⁾

It has been stated,⁽¹⁴⁾ in response to objections raised against certain rules changes, that it is not within the province of the Chair in disposing of a point of order to consider the effect or anticipated effect of the passage of any rule on legislation which may be pending. A proposed rule having been reported by the Committee on Rules, it is for the House to consider and act upon it, and such action is controlling. It is the province of the Chair to look to the terms of each existing rule and direct the House to proceed in accordance with those terms.

Where two rules of the House are in conflict, the last one adopted controls.⁽¹⁵⁾ Similarly, where the rules of the House and a subsequent legislative enactment are not consistent, the enactment must prevail.⁽¹⁶⁾ On the other hand, a rule subsequently adopted may supersede the provisions of such an enactment.⁽¹⁷⁾

13. 95 CONG REC. 1212, 81st Cong. 1st Sess., Feb. 15, 1949 (remarks of Speaker Sam Rayburn [Tex.]).

14. 79 CONG REC. 11265, 74th Cong. 1st Sess., July 16, 1935 (remarks of Speaker Joseph W. Byrns [Tenn.]).

15. See § 6.1, *infra*.

16. See § 6.2, *infra*.

17. In the 86th Congress, a provision in the mutual security appropriation

Conflicting Rules

§ 6.1 Where two rules of the House are in conflict, the last one adopted controls.

In the 74th Congress, in the course of holding that the House may, by rule, provide for the consolidation into an omnibus bill of private bills once objected to, Speaker Joseph W. Byrns, of Tennessee, stated:⁽¹⁸⁾

The gentleman . . . in his argument today, has contended that this rule conflicts with a number of rules to which he has referred. Without passing upon the question of whether or not there is a conflict, the Chair will state that if there is a conflict the rule last adopted would control. The Chair assumes that if this rule should be found to conflict with previous rules that the House intended, at least by implication, to repeal that portion of the previous rule with which it is in conflict.

§ 6.2 Where the rules of the House and a subsequent legislative enactment are not

bill reappropriating unexpended balances was conceded to be unauthorized, notwithstanding a section in the Mutual Security Act of 1955 authorizing such reappropriations, since the rules of the House adopted on Jan. 7, 1959 contained a later, expression of Congress to the contrary. See 106 CONG REC. 13138, 86th Cong. 2d Sess., June 17, 1960.

18. 79 CONG REC. 11264, 74th Cong. 1st Sess., July 16, 1935.

consistent, the enactment must prevail, being a later expression of the will of the House.

In the 87th Congress, it was held that a House rule prohibiting, on general appropriation bills, provisions reappropriating unexpended balances of appropriations, was not applicable to provisions in an appropriation bill that were authorized by a legislative enactment passed subsequently to the adoption of the rules.⁽¹⁹⁾

Factors Considered in Construing Rule

§ 6.3 In construing a rule, the Speaker may consider all the facts and issues involved in a point of order arising under the terms of the rule.

In the 75th Congress, a point of order was made against the acceptance by the House of the report of an election committee, on the grounds that the making of the report violated a rule specifying the time within which elec-

19. 107 CONG REC. 18133, 87th Cong. 1st Sess., Sept. 5, 1961 (Speaker pro tempore John W. McCormack, Mass.).

Of course, a rule subsequently adopted may supersede the provisions of such an enactment. See § 6, supra.

tion committees should make final reports to the House in contested election cases. Speaker William B. Bankhead, of Alabama, ruled that the provisions in question were directory and not mandatory, and did not prevent an election committee from filing a report after expiration of the specified time. In reaching such decision, the Speaker indicated that he would look beyond the strict terms of the rule to all the facts in the case in order to determine the intention of the House in adopting the rule. Among the factors considered by the Speaker in reaching his decision were the constitutional power of the House to decide the qualifications of its Members, and the fact that the time period between the election of Members and the meeting of Congress was much shorter than it had been at the time the rule in question was adopted.⁽²⁰⁾

Proceedings Not Expressly Authorized by Rules

§ 6.4 On occasion, acts or proceedings not expressly authorized by the rules may be deemed inconsistent with or in violation of the rules.

Examples may be seen in the rulings of Speakers Sam Rayburn,

20. See 81 CONG REC. 8842-8846, 75th Cong. 1st Sess., Aug. 13, 1937.

of Texas, and John W. McCormack, of Massachusetts, under the rules as they existed at the time, in regard to televising committee meetings.⁽²¹⁾ The tenor of the rulings was that since there was no authority in the rules of the House granting the privilege of televising the proceedings of the House, there was no authorization for televising committee meetings.

§ 7. —Abrogation or Waiver

In most cases, the requirements of the rules can be waived or abrogated through the use of various procedures. The House, for example, may by unanimous consent agree to a certain order of business, or may vote to suspend the rules. These procedures are discussed in detail elsewhere.⁽¹⁾ Generally, the Speaker may recognize for unanimous-consent requests to waive the requirements of existing rules unless the rule in question specifies that it is not subject to

21. See 98 CONG. REC. 1334, 82d Cong. 2d Sess., Feb. 25, 1952; 101 CONG. REC. 628, 84th Cong. 1st Sess., Jan. 24, 1955; 108 CONG. REC. 267-269, 87th Cong. 2d Sess., Jan. 16, 1962; 113 CONG. REC. 8419, 90th Cong. 1st Sess., Apr. 5, 1967.

1. See Ch. 21, *infra*.

waiver.⁽²⁾ Similarly, the power of the House to change its rules at any time, as by amendment or by provisions included in legislative enactments, is recognized, as has been discussed above.⁽³⁾ Moreover, it appears that where a motion not in order under the rules of the House is, without objection, considered and agreed to, it controls the procedure of the House until carried out, unless the House takes affirmative action to the contrary.⁽⁴⁾

The strict terms of a rule have been avoided where the Speaker, having considered all of the facts and issues involved in a point of order arising under the terms of the rule, has construed such rule

2. See Ch. 21, *infra*.

For debate of amendments under the five-minute rule, see Ch. 29, *infra*.

3. See § 5, *supra*.

Provisions in a legislative enactment may have the effect of rendering inapplicable a House rule adopted earlier with respect to the matters covered in the enactment. Being a later expression of the will of the House, such enactment may, for example, expressly authorize that which is prohibited by the rule. See § 6.2, *supra*.

4. 114 CONG. REC. 30214, 90th Cong. 2d Sess., Oct. 9, 1968 (remarks of Speaker John W. McCormack [Mass.], relating to motion of Mr. Adams). See Ch. 23, *infra*, as to the use of motions generally.