

CONFERENCE REPORT (H. REPT. 94-120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 . . . having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Tax Reduction Act of 1975”. . . .

MR. ULLMAN: Mr. Speaker, I ask unanimous consent that upon the adoption of the rule I be granted a 60-minute special order.

THE SPEAKER:⁽⁵⁾ Is there objection to the request of the gentleman from Oregon?

MR. [ROBERT E.] BAUMAN [of Maryland]: Reserving the right to object, Mr. Speaker, we have in the rules of the House an adequate rule for the consideration of conference reports I have no way of knowing, nor does any Member in this Chamber know, who will control the time during a special order, except the gentleman from Oregon, whether questions, once raised, will be answered, or whether or not debate will deteriorate into partisan debate.

THE SPEAKER: The gentleman is very effectively but improperly stating the

5. Carl Albert (Okla.).

rules. The minority has 30 minutes and the majority has 30 minutes on the conference report.

MR. BAUMAN: I am talking about the lack of protection contained in the request for the 1-hour special order that was just made by the gentleman from Oregon.

THE SPEAKER: Any Member of the House may make a request for a special order.

MR. BAUMAN: I withdraw my reservation of objection.

MR. [HERMAN T.] SCHNEEBELI [of Pennsylvania]: Mr. Speaker, further reserving the right to object, I also ask for a 60-minute special order following that of the gentleman from Oregon (Mr. Ullman).

THE SPEAKER: Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

§ 72. Closing Debate; Senate Cloture

In the House, secondary motions—to lay on the table or for the previous question—can be used to cut off debate.⁽⁶⁾ Debate can, of course, be limited or closed by unanimous consent. When the House is operating “as in the Committee of the Whole,” both the motion for the previous question and the motion to limit debate can be utilized.

In contrast to the House, where the hour rule limits debate, Mem-

6. See §§ 72.1 et seq., *infra*, for the previous question and its effect.

bers of the Senate may retain the floor for indefinite periods of time, unless the Senate limits debate either by unanimous consent or by invoking cloture.⁽⁷⁾ Thus, a Senator may retain the floor for extremely long periods of time, engaging in a “filibuster” to prevent Senate action on a measure.⁽⁸⁾ On June 12 and 13, 1935, Senator Huey Long, of Louisiana, in a remarkable demonstration of physical endurance, set a new record in the Senate when he spoke continuously for 15½ hours in favor of the Gore amendment to the proposed extension of the National Industrial Recovery Act. But the amendment was finally tabled. Again, in 1953, a prolonged debate took place on the so-called tidelands offshore oil bill. It began Apr. 1 and ended May 5. The debate lasted for 35 days, one of the longest on record. During this debate Senator Wayne Morse, of Oregon, established a new record for the longest single speech. On Apr. 24 and 25 he spoke for 22 hours and 26 minutes.⁽⁹⁾

Cross References

Closing debate in the Committee of the Whole, see §§ 76 (general debate) and 78 (five-minute debate), *infra*.

7. See Riddick/Frumin, *Senate Procedure*, S. Doc. No. 101-28, 101st Cong. 2d Sess. (1992).
8. See 8 Cannon's Precedents § 2866.
9. See 103 CONG. REC. 173, 174, 85th Cong. 1st Sess., Jan. 4, 1957.

Closing and opening debate generally, see § 7, *supra*.

Motions which close debate, see Ch. 23, *supra* (previous question, lay on the table).

Order of recognition determines who may close debate, see §§ 12 et seq., *supra*.

Question of consideration to close debate, see § 5, *supra*.

Role of manager and management by reporting committee in closing debate, see §§ 24, 26, *supra*.

Previous Question; Used Before Adoption of Rules

§ 72.1 The Member controlling debate on a proposition in the House may move the previous question and cut off further debate.

On Jan. 4, 1965,⁽¹⁰⁾ at the convening of the 89th Congress and before the adoption of the rules, Mr. Carl Albert, of Oklahoma, offered a resolution and after some debate moved the previous question:

MR. ALBERT: Mr. Speaker, I offer a resolution (H. Res. 2) and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 2

Resolved, That the Speaker is hereby authorized and directed to administer the oath of office to the

10. 111 CONG. REC. 20, 89th Cong. 1st Sess.

gentleman from New York, Mr. Richard L. Ottinger.

MR. ALBERT: Mr. Speaker, again this is a resolution involving a Member whose certificate of election in due form is on file in the Office of the Clerk. I ask for the adoption of the resolution.

MR. [JAMES C.] CLEVELAND [of New Hampshire]: Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

MR. ALBERT: I yield for a parliamentary inquiry.

MR. CLEVELAND: If this resolution is adopted, will it be impossible for me to offer my own resolution pertaining to the same subject matter, either as an amendment or a substitute?

THE SPEAKER: If the resolution is agreed to, it will not be in order for the gentleman to offer a substitute resolution or an amendment, particularly if the previous question is ordered.

MR. CLEVELAND: Is it now in order, Mr. Speaker?

THE SPEAKER: Not unless the gentleman from Oklahoma yields to the gentleman for that purpose. . . .

MR. CLEVELAND: Will the gentleman from Oklahoma yield for that purpose?

MR. ALBERT: Mr. Speaker, I yield for a question and a very brief statement. I do not yield for a speech.

MR. CLEVELAND: May I inquire if the gentleman will yield so that I may ask for unanimous consent that certain remarks of mine pertaining to this matter be incorporated in the Record?

MR. ALBERT: No, Mr. Speaker, I move the previous question.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Oklahoma yield to the gentleman from Mississippi for the purpose of submitting a parliamentary inquiry?

MR. ALBERT: Mr. Speaker, I move the previous question on the resolution.

THE SPEAKER: The question is on the motion.

The previous question was ordered.

The resolution was agreed to.⁽¹¹⁾

Moving the Previous Question

§ 72.2 The motion for the previous question is not debatable.

On Jan. 3, 1949,⁽¹²⁾ at the convening of the 81st Congress, the House was considering House Resolution 5, amending the rules of the House. Mr. Adolph J. Sabath, of Illinois, who had offered the resolution, moved the previous question. Mr. John E. Rankin, of Mississippi, sought recognition to offer an amendment in the nature of a substitute and objected that he had a "right to be heard." Speaker Sam Rayburn, of Texas, held that the previous question was not debatable.

On Sept. 13, 1965,⁽¹³⁾ Mr. Carl Albert, of Oklahoma, moved that

11. 87 CONG. REC. 2177, 2178, 77th Cong. 1st Sess.

12. 95 CONG. REC. 10, 81st Cong. 1st Sess.

13. 111 CONG. REC. 23601, 89th Cong. 1st Sess.

the Journal be approved as read and moved the previous question on the motion. Mr. Durward G. Hall, of Missouri, stated a parliamentary inquiry:

Is not debate in order on this motion inasmuch as under [the House rules] there has been no debate on ordering the previous question?

THE SPEAKER:⁽¹⁴⁾ The Chair will state that the motion on the previous question is not debatable. The question is on ordering the previous question on the motion to approve the Journal.⁽¹⁵⁾

Parliamentarian's Note: Mr. Hall's reference was to clause 3 (now clause 2) of Rule XXVII, providing 40 minutes' debate after the previous question has been ordered, if the proposition on which the motion has been made is debatable but has not been debated.⁽¹⁶⁾

14. John W. McCormack (Mass.).

15. See Rule XVI clause 4, *House Rules and Manual* § 782 (1995): "When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate)."

16. See Rule XXVII clause 2, *House Rules and Manual* § 907 (1995).

The debate comes after and not before the previous question itself is ordered, the motion itself not being debatable. See 111 CONG. REC. 23602-06, 89th Cong. 1st Sess., where Speaker McCormack held, after the previous question was ordered, that Mr. Hall then had the right to demand 40 minutes' debate.

Use of Previous Question Where Debate Limited by Unanimous Consent

§ 72.3 Where the House by unanimous consent fixed the time and control of debate, it was held that the Members in control were not required to consume or to yield all the time provided for.

On Mar. 11, 1941,⁽¹⁷⁾ the House was considering House Resolution 131 under the terms of a unanimous-consent agreement providing two hours of debate and dividing control of debate between Mr. Sol Bloom, of New York, and Mr. Hamilton Fish, Jr., of New York, and providing that the previous question be considered as ordered at the conclusion of debate. Mr. Bloom asked for a vote prior to the expiration of the two hours' time, and Mr. Martin J. Kennedy, of New York, objected on the ground that the unanimous-consent agreement was not being complied with in that the previous question had been demanded prematurely. Speaker Sam Rayburn, of Texas, ruled that the Members in control were not required to consume or to yield all the time provided.

17. 87 CONG. REC. 2177, 2178, 77th Cong. 1st Sess.

Vacating the Previous Question

§ 72.4 The House by unanimous consent vacated the ordering of the previous question in order to permit further debate.

On Aug. 26, 1960,⁽¹⁸⁾ the House was considering Senate amendments reported from conference in disagreement on H.R. 12619, making appropriations for the mutual security program. Mr. Silvio O. Conte, of Massachusetts, arose to object to a motion to concur with an amendment in a Senate amendment, and Mr. Otto E. Passman, of Louisiana, moved the previous question on the motion, which was ordered without objection. Speaker Sam Rayburn, of Texas, advised Mr. Conte that no further debate was in order.

A call of the House was ordered, and the House then agreed to a unanimous-consent request by Mr. Passman that "the action of the House by which the previous question was ordered be vacated." Mr. Passman then yielded two minutes of debate to Mr. Conte.

On Oct. 3, 1989,⁽¹⁹⁾ the House had under consideration a motion

18. 106 CONG. REC. 17869, 17870, 86th Cong. 2d Sess.

19. 135 CONG. REC. 22835, 22836, 22842, 101st Cong. 1st Sess. (Pro-

to dispose of an amendment in disagreement. Time for debate on the motion was divided equally among the majority and minority managers (both of whom supported the motion), and a Member opposed.⁽²⁰⁾

MR. [SIDNEY R.] YATES [of Illinois]: Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 153 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "*Provided, That—*

A. None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote . . . materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene. . . ."

MR. [DANA] ROHRBACHER [of California]: Madam Speaker, I would ask to be recognized in opposition to the motion for 20 minutes.

THE SPEAKER PRO TEMPORE:⁽¹⁾ The Chair will inquire is the gentleman from Ohio [Mr. Regula] opposed to the motion?

MR. [RALPH] REGULA [of Ohio]: No, I am not, Madam Speaker.

ceedings relating to H.R. 2788, Interior and Related Agencies Appropriations for 1990.)

20. For discussion of so allocating debate time, see § 26, *supra*.

1. Patricia Schroeder (Colo.).

THE SPEAKER PRO TEMPORE: Then the gentleman from California [Mr. Rohrabacher], who is opposed to the motion, would be entitled to 20 minutes.

The gentleman from Ohio [Mr. Regula], then, would have 20 minutes, the gentleman from California [Mr. Rohrabacher] would have 20 minutes, and the gentleman from Illinois [Mr. Yates] would have 20 minutes on the motion offered by the gentleman from Illinois [Mr. Yates]. . . .

MR. YATES: . . . Madam Speaker, I move the previous question.

THE SPEAKER PRO TEMPORE: The gentleman from Illinois moves the previous question on this motion. Without objection, the previous question is ordered.

All those in favor of the gentleman's motion will say "aye," those opposed say "no." The gentleman's amendment is hereby agreed to.

The Clerk will designate the next amendment in disagreement. . . .

MR. ROHRABACHER: Madam Speaker, I have a parliamentary inquiry. . . .

Did I not have 1 minute of debate left?

MR. YATES: Madam Speaker, the gentleman was on his feet and he knew that the Chair proposed the question. He made no effort to ask for any kind of a rollcall. . . .

THE SPEAKER PRO TEMPORE: The gentleman's motion for the previous question was not in order unless the gentleman from California yielded back his time. . . .

MR. YATES: I misunderstood the gentleman. I thought the gentleman had used up his time. I am sorry if I cut the gentleman off. I did not mean to do that. I have no reason to do that. . . .

MR. ROHRABACHER: . . . I would just like 1 minute's worth of time.

THE SPEAKER PRO TEMPORE: The gentleman from California is recognized for 1 minute and the previous action of the House in disposing of the motion is vacated.

Effect of Motion To Table

§ 72.5 The adoption of the non-debatable motion to lay a resolution on the table results in the final adverse disposition of the resolution and closes further debate.

On Dec. 14, 1970,⁽²⁾ the previous question was moved on House Resolution 1306, asserting the privileges of the House in printing and publishing a report of the Committee on Internal Security. Mr. Louis Stokes, of Ohio, then offered the preferential motion to lay the resolution on the table. Speaker John W. McCormack, of Massachusetts, responded as follows to a parliamentary inquiry:

MR. [ALBERT W.] WATSON [of South Carolina]: Mr. Speaker, if the motion to table prevails, there can be no further consideration at all of this matter. Is that not correct? Does it not apply the clincher?

THE SPEAKER: If the motion to table is agreed to, then the resolution is tabled.

2. 116 CONG. REC. 41372, 91st Cong. 2d Sess.

MR. WATSON: Then that ends it. All right.

Parliamentarian's Note: The motion to lay on the table takes precedence over the previous question and may be used to close all debate and adversely dispose of a proposition.⁽³⁾

Effect of Special Rule

§ 72.6 When the Chairman of the Committee of the Whole reports a bill to the House pursuant to a resolution providing that the previous question shall be considered as ordered, further debate in the House is thereby precluded.

On Aug. 31, 1960,⁽⁴⁾ there being no amendments to S. 2917 being considered in the Committee of the Whole, the Committee rose and the bill was reported back to the House. Pursuant to the resolution under which the bill was being considered, Speaker Sam Rayburn, of Texas, stated that the previous question was ordered. In response to a parliamentary inquiry by Mr. H. Carl Andersen, of Minnesota, the Speaker stated that the previous question having

3. See Rule XVI clause 4, *House Rules and Manual* § 782 (1995); and Ch. 23, *supra*.

4. 106 CONG. REC. 18748, 86th Cong. 2d Sess.

been ordered by the resolution, no further debate or amendments were in order.

Parliamentarian's Note: Resolutions reported from the Committee on Rules, providing for the consideration of a bill in Committee of the Whole, typically provide that the previous question is ordered to final passage without intervening motion except one motion to recommit, when the Committee rises.

Closing Debate in House as in Committee of the Whole

§ 72.7 Debate in the House as in the Committee of the Whole may be closed by ordering the previous question.

On July 28, 1969,⁽⁵⁾ H.R. 9553, amending the District of Columbia Minimum Wage Act, was being considered under the five-minute rule in the House as in the Committee of the Whole. Mr. John Dowdy, of Texas, moved the previous question on the bill to final passage and Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry on the effect of that motion:

MR. [PHILLIP] BURTON of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state the parliamentary inquiry.

5. 115 CONG. REC. 20855, 91st Cong. 1st Sess.

MR. BURTON of California: Mr. Speaker, is the motion before us to close debate or will there be a vote subsequent to the pending motion so that those of us who want a rollcall on this matter can obtain a rollcall vote.

THE SPEAKER: The pending question is on ordering the previous question.

MR. BURTON of California: This is to close debate and not on the passage of the matter? Will this be our last opportunity to receive a rollcall on this matter?

THE SPEAKER: The Chair will state that the question on the passage of the bill will come later, if the previous question is ordered.

§ 72.8 In the House as in the Committee of the Whole, a motion to close debate on an amendment is in order.

On June 26, 1973,⁽⁶⁾ Mr. George H. Mahon, of Texas, called up House Joint Resolution 636, making continuing appropriations for fiscal 1974 and asked unanimous consent that the resolution be considered in the House as in the Committee of the Whole, to which request the House agreed.

During debate on the resolution under the five-minute rule, Mr. Mahon moved "that all debate on the pending amendment and amendments thereto close in 20 minutes." Speaker Carl Albert, of Oklahoma, put the question on

6. 119 CONG. REC. 21305-07, 21314, 21315, 93d Cong. 1st Sess.

the motion and it was agreed to by a recorded vote.

Parliamentarian's Note: Although it was formerly the practice to read bills considered in the House as in the Committee of the Whole by sections for amendment, such bills are now considered as read and open for amendment at any point. Debate may be closed by ordering the previous question.⁽⁷⁾

On Jan. 22, 1930,⁽⁸⁾ the House was considering under the five-minute rule in the House as in the Committee of the Whole a section of a bill for amendment. Mr. George S. Graham, of Pennsylvania, moved that all debate on the pending section and amendments thereto close in 10 minutes. Speaker Nicholas Longworth, of Ohio, put the question on the motion and it was agreed to.

§ 73. One-minute, Special-order Speeches, and Morning Hour

The one-minute speech and the special-order speech are two

7. See 116 CONG. REC. 28050, 91st Cong. 2d Sess., Aug. 10, 1970, for the current practice; and 8 Cannon's Precedents §§ 2433, 2434, for earlier practice as to reading bills for amendment in the House as in the Committee of the Whole.

8. 72 CONG. REC. 2144, 71st Cong. 2d Sess.