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tegrity and conduct during those hearings.

While the falsification of a House document is clearly a matter involving the integrity of the proceedings of this body, the alterations of my remarks, without my permission, affects my rights as an individual Member in my representative capacity. I therefore rise to a question of privilege in order to clarify the record on this matter.

THE SPEAKER PRO TEMPORE: The gentleman states an appropriate point of personal privilege, and the gentleman is therefore recognized for 1 hour.

Parliamentarian's Note: Questions of personal privilege under Rule IX normally involve cases where a Member's reputation has been damaged, particularly in press accounts; but Rule IX describes as the second category of privileged questions, the "rights, reputation, and conduct of Members, individually."

§ 9. Power and Discretion of Speaker or Chairman

The rules of the House give the Chair considerable discretion in deciding whom to recognize, and a decision on recognition is not subject to appeal.(9) The Chair is governed in the exercise of his power of recognition by the standing rules, which in some cases prohibit recognition for specific purposes(10) or which extend priority to Members with certain qualifications.(11) The Chair is also governed by the usages and precedents of the House which establish priorities of recognition based on a fixed order of business.(12)

Cross References

Chair's discretion as to recognition on specific questions and motions, see §§ 16 et seq., infra.

Chair's discretion over recognition for unanimous-consent requests, see § 10, infra.

Chair's discretion over yielding of time, see §§ 29–31, infra.

Chair's recognition for interruptions, see § 32, infra.

Chair's recognition of Member to control debate, see §§ 24 (role of manager), 26 (management by reporting committee),

9. See Rule XIV clause 2, *House Rules and Manual* § 753 (1995). See also §§ 9.5, 9.6, and 9.61, infra, for further discussion of the principle that decisions on recognition are not subject to appeal. For the parameters of the Chair's discretion, see *House Rules and Manual* §§ 753–757 (1995).

10. See, for example, §§ 11.14–11.16, infra.

11. See, for example, Rule XIV clause 3, *House Rules and Manual* § 759 (1995) (right of committee member to open and close debate). For prior rights of committee members to recognition, see § 13, infra.

12. See § 12, infra, for the order of recognition.

27 (designation of manager and opposition), and 28 (effect of special orders), infra.

Chairman of the Committee of the Whole and his authority generally, see Ch. 19, supra.

Chairman's discretion over duration of debate in Committee of the Whole, see § 74, infra.

Clerk's power of recognition before the election of the Speaker at the convening of Congress, see Ch. 1, supra.

Distribution and alternation of time by Chair, see § 25, infra.

Limitations on Chair's power of recognition, see § 11, infra.

Recognition under limitation on five-minute debate as within Chair's discretion, see § 22, infra.

Recognition for one-minute and special-order speeches, see § 73, infra.

Speaker and his authority generally, see Ch. 6, supra.

Speaker's discretion over duration of debate in the House, see § 67, infra.

Generally

§ 9.1 The power of recognition rests with the Speaker and is subject to his discretion.

On Apr. 8, 1964,[13] the House was considering House Resolution 665, providing for taking a House bill with Senate amendments from the Speaker's table and concurring in the amendments. Before consideration of the resolution had been completed, the Speaker declared a recess pursuant to previously granted authority. When the recess expired, the Speaker announced that the unfinished business was the reading of another bill which had just been engrossed.

Mr. Oliver P. Bolton, of Ohio, raised a parliamentary inquiry whether the business properly before the House as uncompleted business was the resolution being considered before the recess. Mr. Richard Bolling, of Missouri, then withdrew the resolution in question. Mr. Bolton objected to the recognition of Mr. Bolling for that purpose, stating that recognition of Mr. Bolling was out of order while Mr. Bolton's inquiry went unanswered.

Speaker John W. McCormack, of Massachusetts, responded that the withdrawal of the resolution terminated the inquiry (becoming merely hypothetical). Mr. Bolton objected that the inquiry was made before the resolution was withdrawn and the Speaker stated: "The Chair will state that the Chair has the power of recognition."

§ 9.2 Although members of the committee reporting a bill under consideration usually have preference of recognition, the power of recogni-

13. 110 CONG. REC. 7302, 7304, 88th Cong. 2d Sess.

tion remains in the discretion of the Chair.

On July 19, 1967,[14] in the Committee of the Whole, Chairman Joseph L. Evins, of Tennessee, recognized Mr. Edmond Edmondson, of Oklahoma, for a parliamentary inquiry and then recognized him to offer an amendment to the pending amendment. Mr. William C. Cramer, of Florida, made the point of order that William M. McCulloch, of Ohio, the Chairman of the Committee on the Judiciary, which had reported the bill, had been on his feet seeking recognition to offer an amendment at the time and that members of the committee reporting the bill had the prior right to be recognized. The Chairman overruled the point of order and stated:

> The Chair is trying to be fair and trying to recognize Members on both sides. The Chair will recognize the gentleman from Ohio (Mr. McCulloch).

The Chairman recognized Mr. McCulloch for a unanimous-consent request and then recognized Mr. Edmondson for debate on his amendment.

§ 9.3 Rule XXV, which provides that "questions as to the priority of business shall be decided by a majority without debate," merely precludes debate on motions to go into Committee of the Whole, on questions of consideration, and on appeals from the Chair's decisions on priority of business, and should not be utilized to permit a motion directing the Speaker to recognize Members in a certain order or to otherwise establish an order of business; thus, the Speaker has declined to recognize a Member who sought to compel recognition of Members for scheduled special orders.

On July 31, 1975,[15] the Speaker[16] declined to recognize a Member who sought to make a motion under Rule XXV to compel recognition of Members for scheduled "special orders":

> MR. PHILLIP BURTON [of California]: Mr. Speaker, I make a point of order that a quorum is not present. . . .
>
> MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I make a point of order. . . .
>
> Mr. Speaker, I would like to make the point of order to this effect: Under the new rules of the House, is it not true that once the House has pro-

14. 113 CONG. REC. 19416, 19417, 90th Cong. 1st Sess.

15. 121 CONG. REC. 26249, 26251, 94th Cong. 1st Sess. For further discussion of recognition for special orders, see §§ 9.63–9.65 and § 10, infra.

16. Carl Albert (Okla.).

ceeded to the closing business of the day, granting requests for absences and special orders, that it is no longer in order to make a point of order that a quorum is not present?

THE SPEAKER: The Chair has not started to recognize Members for special orders yet. All the business on the Chair's desk has been completed. . . .

MR. BAUMAN: Mr. Speaker, I make the point of order that the rules preclude a quorum at this point because personal requests have already been read from the desk. A leave of absence was granted to the gentleman from Texas (Mr. Teague).

Under the new rules, Mr. Speaker, a quorum does not lie after this point of business in the day.

THE SPEAKER: If the Chair understands the gentleman's point of order, it relates to the fact, which is a new rule, not the rule we used to follow. The rule is that once a special order has started, the Member who has the special order and is speaking cannot be taken off his feet by a point of order of no quorum. However, there is nothing in the rules of which the Chair is aware that requires the Chair to begin to call a special order at any particular time.

MR. BAUMAN: Mr. Speaker, I move under rule XXV that the House proceed to recognize the Members previously ordered to have special orders today, and on that I ask for a rollcall vote.

MR. [MICHAEL T.] BLOUIN [of Iowa]: Mr. Speaker, I move that the House do now adjourn.

The question was taken.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 137, nays 202, not voting 95, as follows: . . .

MR. BAUMAN: Mr. Speaker, under rule XXV, I again renew my motion that the Chair proceed to the recognition of other Members who have previously been granted special orders for today.

THE SPEAKER: The Chair recognizes the gentleman from California (Mr. Danielson).

MR. [GEORGE E.] DANIELSON [of California]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

MR. BAUMAN: Mr. Speaker, there is a motion pending.

Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move that the House do now adjourn.

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

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 142, nays 205, not voting 87, as follows: . . . .

Points of Order Against Chair's Exercise of Discretion

§ 9.4 A Member designated in a resolution (discharged from

the Committee on Rules) to call up a bill having died, the Speaker overruled a point of order against his recognition of another Member, in favor of the bill, to call it up.

On Oct. 12, 1942,[17] the following resolution creating a special order of business was called up in the House following adoption of a successful motion to discharge the Committee on Rules from its further consideration:

> *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. 1024, a public bill which has remained in the Committee on the Judiciary for 30 or more days without action. That such special order be, and is hereby, created, notwithstanding any further action on said bill by the Committee on the Judiciary, or any rule of the House. That on said day the Speaker shall recognize the Representative from California, Lee E. Geyer, to call up H.R. 1024, a bill to amend an act to prevent pernicious political activities, 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 said H.R. 1024. After general debate, which shall be confined to the bill and shall continue not to exceed 4 hours, to be equally divided and controlled by the Member of the House requesting the rule for the consideration of said H.R. 1024 and the Member of the House who is opposed to the said H.R. 1024, 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.

Mr. Samuel F. Hobbs, of Alabama, made a point of order against consideration of the resolution, on the grounds that the Member named in the resolution, Mr. Geyer, had died and that therefore the resolution should not be in order for consideration by the House. Speaker Sam Rayburn, of Texas, ruled as follows:

> A matter not exactly on all fours with this, but similar to it, was ruled on a few weeks ago. On that occasion both the chairman and the ranking minority member of the committee were absent. A point of order was made against consideration of the bill because of that fact.
>
> In ruling on the point of order at that time the Chair made the following statement:
>
> "The Chair thinks the Chair has rather a wide range of latitude here. The Chair could hold, and some future

17. 88 CONG. REC. 8080, 77th Cong. 2d Sess.

Speaker might hold, that, since the chairman and the ranking minority member of the committee are not here, there could be no general debate because there was nobody here to control it; but the present occupant of the Chair is not going to rule in such a restricted way.

"The Chair is going to recognize the next ranking majority member and the next ranking minority member when the House goes into the Committee of the Whole."

We have here even a stronger case than that. The absence of a living Member may be his or her fault; the absence of a dead signer of this petition is not his fault.

There is a rule followed by the chancery courts which might well be followed here. It is that equity never allows a trust to fail for want of a trustee. Applying that rule to the instant case, the Chair holds that the consideration of this legislation will not be permitted to fail for want of a manager. After all, an act of God ought not, in all good conscience, deprive this House of the right to consider legislation; especially so, since this House has by its vote on the motion to discharge expressed its intent.

The Chair will recognize some Member other than Mr. Geyer to call up the bill on tomorrow; for, if the Chair were to hold that only Mr. Geyer could have called up this motion, Mr. Geyer being absent not through any act of his own but through an act of God, the Chair would be making such a restricted ruling that now and in the future it might prevent the House of Representatives from working its will.

The Chair overrules the point of order made by the gentleman from Alabama.

On the following day, Oct. 13, 1942,[18] the Speaker recognized Mr. Joseph A. Gavagan, of New York, to move that the House resolve itself into the Committee of the Whole pursuant to House Resolution 110; the Speaker reiterated his ruling of the previous day when Mr. Hobbs made a point of order against the motion.

Parliamentarian's Note: Speaker Rayburn had ruled, on July 23, 1942,[19] that where a resolution creating a special order of business provided for general debate in Committee of the Whole to be equally divided and controlled by the chairman and ranking minority member of a committee, and both were absent, the Chairman of the Committee of the Whole could recognize the next ranking majority and minority members of the committee to control the debate in Committee of the Whole. The authority to control the general debate may also be delegated by the chairman and ranking minority member to the chairman and ranking minority member of the subcommittee with jurisdiction over the measure (see Ch. 21, supra).

Appeals From Decision on Recognition

§ 9.5 An appeal from the decision of the Speaker on a

18. *Id.* at p. 8120.

19. *Id.* at pp. 6542–44.

question of recognition does not lie.

On June 2, 1930,[20] Speaker Nicholas Longworth, of Ohio, ruled that the motion to postpone consideration of a vetoed bill was not an essential motion whose defeat required recognition to pass to a Member leading the opposition to the motion. Mr. Charles R. Crisp, of Georgia, and Mr. John N. Garner, of Texas, objected to the ruling, and Mr. Garner attempted to appeal from the Chair's ruling.

Mr. Carl R. Chindblom, of Illinois, made the point of order that an appeal did not lie on a matter of recognition. The Speaker responded:

> This is a matter purely of recognition. The Chair wants to be absolutely fair. If he thought that there was any possible unfairness in recognizing the gentleman from Minnesota (Mr. Knutson), he would be the last one to recognize him. . . .
>
> The question is whether this was an essential motion dealing with the merits of the question. The Chair does not think so, and the Chair recognizes the gentleman from Minnesota.

20. 72 CONG. REC. 9913, 9914, 71st Cong. 2d Sess.

See Rule XIV clause 2, and comments thereto, *House Rules and Manual* § 753 (1995). The rule provides that the Speaker shall decide on recognition, and since 1881 the Chair has declined to entertain appeals from decisions on recognition.

§ 9.6 A decision of the Chair on a matter of recognition is not subject to appeal or to a point of order.

On July 2, 1980,[1] during consideration of the Rail Act of 1980 (H.R. 7235) in the Committee of the Whole, the following proceedings occurred:

> MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.
>
> THE CHAIRMAN:[2] The Clerk will report the amendment to the substitute amendment.
>
> MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, a point of order. . . .
>
> I understand that the procedure is that the members of the subcommittee would be recognized for amendments first. . . .
>
> I further understand that the gentlewoman from Maryland, a member of the subcommittee, was on her feet seeking recognition for the purpose of offering an amendment, as well as the gentleman from North Carolina (Mr. Broyhill). . . .
>
> THE CHAIRMAN: The Chair will respond to the gentleman by saying to him that the normal procedure is to recognize members of the full committee by seniority, alternating from side to side, which the Chair has been doing. The gentleman was recognized under that procedure, and the Chair's

1. 126 CONG. REC. 18292, 96th Cong. 2d Sess.

2. Les AuCoin (Oreg.).

recognition is not in any event subject to challenge.

Therefore, the gentleman is recognized, and any point of order that the gentleman from Illinois would make on that point would not be sustained.

§ 9.7 A decision of the Chair on the exercise of his discretionary power of recognition (in this case, for a unanimous-consent request) is not subject to appeal.

On July 23, 1993,[3] the Chair discussed the appealability of the Chair's refusal to recognize for a unanimous-consent request for consideration of a reported bill.

MR. [STEVE] GUNDERSON [of Wisconsin]: Mr. Speaker, my parliamentary inquiry is this: Is it possible to ask unanimous consent to bring H.R. 2667 for its immediate consideration?

THE SPEAKER PRO TEMPORE:[4] The leadership on both sides of the aisle has to agree to allow that unanimous-consent request. . . .

MR. GUNDERSON: Mr. Speaker, I have [a] parliamentary inquiry.

Is it possible to ask unanimous consent at any time during the day to bring up an appropriation bill for its immediate consideration?

THE SPEAKER PRO TEMPORE: The chairman or his designee could bring the bill up.

MR. GUNDERSON: . . . If, for example, I were to move or ask unanimous consent to do that and the Chair did not recognize me, would it be possible at that point to literally appeal the ruling of the Chair for another Member to bring it up?

THE SPEAKER PRO TEMPORE: Under a previous agreement between the leaderships of the Democrat and Republican side, only the chairman of the committee would be recognized to bring up the bill after agreement of both leaderships by a unanimous-consent request. Another Member would not be recognized for that reason, and the denial of recognition to make a unanimous-consent request is not appealable.

Parliamentarian's Note: The precedents distinguish between discretionary exercises of recognition, the conferral or denial of which is not appealable, and "exercises of interpretive authority," in which the Chair bases his decision on a rule of order. Of course, the distinction blurs in some cases. Thus, even where a decision of the Chair is couched in terms of a denial or conferral of recognition, a decision may be appealable where it is based on an explicit or implicit interpretation of the rules and precedents, or where it is in fact a decision on a question of order. For further discussion of this issue, see Deschler-Brown, *Procedure in the U.S. House of Representatives,* Ch. 31 § 8.

3. 139 CONG. REC. p. ____, 103d Cong. 1st Sess.

4. John P. Murtha (Pa.).

Decision on Recognition Cannot Give Rise to Question of Privilege

§ 9.8 It is not in order to raise as a question of the privileges of the House a proposition to amend or interpret the rules of the House or to impinge on the Chair's power of recognition; thus, where the Speaker Pro Tempore had announced that he would not entertain requests to address the House for one minute prior to legislative business, a resolution directing that the Speaker exercise his prerogative and reinstitute the custom of allowing one-minute speeches at the beginning of the session was held not to raise a question of the privileges of the House.

On July 25, 1980,[5] the following proceedings occurred in the House:

> THE SPEAKER PRO TEMPORE:[6] . . . As the Chair announced yesterday, requests to address the House for 1 minute will be entertained at the conclusion of the legislative business today, rather than at the beginning. . . .
>
> The Chair believes there is genuine value in the 1-minute rule in the exercise of free expression . . . . For all its value, however, the Chair does not believe that the 1-minute rule must necessarily precede, nor be permitted to postpone, the business of the House. . . .
>
> MR. [E. G.] SHUSTER [of Pennsylvania]: Mr. Speaker, I rise to a point of privilege.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state his privilege.
>
> MR. SHUSTER: Mr. Speaker, I offer a privileged resolution.
>
> THE SPEAKER PRO TEMPORE: The Clerk will report the resolution.
>
> The Clerk read as follows:
>
> > Whereas the custom of allowing one-minute speeches is a long-standing tradition of the House. . . .
> >
> > Whereas the ability of the Minority to be heard rests to a large degree on the one-minute speeches. . . .
> >
> > Now, therefore, be it
> >
> > *Resolved,* That the Speaker exercise his prerogative and reinstitute the custom of allowing one-minute speeches at the beginning of the session.
>
> THE SPEAKER PRO TEMPORE: The Chair must declare that a question of the privileges of the House under rule IX cannot impinge upon the Speaker's right of recognition. The gentleman's proposal is not, under rule IX, a privileged resolution, and the Chair will so rule. The Chair does not entertain the resolution at this time.

Parliamentarian's Note: As further examples of the above principle, Members may not, under the guise of raising a question of the privileges of the House, give

5. 126 CONG. REC. 19762–64, 96th Cong. 2d Sess.

6. James C. Wright, Jr. (Tex.).

directions to the Speaker infringing on his discretionary power of recognition, by requiring that he give priority in recognition to any Member seeking to call up a matter highly privileged pursuant to a statutory provision, over a member from the Committee on Rules seeking to call up a privileged report from that committee;[7] or by requiring that he state the question on overriding a veto before recognizing for a motion to refer (thereby overruling prior decisions of the Chair to change the order of precedence of motions).[8]

Recognition for General Debate

§ 9.9 Where the time for, and apportionment of, general debate in the Committee of the Whole has not been fixed by the House, the Chair has discretion as to whom he will recognize under the hour rule.

On July 27, 1937,[9] the Committee of the Whole was conducting general debate on a bill, where the House had not fixed the time of debate or how it should be apportioned. Chairman Wright Patman, of Texas, recognized Mr. John Taber, of New York, for one hour of debate. Mr. Bertrand H. Snell, of New York, was refused recognition by the Chair, who stated "the question of recognition is one to be determined by the Chair."

The Chairman then answered a parliamentary inquiry:

> MR. [EARL C.] MICHENER [of Michigan]: Under the rules of the House, when we go into the Committee of the Whole House on the State of the Union, as we have in this instance, without fixing the time for debate, am I correct in saying that anyone recognized by the Chair is recognized for an hour, and has the Chair the discretion of recognizing certain individuals and then permitting those individuals to yield their time to other individuals, to the exclusion of other Members who are seeking recognition?
>
> THE CHAIRMAN: That has been the practice.

§ 9.10 The Chairman of the Committee of the Whole recognized five Members successively for a total of one hour's debate, where such debate had not been fixed by the House.[10]

Announcement of Policies Concerning Recognition

§ 9.11 Recognition is a matter within the discretion of the

7. See 133 CONG. REC. 5403, 100th Cong. 1st Sess., Mar. 11, 1987.
8. See 134 CONG. REC. 20281, 100th Cong. 2d Sess., Aug. 3, 1988.
9. 81 CONG. REC. 7686, 75th Cong. 1st Sess.
10. 87 CONG. REC. 3917–39, 77th Cong. 1st Sess., May 12, 1941.

Chair, and the Chair may refuse to curtail his discretion by announcing in advance whom he will recognize if a certain parliamentary situation develops.

On Mar. 1, 1967,[11] Mr. Joe D. Waggonner, Jr., of Louisiana, stated a lengthy parliamentary inquiry on the procedures for consideration of House Resolution 278, relating to the right of Member-elect Adam C. Powell, of New York, to be sworn in. Part of the inquiry referred to control of debate and recognition for debate and motions if a hypothetical parliamentary situation arose. Speaker John W. McCormack, of Massachusetts, responded as follows to the inquiry on recognition:

> The question of recognition is one that the Chair will pass upon if that time [situation hypothesized by Mr. Waggonner] should arise.

On Oct. 8, 1969,[12] Mr. John D. Dingell, of Michigan, inquired of Speaker John W. McCormack, of Massachusetts, whether, if the previous question were voted down on the pending appropriation bill, he would be recognized to offer an amendment. The Speaker responded:

> The Chair is not going to give a preliminary opinion as to whom the Chair might recognize.

11. 113 CONG. REC. 4997, 90th Cong. 1st Sess.

12. 115 CONG. REC. 29219, 29220, 91st Cong. 1st Sess.

§ 9.12 The Chairman of the Committee of the Whole does not anticipate the order in which amendments may be offered nor does he declare in advance the order of recognition, but where he knows a Member desires recognition to offer an amendment, he may indicate that he will protect the Member's rights.

On Sept. 8, 1966,[13] Chairman Edward P. Boland, of Massachusetts, answered a parliamentary inquiry as to the order of recognition for offering amendments under the five-minute rule:

> MR. [ROBERT G.] STEPHENS [Jr., of Georgia]: It is my understanding that the procedures will be for the Minish amendment to be considered and after the Minish amendment is disposed of then I will offer a substitute and it is my understanding I will be recognized immediately after the amendment for the purpose of submitting that substitute. Is that the correct parliamentary situation?
>
> THE CHAIRMAN: Recognition, of course, is within the discretion of the Chair, but the Chair will protect the gentleman's rights.

§ 9.13 The Speaker on occasion has announced his policy concerning recognition for certain purposes, including

13. 112 CONG. REC. 22020, 89th Cong. 2d Sess.

the times during the legislative day when recognition for such purposes would be granted.

Formerly, Rule XI prohibited committees from sitting at any time when the House was in session; the rule was narrowed to proscribe sittings during the five-minute rule by the Legislative Reorganization Act of 1970.[14] Subsequently, certain committees were exempted from this rule (including the Committees on Appropriations, the Budget, and Rules, the Committee on Standards of Official Conduct, the Committee on Ways and Means and the Committee on House Administration). A provision that special leave to sit be granted if ten Members did not object was added to the rule in the 95th Congress.[15] In the 103d Congress the prohibition against sitting during proceedings under the five-minute rule was stricken altogether[16] but was reinstated in modified form in the 104th.

At the time the rule was in effect, the Speaker[17] stated:

> The Chair announces that he will recognize Members to make requests for committees to sit during the 5-minute rule only at certain times during the legislative day. While the precedents indicate that such requests when pending are not votes requiring the presence of a quorum, the Chair wishes to avoid the need for a call of the House pending such requests but at the same time to assure predictability as to when he will accord recognition. Therefore, the Speaker intends to set up the following guidelines: . . .

The Speaker's guidelines for recognition for requests for committees to sit during the five-minute rule pursuant to clause 2(i), Rule XI, requiring 10 objections to preclude permission following announcement of the legislative schedule, were intended to afford predictability as to when recognition would be granted, to avoid discretionary calls of the House pending such requests, to distinguish between hearing and meeting requests, and to permit meeting requests only on days when legislative votes are scheduled but not after the completion of legislative business.

§ 9.14 Pursuant to the Speaker's policy announced in the

14. Sec. 117(b); 84 Stat. 1140.

15. H. Res. 5, 123 CONG. REC. 53–70, 95th Cong. 1st Sess., Jan. 4, 1977. For the Speaker's announcement in the 98th Congress of his policy concerning recognition for requests for committees to sit during the five-minute rule, see 129 CONG. REC. 3385, 98th Cong. 1st Sess., Mar. 3, 1983.

16. H. Res. 5, 139 CONG. REC. p. ____, 103d Cong. 1st Sess., Jan. 5, 1993.

17. Thomas P. O'Neill, Jr. (Mass.).

98th Congress in regard to recognition for requests that committees and subcommittees be permitted to sit during the five-minute rule, the Speaker Pro Tempore indicated on a day when no rollcall votes were scheduled, that such a request (except as to hearings) should be withheld until the next day, when Members had been advised there could be rollcall votes.

The following exchange occurred in the House on May 23, 1983:[18]

MR. [NORMAN Y.] MINETA [of California]: Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation and the Committee on Public Works and Transportation have permission to sit during the 5-minute rule in the House on Wednesday, May 25, 1983.

THE SPEAKER PRO TEMPORE:[19] The Chair will advise the gentleman that under the Speaker's statement he will have to make that request tomorrow.

Recognition To Offer Amendments

§ 9.15 Recognition among Members seeking the floor in the Committee of the Whole for the purpose of offering amendments is within the discretion of the Chair.

On Dec. 15, 1937,[20] Mr. Gerald J. Boileau, of Wisconsin, raised a parliamentary inquiry as to whether perfecting amendments had priority over substitute amendments:

MR. BOILEAU: Mr. Chairman, reserving the right to object, and I do so to propound a parliamentary inquiry as to the order in which amendments are to be offered. The amendment offered by the gentlewoman from New Jersey is now pending. Would not perfecting amendments have priority of consideration over a substitute amendment?

THE CHAIRMAN:[1] The Chair has no knowledge of what amendments may be offered; but ordinarily a perfecting amendment has precedence over a motion to substitute insofar as voting is concerned. If the unanimous-consent request is granted, it is the understanding of the Chair that amendments will be offered section by section.

MR. BOILEAU: Nevertheless, it is the amendment offered by the gentlewoman from New Jersey that would be before the House.

THE CHAIRMAN: That is before the Committee now.

MR. BOILEAU: Would not perfecting amendments have priority over an amendment to substitute?

THE CHAIRMAN: So far as voting is concerned, yes.

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18. 129 CONG. REC. 13365, 98th Cong. 1st Sess.

19. John P. Murtha (Pa.).

20. 82 CONG. REC. 1590, 75th Cong. 2d Sess.

1. John W. McCormack (Mass.).

MR. BOILEAU: I appreciate that fact, but may I propound a further parliamentary inquiry, whether or not a Member rising in his place and seeking recognition would not have a prior right to recognition for the purpose of offering a perfecting amendment to the amendment now pending?

THE CHAIRMAN: It does not necessarily follow that such Member would have a prior right. Recognition is in the discretion of the Chair.

MR. BOILEAU: I recognize it does not necessarily follow, but I am trying to have the matter clarified. Therefore I ask the Chair whether or not a Member who qualifies as offering a perfecting amendment does not have prior right of recognition in offering such amendment?

THE CHAIRMAN: . . . [T]he Chair does not feel he should estop himself of his own discretion in the matter of recognitions.

MR. BOILEAU: Does the Chair then rule that is within the discretion of the Chair rather than a right of the Member?

THE CHAIRMAN: In answer to the gentleman's inquiry, the Chair is of the opinion it is within the province of the Chair whom the Chair will recognize, having in mind the general rules of the House.

On June 29, 1939,[2] Chairman Jere Cooper, of Tennessee, indicated that where a Member had been recognized to offer an amendment but not for debate thereon, the Chair could in his discretion refuse to recognize members of the committee reporting the bill to offer amendments if they had not been on their feet seeking recognition:

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, I have an amendment at the Clerk's desk which I would like to offer at this time.

The Clerk read as follows:

Amendment offered by Mr. Knutson: Strike out all of section 1 and insert the following——

MR. [HAMILTON] FISH [Jr., of New York] (interrupting the reading of the amendment): Mr. Chairman, would it be in order for the committee members to be recognized first to offer amendments?

MR. KNUTSON: I have already been recognized.

THE CHAIRMAN: If there is any member of the committee seeking recognition, he is entitled to recognition.

MR. FISH: Mr. Chairman, I would like to be recognized.

MR. KNUTSON: I already have the floor, and have been recognized.

MR. H. CARL ANDERSEN [of Minnesota]: Mr. Chairman, the gentleman from Minnesota [Mr. Knutson] has already been recognized.

THE CHAIRMAN: Recognition is in the discretion of the Chair, and the Chair will recognize members of the committee first. Does the acting chairman of the committee seek recognition?

MR. [SOL] BLOOM [of New York]: Mr. Chairman, I would like to ask whether the committee amendments to section 1 have been agreed to?

THE CHAIRMAN: The only one the Chair knows about is the one appear-

2. 84 CONG. REC. 8311, 76th Cong. 1st Sess.

ing in the print of the bill, and that has been agreed to.

MR. BLOOM: In line 16, there is a committee amendment.

MR. KNUTSON: Mr. Chairman, I was recognized by the Chair.

THE CHAIRMAN: The Chair feels that inasmuch as members of the committee were not on their feet and the gentleman from Minnesota had been recognized, the gentleman is entitled to recognition.

§ 9.16 While recognition of Members to offer amendments is within the Chair's discretion and cannot be challenged on a point of order, the Chair under the precedents alternates recognition between majority and minority members of the committee reporting the bill.

During consideration of the Outer Continental Shelf Act (H.R. 6218) in the Committee of the Whole on June 11, 1976,[3] the following occurred:

THE CHAIRMAN:[4] The question is on the amendment offered by the gentleman from New York (Mr. Murphy).

The amendment was agreed to.

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York; On page 59, lines 12 to 20, strike paragraphs 5(a), (6), (7), and (8) and renumber subsequent paragraphs accordingly.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. FISH: Mr. Chairman, the minority has amendments to offer, including a substitute amendment to title II. It is my understanding that the minority would have its turn at the same time as the majority in considering the amendments.

THE CHAIRMAN: The Chair would advise the gentleman from New York (Mr. Fish) that that would not come under the category of a point of order; but the Chair would further advise the gentleman from New York (Mr. Fish) that since the gentleman has raised the point, the Chair will alternate from side to side.

§ 9.17 The order of recognition to offer amendments is within the discretion of the Chair, who may either base his initial recognition on committee seniority or upon the preferential voting status of the amendments sought to be offered; thus, where both a pending amendment and a substitute therefor are open to perfecting amendments, the Chair has the discretion of first recognizing either the senior committee member, or a junior committee member whose amendment would be first voted upon, where both

3. 122 CONG. REC. 17764, 94th Cong. 2d Sess.

4. William H. Natcher (Ky.).

amendments could ultimately be pending at the same time.

The following proceedings occurred during consideration of the Alaska National Interest Lands Conservation Act of 1979 in the Committee of the Whole on May 15, 1979:[5]

THE CHAIRMAN:[6] For what purpose does the gentleman from Ohio (Mr. Seiberling) rise?

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Chairman, I have an amendment at the desk.

THE CHAIRMAN: Is this to the Udall substitute?

MR. SEIBERLING: Mr. Chairman, I have an amendment at the desk to the Udall-Anderson bill, which is actually a series of technical amendments which I will ask unanimous consent to offer en bloc. . . .

THE CHAIRMAN: Since there is no other amendment pending to the Udall substitute, the amendment of the gentleman from Ohio may be offered. . . .

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Chairman, assuming there is an amendment to be offered to the so-called Breaux-Dingell merchant marine version, that would take precedence over an amendment to the so-called Udall-Anderson interior bill?

THE CHAIRMAN: The Chair has the option either to recognize the senior Member first or to first recognize that Member seeking to offer the amendment which will be preferential and first voted upon.

MR. [THOMAS J.] HUCKABY [of Louisiana]: Mr. Chairman, I have amendments at the desk for the Breaux-Dingell bill.

THE CHAIRMAN: The Clerk will report the amendments.[7]

MR. [DON H.] CLAUSEN [of California]: Mr. Chairman, I have a parliamentary inquiry.

Mr. Chairman, what is the parliamentary situation? Is there an amendment to be offered by the gentleman from Ohio (Mr. Seiberling) or the gentleman from Louisiana (Mr. Huckaby)?

THE CHAIRMAN: The Chair will state that the gentleman from Ohio (Mr. Seiberling) sought recognition to amend the Udall substitute, but the gentleman from Louisiana (Mr. Huckaby) has an amendment to the Merchant Marine and Fisheries amendment in the nature of a substitute, and he will be recognized. The Chair will recognize the gentleman from Ohio (Mr. Seiberling) later for the purposes of offering his amendment. . . .

MR. HUCKABY: Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

THE CHAIRMAN: The Clerk will report the amendments.

Parliamentarian's Note: Mr. Huckaby's amendments to the original amendment were subse-

5. 125 CONG. REC. 11135, 11136, 96th Cong. 1st Sess.

6. Paul Simon (Ill.).

7. Mr. Seiberling was senior to Mr. Huckaby on the Committee on Interior and Insular Affairs, but Mr. Huckaby's amendment was to be voted on first and he represented the majority position on the committee.

quently agreed to.[8] Mr. Seiberling then indicated that he had amendments to the substitute, and Mr. Huckaby that he had further amendments to the original amendment. As noted above, the Chair would have discretion to recognize either Member; but the Chair indicated that in either case, the question would not be put on amendments to the substitute until all amendments to the original amendment had been disposed of.

§ 9.18 While alternation of recognition between the majority and minority Members controlling debate in the House, or continued recognition of that Member having the most time remaining, are two customary factors governing recognition by the Chair, neither factor is binding on the Chair, who may exercise discretion in conferring recognition where control has been equally divided, and may entertain a motion for the previous question by the manager of the measure if neither side seeks to yield further time.

On June 23, 1983,[9] Speaker Pro Tempore Jim Moody, of Wisconsin, responded to several parliamentary inquiries regarding procedures for recognition. The proceedings in the House during consideration of House Concurrent Resolution 91 (revising the fiscal 1983 congressional budget and setting forth the fiscal 1984 budget) were as follows:

THE SPEAKER PRO TEMPORE: The time of the gentleman has expired.

Does the gentlewoman seek recognition?

MRS. [LYNN] MARTIN of Illinois: Mr. Speaker, could the Chair inform us how much time each side of the aisle has remaining?

THE SPEAKER PRO TEMPORE: The gentleman from Oklahoma has 35 minutes left and the gentleman from Ohio has 21½ minutes left.

MRS. MARTIN of Illinois: Then we will allow the other side of the aisle to catch up.

MR. [JAMES R.] JONES of Oklahoma: Does the gentlewoman want to yield back her time?

MRS. MARTIN of Illinois: Mr. Speaker, I am reserving the balance of my time.

MR. JONES of Oklahoma: Our side just spoke. If the gentlewoman does not want to use her time and have her side go forward, the gentlewoman can reserve her time and we can reserve ours and we can dispense with the rest of the debate.

MRS. MARTIN of Illinois: Mr. Speaker, may I ask the outstanding chairman, the gentleman from Oklahoma, will he then yield that time to us?

Well, we will reserve our time for now and await the gentleman's decision.

8. 125 CONG. REC. 11152, 96th Cong. 1st Sess.

9. 129 CONG. REC. 17089, 98th Cong. 1st Sess.

MR. JONES of Oklahoma: Mr. Speaker, I would like to state a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. JONES of Oklahoma: Mr. Speaker, if we reserve our time, is the previous question then in order?

THE SPEAKER PRO TEMPORE: Will the gentleman restate the question?

MR. JONES of Oklahoma: The gentlewoman has reserved her time. If we reserve our time, is the previous question then in order?

THE SPEAKER PRO TEMPORE: If neither side yields time, the Chair will entertain a motion for the previous question from the manager of the motion.

MR. [E. G.] SHUSTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. SHUSTER: Mr. Speaker, if not the rules of the House, is it not the tradition of the House that the side with the most time remaining takes the floor?

THE SPEAKER PRO TEMPORE: That is one variable. Alternating from side to side is another tradition of the House.

—*Committee Amendments*

§ 9.19 Where a bill consisting of several titles was considered as read and open to amendment at any point under a special "modified closed rule" permitting germane amendments only to certain portions of titles but permitting committee amendments to any portion of the bill, the Chair first recognized a Member to offer committee amendments to title I and then recognized other Members to offer amendments to that title.

On Aug. 7, 1974,[10] during consideration of the Federal Election Campaign Act of 1974 (H.R. 16090) in the Committee of the Whole, Chairman Richard Bolling, of Missouri, made the following statement:

THE CHAIRMAN: No amendments, including any amendment in the nature of a substitute for the bill, are in order to the bill except the following:

In title 1: Germane amendments to subsection 101(a) proposing solely to change the money amounts contained in said subsection, providing they have been printed in the Congressional Record at least 1 calendar day before being offered; and the text of the amendment to be offered on page 13, following line 4, inserted in the Congressional Record of August 5, 1974, by Mr. Butler.

In title 2: Germane amendments to the provisions contained on page 33, line 17, through page 35, line 11, providing they have been printed in the Record at least 1 calendar day before being offered; and the amendment printed on page E5246 in the Record of August 2, 1974.

In title 4: Germane amendments which have been printed in the Record

10. 120 CONG. REC. 27258, 27259, 93d Cong. 2d Sess.

at least 1 calendar day before they are offered, except that sections 401, 402, 407, 409 and 410 shall not be subject to amendment; and the text of the amendment printed on page H7597 in the Congressional Record of August 2, 1974.

Amendments are in order to any portion of the bill if offered by direction of the Committee on House Administration, but said amendments shall not be subject to amendment.

Are there any Committee on House Administration amendments to title I?

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I offer three committee amendments to title I of the bill and I ask unanimous consent that they be considered en bloc.

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

There was no objection.

THE CHAIRMAN: The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: . . .

THE CHAIRMAN: The question is on the amendments offered by the gentleman from New Jersey (Mr. Thompson).

The committee amendments were agreed to.

THE CHAIRMAN: Are there further committee amendments to title I?

MR. [PIERRE S.] DU PONT [IV, of Delaware]: Mr. Chairman, I offer an amendment to title I.

The Clerk read as follows:

Amendment offered by Mr. du Pont: Page 2, line 16, strike "$5,000" and insert in lieu thereof "$2,500".

MR. DU PONT: Mr. Chairman, as required by the rule adopted by the House today, my amendment was published at pages E5306 and E5307 of yesterday's Record.

Yielding for Amendments

§ 9.20 A Member recognized under the five-minute rule may not yield to another Member to offer an amendment (thereby depriving the Chair of his power of recognition), but he may by unanimous consent yield the balance of his time to another Member who may thereafter offer an amendment.

The proposition described above was demonstrated in the Committee of the Whole on Oct. 30, 1975,[11] during consideration of H.R. 8603, the Postal Reorganization Act Amendments of 1975:

(Mr. Cohen asked and was given permission to revise and extend his remarks.)

MR. [PIERRE S.] DU PONT [IV, of Delaware]: Mr. Chairman, will the gentleman yield?

MR. [WILLIAM S.] COHEN [of Maine]: I yield to the gentleman from Delaware.

MR. DU PONT: Mr. Chairman, I offer an amendment.

THE CHAIRMAN:[12] The Chair will state that the gentleman from Maine

11. 121 CONG. REC. 34442, 94th Cong. 1st Sess.

12. Walter Flowers (Ala.).

cannot yield for the purpose of the gentleman from Delaware offering an amendment.

MR. COHEN: Mr. Chairman, I ask unanimous consent to yield the balance of my time to the gentleman from Delaware (Mr. du Pont).

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

There was no objection.

THE CHAIRMAN: The gentleman from Delaware is recognized for 2 minutes.

AMENDMENT OFFERED BY MR. DU PONT

MR. DU PONT: Mr. Chairman, I offer an amendment.

The Clerk read the amendment as follows:

> Amendment offered by Mr. du Pont: Page 32, immediately after line 26, add the following new section:
>
> Sec. 16. (a) Chapter 6 of title 39, United States Code, is amended by adding at the end thereof the following new section: . . .

Effect of Special Rules

§ 9.21 Where a special rule providing for the consideration of a measure provides for the apportionment of time "between those favoring and those opposing" the measure, it is within the discretion of the Chairman of the Committee of the Whole as to those Members he will recognize to control the time.

On Dec. 18, 1929,[13] Speaker Nicholas Longworth, of Ohio, answered a parliamentary inquiry on the procedure of recognition in the Committee of the Whole:

MR. [GEORGE] HUDDLESTON [of Alabama]: Mr. Speaker, the rule under which we are to consider the resolution provides that the time in general debate shall be equally divided and controlled by those favoring and those opposing the resolution. I think it would be informative to the House to know just how that division is to be made.

THE SPEAKER: The Chair would think that that would be in the discretion of the Chairman of the Committee of the Whole.

MR. HUDDLESTON: Then the Chairman of the Committee of the Whole, the Speaker thinks, has discretion to recognize any Member who may gain his attention, and that Member having gained the floor would be entitled to an hour?

THE SPEAKER: Not necessarily.

MR. HUDDLESTON: To what time would he be entitled?

MR. [J. CHARLES] LINTHICUM [of Maryland]: The resolution provides that.

THE SPEAKER: The Chair would think that the Member being recognized in favor of the proposition would be entitled to control half the time and the Member announcing himself opposed to the proposition would be entitled to control half of the time.

MR. HUDDLESTON: The Speaker thinks that that would be the interpretation even though it gave the Member so recognized an hour and a half, when, under the rules of the House, a Member is entitled only to one hour?

THE SPEAKER: The resolution provides that the time for general debate

13. 72 CONG. REC. 907, 908, 71st Cong. 2d Sess.

shall be equally divided and controlled by those favoring and opposing the resolution.

MR. HUDDLESTON: It does not provide that it shall be apportioned to any particular Member.

THE SPEAKER: The Chair would think that the Member announcing his opposition to the resolution would be entitled to control an hour and a half.

§ 9.22 Where a special rule permits both the offering of specified perfecting amendments in a certain order and pro forma amendments, the Chair has discretion to recognize Members to offer pro forma amendments to debate the underlying text between consideration of perfecting amendments.

The following proceedings occurred in the Committee of the Whole on May 26, 1982,[14] during consideration of House Concurrent Resolution 345 (the first concurrent resolution on the budget for fiscal year 1983):

MR. [HENRY A.] WAXMAN [of California]: At the appropriate time after we have completed this amendment, I will seek to strike the last word to make other comments that may be of interest to Members.

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN:[15] The gentleman will state it.

MR. MADIGAN: Is the procedure that has just been suggested by the gentleman from California one that would be in order?

THE CHAIRMAN: The Chair will entertain pro forma amendments between amendments.

MR. MADIGAN: Further pursuing my parliamentary inquiry, Mr. Chairman, how would the gentleman from California be able to be recognized to speak in behalf of something that he says he is not going to offer?

THE CHAIRMAN: Between amendments, no amendment is pending. That is why a pro forma amendment presumably to one of the substitutes will be allowed. It provides an opportunity for discussion between amendments.

§ 9.23 Where a special rule adopted by the House makes in order a designated amendment to a bill in Committee of the Whole but gives no special priority or precedence to such an amendment, the Chair is not required to extend prior recognition to offer that amendment but may rely on other principles of recognition such as alternation between majority and minority parties and priority of perfecting amendments over motions to strike.

14. 128 CONG. REC. 12141, 97th Cong. 2d Sess.

15. Richard Bolling (Mo.).

On June 21, 1979,[16] during consideration of H.R. 111, the Panama Canal Act of 1979, the Chair, after recognizing the manager of the bill to offer a pro forma amendment under the five-minute rule, recognized the ranking minority member to offer a perfecting amendment, prior to recognizing another majority member seeking recognition on behalf of another committee with jurisdiction over a portion of the bill to move to strike that portion, where the motion to strike was made in order but given no preferential status in the special rule governing consideration of the bill. The proceedings were as follows:

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this time with so many Members in the well and on the floor to ask as many Members as possible to try to stay on the floor throughout the next hour and 50 minutes. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: Page 187, strike out line 19 and all that follows through line 20 on page 189 and insert in lieu thereof the following:

CHAPTER 2—IMMIGRATION

Sec. 1611. Special Immigrants.—(a) Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), relating to the definition of special immigrants, is amended—

MS. [ELIZABETH] HOLTZMAN [of New York] (during the reading): Mr. Chairman, I want to raise a point of order. . . .

Mr. Chairman, at the time that the last amendment was voted on, I was on my feet seeking to offer an amendment on behalf of the Committee on the Judiciary with respect to striking in its entirety section 1611 of the bill. The right to offer that amendment is granted under the rule, in fact on page 3 of House Resolution 274. I want to ask the Chair whether I am entitled to be recognized or was entitled to be recognized to make first a motion, which was a motion to strike the entire section before amendments were made to the text of the bill.

THE CHAIRMAN:[17] Unless an amendment having priority of consideration under the rule is offered, it is the Chair's practice to alternate recognition of members of the several committees that are listed in the rule, taking amendments from the majority and minority side in general turn, while giving priority of recognition to those committees that are mentioned in the rule.

The gentlewoman from New York (Ms. Holtzman) is a member of such a committee, but following the adoption of the last amendment the gentleman from New York (Mr. Murphy), the chairman of the Committee on Merchant Marine and Fisheries, sought recognition to strike the last word. Accordingly, the Chair then recognized

16. 125 CONG. REC. 15999, 16000, 96th Cong. 1st Sess.

17. Thomas S. Foley (Wash.).

the gentleman from Maryland (Mr. Bauman) to offer a floor amendment, which is a perfecting amendment to section 1611 of the bill.

The rule mentions that it shall be in order to consider an amendment as recommended by the Committee on the Judiciary, to strike out section 1611, if offered, but the rule does not give any special priority to the Committee on the Judiciary to offer such amendments, over perfecting amendments to that section.

MS. HOLTZMAN: Mr. Chairman, may I be heard further? The gentleman said that he was going to recognize members of the committees that had a right to offer amendments under the rule alternately. I would suggest to the Chair that no member of the Committee on the Judiciary has been recognized thus far in the debate with respect to offering such an amendment and, therefore, the Chair's principle, as I understood he stated it, was not being observed in connection with recognition.

THE CHAIRMAN: The Chair would observe that the Chair is attempting to be fair in recognizing Members alternately when they are members of committees with priority and that the rule permits but does not give the Committee on the Judiciary special priority of recognition over other floor amendments, which under the precedents would take priority over a motion to strike.

Second, the Chair would like to advise the gentlewoman from New York that recognition is discretionary with the Chair and is not subject to a point of order. Does the gentlewoman have any further comment to make on the point of order?

The Chair overrules the point of order and recognizes the gentleman in the well.

Parliamentarian's Note: The amendment offered by Mr. Bauman struck out section 1611 of the bill and inserted a new section, whereas the amendment made in order under the rule on behalf of the Committee on the Judiciary was an amendment to strike that section; thus adoption of the Bauman amendment precluded the offering of the Judiciary Committee amendment. It would have made little difference if Ms. Holtzman was recognized first, since the Bauman amendment could have been offered as a perfecting amendment while the Holtzman motion to strike was pending and if the Bauman amendment was adopted the motion to strike would have necessarily fallen and would not have been voted on.

If the Holtzman amendment, and the amendments to be offered on behalf of the Committees on Foreign Affairs and Post Office and Civil Service, had been committee amendments formally recommended in reports on H.R. 111, they would have been automatically considered by the Committee of the Whole, but only the Committee on Merchant Marine and Fisheries had formally reported H.R. 111.

Effect of Limitation on Five-minute Debate; Allocation of Time

§ 9.24 Priority of recognition under a limitation of time for debate under the five-minute rule is in the complete discretion of the Chair, who may disregard committee seniority and consider amendment sponsorship.

On June 26, 1979,[18] it was demonstrated that where the Committee of the Whole has agreed to a limitation on debate under the five-minute rule on a section of a bill and all amendments thereto, distribution of the time under the limitation is within the discretion of the Chair. The proceedings were as follows:

> MR. [WILLIAM S.] MOORHEAD of Pennsylvania: Mr. Chairman, I move that all debate on section 3 and all amendments thereto cease at 6:40 p.m. . . .
>
> A recorded vote was ordered.
>
> The vote was taken by electronic device, and there were—ayes 209, noes 183, answered "present" 1, not voting 41, as follows: . . .
>
> THE CHAIRMAN:[19] The Chair will attempt to explain the situation.
>
> The Committee has just voted to end all debate on section 3 and all amendments thereto at 6:40. The Chair in a moment is going to ask those Members wishing to speak between now and then to stand. The Chair will advise Members that he will attempt, once that list is determined, to recognize first those Members on the list with amendments which are not protected by having been printed in the Record. . . .
>
> MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, did I understand the Chair correctly that Members who are protected by having their amendments printed in the Record will not be recognized until the time has run so that those Members will only have 5 minutes to present their amendments, but that other Members will be recognized first for the amendments which are not printed in the Record?
>
> THE CHAIRMAN: Those Members who are recognized prior to the expiration of time have approximately 20 seconds to present their amendments. Those Members whose amendments are printed in the Record will have a guaranteed 5 minutes after time has expired. . . .
>
> The Chair will now recognize those Members who wish to offer amendments which have not been printed in the Record.
>
> The Chair will advise Members he will recognize listed Members in opposition to the amendments also for 20 seconds. . . .
>
> MR. [RICHARD] KELLY [of Florida]: Mr. Chairman, is it not regular order that the Members of the Committee with amendments be given preference and recognition?

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18. 125 CONG. REC. 16677, 16678, 96th Cong. 1st Sess.

Under consideration was H.R. 3930, the Defense Production Act Amendments of 1979.

19. Gerry E. Studds (Mass.).

THE CHAIRMAN: The Chair would advise the gentleman once the limitation of time has been agreed to and time divided, that priority of recognition is within the complete discretion of the Chair.

§ 9.25 Where the Committee of the Whole has agreed to a limitation on debate, distribution of the remaining time is largely within the discretion of the Chair.

On June 19, 1975,[20] during consideration of the Energy Conservation and Conversion Act of 1975 (H.R. 6860) in the Committee of the Whole, Chairman William H. Natcher, of Kentucky, exercised his discretion as to recognition for debate, as indicated below:

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments cease in 2 minutes.

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

There was no objection.

THE CHAIRMAN: Under the rule, the Chairman has the right at this time to recognize one Member on each side. The Chair will do that. All debate on the bill is limited to 2 minutes. The Chair would be unable to recognize 40 or 50 Members for 1 second or 2 seconds.

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Steiger of Wisconsin moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Why, on a motion which the gentleman from Wisconsin made, is he not allowed 5 minutes?

THE CHAIRMAN: The Chair would like to state to the gentleman from California that all debate on the bill and all amendments thereto is limited to two minutes. . . .

MR. ROUSSELOT: But he has 5 minutes on a preferential motion.

THE CHAIRMAN: All time has been fixed on the bill, and all amendments thereto, and the time was 2 minutes.

The Chair recognizes the gentleman from California (Mr. Phillip Burton) for 1 minute in opposition to the preferential motion.

§ 9.26 A limitation of debate on a bill and all amendments thereto to a time certain in effect abrogates the five-minute rule; and decisions regarding the division of the remaining time and the order of recognition of those Members desiring to speak are largely within the discretion of the Chair, who may defer recognition of listed Members whose amendments have been printed in the Record and who are therefore guaranteed five minutes notwithstanding the limitation.

20. 121 CONG. REC. 19785–87, 94th Cong. 1st Sess.

The following proceedings occurred in the Committee of the Whole on June 4, 1975,[1] during consideration of the Voting Rights Act Extension (H.R. 6219):

MR. [DON] EDWARDS of California: Mr. Chairman, I move that all debate on the bill and all amendments thereto terminate at 6:45 p.m.

THE CHAIRMAN:[2] The question is on the motion offered by the gentleman from California.

The motion was agreed to. . . .

THE CHAIRMAN: With the permission of the Committee, the Chair will briefly state the situation.

There are a number of Members who do not have amendments that were placed in the Record, and the Chair feels that he must try to protect them somewhat, so he proposes to go to a number of Members on the list so they will at least get some time. The time allotted will be less than a minute.

The Chair recognizes the gentleman from Texas (Mr. de la Garza).

§ 9.27 A limitation of debate on amendments in the Committee of the Whole to a time certain in effect abrogates the five-minute rule; and decisions regarding the division of the remaining time and the order of recognition are largely within the discretion of the Chair.

As an example of the Chair's exercise of discretion, on June 14, 1977,[3] where the Committee of the Whole had limited debate under the five-minute rule to a time certain, and an equal division of the remaining time among all the Members seeking recognition would have severely restricted each Member in his presentation, the Chair allocated the time equally between two Members on opposing sides of the question, to be yielded by them.

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I move that all debate on these amendments and all amendments thereto, cease at 4 o'clock and 45 minutes p.m.

THE CHAIRMAN:[4] The question is on the motion offered by the gentleman from Alabama (Mr. Bevill).

The motion was agreed to. . . .

THE CHAIRMAN: The Chair has before him a list of more than 25 Members to occupy the next 10 minutes. It has been suggested that it would be possible for the Chair to recognize the gentleman from Alabama (Mr. Bevill) and the gentleman from Massachusetts (Mr. Conte) to allocate those 10 minutes.

Accordingly, the Chair will recognize the gentleman from Massachusetts (Mr. Conte) for 5 minutes, and the gentleman from Alabama (Mr. Bevill) for 5 minutes.

MR. JOHN T. MYERS [of Indiana]: Mr. Chairman, I have a parliamentary inquiry.

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1. 121 CONG. REC. 16899, 16901, 94th Cong. 1st Sess.

2. Richard Bolling (Mo.).

3. 123 CONG. REC. 18826, 18833, 95th Cong. 1st Sess.

4. George E. Brown, Jr. (Calif.).

THE CHAIRMAN: The gentleman will state it.

MR. JOHN T. MYERS: How did the Chair make that decision?

THE CHAIRMAN: The Chair has the authority to allocate time under a limitation, and it is obvious to the Chair that this is the most rational way to handle the 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

§ 9.28 A limitation to a time certain on debate on an amendment in Committee of the Whole in effect abrogates the five-minute rule; recognition is in the discretion of the Chair under such limitation and the Chair may recognize under the limitation a Member who has already spoken on the amendment.

On Aug. 4, 1977,[5] during consideration of the National Energy Act (H.R. 8444) in the Committee of the Whole, a motion was made to limit debate on a pending amendment and the following proceedings occurred:

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Chairman, I move that debate on this amendment conclude at 2 o'clock.

THE CHAIRMAN PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio (Mr. Ashley).

The question was taken; and on a division (demanded by Mr. Ashbrook) there were—ayes 37, noes 20.

So the motion was agreed to. . . .

THE CHAIRMAN:[6] . . . The Chair recognizes the gentleman from New Jersey (Mr. Howard).

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a point of order. . . .

Under the rules of the House, are not Members who have already spoken to wait until all other Members are recognized until they speak again on a pending amendment?

THE CHAIRMAN: No one was up at the time the Chair rapped the gavel, and the gentleman from New Jersey was standing at the time the Chair recognized him. We will be going back and forth, but of course, the limitation abrogates the 5-minute rule.

§ 9.29 *Parliamentarian's Note:* When a relatively short period of time for debate under the five-minute rule has been fixed in the Committee of the Whole, the Chairman in his discretion may take note of all those Members seeking recognition and divide the remaining time among them, though each may have less than five minutes to speak. But where the Committee of the Whole fixes debate at a longer period, such as an hour and a half, the Chair may decline to apportion the time among those Members on their feet.

5. 123 CONG. REC. 27006, 27007, 95th Cong. 1st Sess.

6. Richard Bolling (Mo.).

On Feb. 22, 1950,[7] the Committee of the Whole limited debate on a pending amendment and amendments thereto to one hour and a half.

Chairman Francis E. Walter, of Pennsylvania, responded as follows to parliamentary inquiries:

> MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. JAVITS: Mr. Chairman, is the Chair disposed to divide the time in view of the fact that it has been limited, and to announce the Members who will be recognized?
>
> THE CHAIRMAN: In view of the fact that one hour and a half remains for debate, and since it was impossible for the Chair to determine the number of Members who were on their feet, I believe it is advisable to follow the strict rule.

§ 9.30 Where the Committee of the Whole has agreed that debate under the five-minute rule close at a certain time on an amendment and all amendments thereto, the Chair attempts to divide the time equally among the Members desiring recognition; but where part of the fixed time is consumed by voting, it may not be possible for the Chair to reach each Member on his list before the time expires, and no point of order lies against the inability of the Chair to recognize each Member on the list.

On June 27, 1977,[8] the situation described above occurred in the Committee of the Whole, as follows:

> MR. [ROBERT W.] KASTENMEIER [of Wisconsin]: Mr. Chairman, I move that all debate on this amendment and all other amendments to the bill close at 5:40 p.m.
>
> THE CHAIRMAN:[9] The question is on the motion offered by the gentleman from Wisconsin (Mr. Kastenmeier).
>
> The question was taken; and on a division (demanded by Mr. Ashbrook) there were—ayes 46, noes 20. . . .
>
> THE CHAIRMAN: The Chair recognizes the gentleman from Wisconsin (Mr. Kastenmeier) to close debate.
>
> MR. KASTENMEIER: Mr. Chairman, this is, of course, the Legal Services Liquidation Act of 1977, as proposed by the gentleman from Ohio (Mr. Ashbrook). It must be rejected. . . .
>
> THE CHAIRMAN: All time has expired.
>
> MR. [ROBERT] MCCLORY [of Illinois]: Mr. Chairman, the Chair has not recognized me yet. The Chair read my name, but the Chair has not recognized me yet.
>
> THE CHAIRMAN: The Chair would advise the gentleman from Illinois that we have run out of time.

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7. 96 CONG. REC. 2240, 81st Cong. 2d Sess. See also § 22, infra.

8. 123 CONG. REC. 20916, 20918, 95th Cong. 1st Sess.

9. Bill D. Burlison (Mo.).

MR. MCCLORY: Mr. Chairman, I have a point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. MCCLORY: Mr. Chairman, when there is a time limitation and Members are standing, it is my understanding that the Chair must divide the time equally among the Members standing.

Mr. Chairman, I was standing and my name was read.

THE CHAIRMAN: The Chair will advise the gentleman that according to the motion, which limited all debate to 5:40 p.m., we are bound by the clock. Time consumed by voting has required the Chair to reallocate time. Therefore, the Chair overrules the point of order.

§ 9.31 Where debate has been limited to a time certain on an amendment and all amendments thereto, the Chairman may utilize his discretion in allocating debate time and continue to recognize Members under the five-minute rule; but he may choose at a later time to divide any remaining debate time among those Members standing and reserve some time for the committee to conclude debate.

The following proceedings occurred in the Committee of the Whole on Nov. 2, 1983,[10] during consideration of the Department of Defense appropriations for fiscal year 1984 (H.R. 4185):

MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 2 o'clock. . . .

THE CHAIRMAN PRO TEMPORE:[11] Is there objection to the unanimous-consent request of the gentleman from New York (Mr. Addabbo) . . . ?

There was no objection.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I have a parliamentary inquiry. . . .

Under the unanimous-consent agreement, does that mean only those who were standing at the time the agreement was entered into may enter into the debate?

THE CHAIRMAN PRO TEMPORE: The Chair will continue to allow time under the 5-minute rule.[12]

With about 30 minutes remaining under the limitation, the Chair[13] stated:[14]

The Chair recognizes that there are more Members rising that wish to participate in the debate than time will permit.

The Chair has the discretion of dividing the time among Members who wish to participate in the debate, and the Chair would also make a request that those who have already entered into the debate not seek further time.

10. 129 CONG. REC. 30504, 98th Cong. 1st Sess.

11. Abraham Kazen, Jr. (Tex.).

12. Approximately 90 minutes of time for debate remained at this point.

13. Dan Rostenkowski (Ill.).

14. 129 CONG. REC. 30512, 98th Cong. 1st Sess., Nov. 2, 1983.

Those Members who wish to participate in the debate will please rise.

The Chair will reserve 2 minutes for the gentleman from Alabama (Mr. Edwards) to conclude the debate.

Members standing will be recognized for 1½ minutes each.

—*Reallocation of Time*

§ 9.32 Where the Committee of the Whole has limited debate on an amendment to a time certain and the time allocated by the Chair among those initially desiring to speak is not totally consumed, the Chair may either reallocate the remaining time among other Members in his discretion or may proceed again under the five-minute rule.

On Aug. 4, 1977,[15] the Committee of the Whole had under consideration the National Energy Act (H.R. 8444) and had agreed to limit debate on an amendment when the following proceedings occurred:

MR. GARY A. MYERS [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry. . . .

The parliamentary inquiry is, Mr. Chairman, did the House not limit itself to debate until 2 o'clock?

THE CHAIRMAN:[16] The gentleman is correct.

MR. GARY A. MYERS: Under that limitation, I would like to ask unanimous consent to speak on the unclaimed time of the gentleman from Ohio (Mr. Whalen).

THE CHAIRMAN: The Chair will state that the gentleman from Pennsylvania may claim his own time. . . .

Does the gentleman from Pennsylvania desire to strike the requisite number of words and be recognized?

MR. GARY A. MYERS: Mr. Chairman, I move to strike the requisite number of words.

THE CHAIRMAN: The Chair recognizes the gentleman from Pennsylvania.

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

THE CHAIRMAN: The gentleman will state it.

MR. KAZEN: Supposing there are 20 of us who want to do the same thing.

THE CHAIRMAN: If there are 20 who want to do the same thing, and they can all do it before 2 o'clock, they will all be recognized, or if feasible, the Chair could divide the remaining time among other Members seeking recognition who were not included in the original limitation.

The gentleman from Pennsylvania (Mr. Gary A. Myers) has now been recognized.

Denial of Recognition for Unanimous-consent Request; Consideration of Bill

§ 9.33 The Chair may, by declining recognition to a Member to make a unanimous-consent request for the con-

15. 123 CONG. REC. 27021, 95th Cong. 1st Sess.

16. Edward P. Boland (Mass.).

sideration of a measure, refuse to permit the request to be entertained, and thus register his personal objection as a Member of the House.

The following proceedings occurred in the House on Jan. 23, 1984:[17]

MR. [ROBERT S.] WALKER [of Pennsylvania]: . . . Mr. Speaker, I ask unanimous consent that an open rule permitting consideration of House Joint Resolution 100, the voluntary school prayer constitutional amendment, be called up for immediate consideration within the next 10 legislative days.

THE SPEAKER PRO TEMPORE:[18] The Chair cannot and will not entertain that request.

MR. WALKER: Mr. Speaker, I have made a unanimous-consent request. That is a perfectly proper request by any Member of this body, and it is either objected to or is not objected to. I do not understand the procedure that the Chair is using by not entertaining the unanimous-consent request.

THE SPEAKER PRO TEMPORE: The Chair will inform the gentleman that the Chair can object by declining recognition.

§ 9.34 The Chair himself may object to a unanimous-consent request for the consideration of legislation, by denying recognition for the request, and it is the policy of the Chair to refuse recognition for requests to consider legislation not approved by the leadership.

The following exchange occurred in the House on Nov. 15, 1983:[19]

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I ask unanimous consent that the resolution introduced by the gentleman from New York (Mr. Fish) specifying a rule for consideration of House Joint Resolution 1 be made in order for consideration by the House on Wednesday or any day thereafter.

THE SPEAKER PRO TEMPORE:[20] The Chair cannot entertain that motion without consultation with the leadership. The Chair will not recognize the gentleman for that purpose.

MR. WALKER: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. WALKER: Mr. Speaker, my parliamentary inquiry is that this is a unanimous-consent request and it is entirely in order.

THE SPEAKER PRO TEMPORE: The Chair has the same right to object as any Member, and I do so object.

§ 9.35 The Chair may refuse to entertain unanimous-consent requests for the consider-

17. 130 CONG. REC. 83, 98th Cong. 2d Sess.

18. Richard B. Ray (Ga.).

19. 129 CONG. REC. 32746, 32747, 98th Cong. 1st Sess.

20. Ronald Coleman (Tex.).

ation of legislation that does not have the approval of the leadership.

On Nov. 16, 1983,[1] the following proceedings occurred in the House:

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I ask unanimous consent that House Resolution 373 be made in order for consideration in the House on Thursday or any day thereafter.

THE SPEAKER PRO TEMPORE: The Chair cannot recognize for that purpose.

MR. WALKER: Mr. Speaker, it is a unanimous-consent request.

MR. [JOHN F.] SEIBERLING [of Ohio]: I object, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The Chair cannot recognize for that purpose. There is objection nevertheless.

MR. WALKER: Let it be noted here this evening that the objection to considering the resolution by which we would consider ERA under the rules of the House and with an amendment and in open debate was objected to from the Democratic side of the aisle. Let that be noted.

THE SPEAKER PRO TEMPORE: The Chair will state there is precedent for denying the unanimous-consent request of the gentleman dating back to May of 1982 and yesterday and furthermore there was objection heard.

§ 9.36 The Speaker's authority to decline to recognize individual Members to request unanimous consent for the consideration of bills and resolutions derives from clause 2 of Rule XIV, on the Speaker's general power of recognition, and from the precedents developed under that rule.

The following exchange occurred in the House on Jan. 26, 1984:[2]

MR. [WILLIAM E.] DANNEMEYER [of California]: A parliamentary inquiry, Mr. Speaker. . . .

Mr. Speaker, this is the first time I have heard that we have had some addition to the customs or procedures or even the rules of the House, which seems to say that before I as a Member can ask unanimous-consent requests that I must obtain the approval of the leadership of the majority to pose that request.

My parliamentary inquiry is this, Mr. Speaker. Where in the rules does it say that? What is the specific provision in the rules that authorizes the Speaker to make that kind of a rule for this House? . . .

THE SPEAKER:[3] Clause 2 of rule XIV.[4]

MR. DANNEMEYER: Is it the position of the Speaker that section 2 of rule XIV authorizes what has come to become a gag rule here?

THE SPEAKER: No. The Chair believes that it has been the custom of

1. 129 CONG. REC. 33138, 98th Cong. 1st Sess.

2. 130 CONG. REC. 449, 450, 98th Cong. 2d Sess.

3. Thomas P. O'Neill, Jr. (Mass.).

4. See *House Rules and Manual* §§ 753–757 (1995).

this body through the years to give the power to the Speaker of the House that the House be run in an efficient manner and that the business of the House should be done in an orderly fashion and that obstruction should be avoided.

§ 9.37 Pursuant to the Speaker's announced policy in the 98th Congress on recognition for unanimous-consent requests for the initial consideration of bills and resolutions, the Chair will decline recognition for such unanimous-consent requests without assurances that the majority and minority leadership and committee and subcommittee chairmen and ranking minority members have no objection thereto.

On Oct. 2, 1984,[5] the Chair having declined recognition for a unanimous-consent request that a balanced budget amendment to the Constitution be brought to the floor for immediate consideration, discussion took place relating to the Speaker's power of recognition[6] and, specifically, to the effect of announced guidelines governing recognition for requests for the initial consideration of bills.

MR. [THOMAS F.] HARTNETT [of South Carolina]: . . . If you are sincere, Mr. Chairman, if your colleagues over there who now say let us have a balanced budget really mean what they say, when you know the American people are not going to be fooled by this move. Let us have companion legislation, the balanced budget amendment.

The Speaker is here. Let us bring by unanimous consent the balanced budget amendment to the Constitution to the floor of the House right now and let us vote on both of these bills if you mean what you say. Mr. Speaker, I ask unanimous consent, to recall or discharge from the committee the balanced budget amendment to the Constitution so that we can bring it to the floor of the House with House Joint Resolution 243.

I ask unanimous consent that it be brought before the House right now.

THE SPEAKER PRO TEMPORE:[7] . . . Under the rules and precedents, the motion is not to be entertained.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I have a parliamentary inquiry. . . .

Mr. Speaker, the gentleman did not make a motion, it is my understanding. The gentleman asked unanimous-consent request. Is the Speaker ruling that unanimous-consent requests are not in order? We have already had one previous unanimous-consent request that was granted during the course of debate. How would this one not be in order?

THE SPEAKER PRO TEMPORE: Under the Speaker's announcement of guidelines for unanimous-consent requests to consider legislative business, this request is not recognized. . . .

5. 130 CONG. REC. 28516–18, 98th Cong. 2d Sess.

6. See Rule XIV, clause 2, *House Rules and Manual* § 753 (1995).

7. Richard A. Gephardt (Mo.).

MS. [BOBBI] FIEDLER [of California]: Mr. Speaker, before you had dialog with the gentleman from South Carolina (Mr. Hartnett) regarding his parliamentary inquiry as it related to the balanced budget amendment and his right to ask for a unanimous-consent request in relationship to it. . . .

I would like to ask of the Chair if the Chair will make the inquiry as to whether the Democratic side leadership will also ask to support his right under unanimous consent to bring the balanced budget amendment, attach it to the existing bill.

THE SPEAKER PRO TEMPORE: The Chair has not been advised that there is an intention to change the guidelines that were announced earlier in the year for the purpose that they were issued. . . .

MS. FIEDLER: Will the Chair inquire as to whether or not the leadership on the Democratic side is willing to change the existing rules? I realize that the Chair has indicated twice now that he has not been informed that they have changed, but I am making a request that he ask the leadership if they will make that change.

THE SPEAKER PRO TEMPORE: The Chair states that this is not a proper parliamentary inquiry. The Chair has not been advised that there is a change in the policy that was issued the first week of the session. . . .

MR. WALKER: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WALKER: Mr. Speaker, we are still trying to sift our way through the Chair's previous ruling with regard to the request of the gentleman from South Carolina.

Can the requirement that the Chair cites, can that requirement be waived by unanimous consent?

THE SPEAKER PRO TEMPORE: The question has to do with whether or not recognition will be granted for that purpose, and the Chair's ruling is based on guidelines that were issued on January 25, 1984, and the Chair would read from the statement that was made at that time by the Speaker.

The Speaker said:

> As indicated on page 476 of the House Rules and Manual, the Chair has established a policy of conferring recognition upon Members to permit consideration of bills and resolutions by unanimous consent only when assured that the majority and minority leadership and committee and subcommittee chairmen and ranking minority members have no objection.
>
> Consistent with that policy, and with the Chair's inherent power of recognition under clause 2, rule XIV, the Chair and any occupant of the chair appointed as Speaker pro tempore, pursuant to clause 7, rule I, will decline recognition for unanimous-consent requests for consideration of bills and resolutions without assurances that the request has been cleared by that leadership.
>
> This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the Chair that orderly procedures will be followed, that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle.

It is that guideline that the Chair is following in this instance. . . .

MR. WALKER: The guidelines that the Chair has cited, what I am inquiring is, can those guidelines be set aside by unanimous consent?

THE SPEAKER PRO TEMPORE: It is the Chair's power of recognition that is involved, and that is the question that is being decided in conformance with the guidelines, not other questions.

MR. WALKER: Mr. Speaker, I have a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. WALKER: If the House so deems that we could set aside those guidelines by unanimous consent, is that a proper request? That is the question of this gentleman.

THE SPEAKER PRO TEMPORE: The Chair will again state that what is involved directly or indirectly, is a question of recognition, and not other or further questions, and it is that question that is being decided in conformance with the guidelines.

Demand for Yeas and Nays; Recognition During Division Vote

§ 9.38 The Chair declined to recognize a Member to demand the yeas and nays when the Chair was counting on a division vote.

On June 10, 1937,[8] Speaker William B. Bankhead, of Alabama, declined to recognize a Member while counting on a division vote:

THE SPEAKER: The question is on the motion to recommit offered by the gentleman from Ohio [Mr. Jenkins].

MR. [THOMAS A.] JENKINS of Ohio: Mr. Speaker, I demand a division.

THE SPEAKER: The gentleman from Ohio demands a division. All those in favor of the motion will rise and stand until counted.

MR. JENKINS of Ohio (interrupting the count): Mr. Speaker, I ask for the yeas and nays.

THE SPEAKER: The gentleman's request is not in order while the House is dividing.

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, a point of order.

THE SPEAKER: The Chair thinks it has discretion to conclude the count on a division before entertaining another request.

MR. MAPES: I never knew the Chair to make such a ruling before.

THE SPEAKER: The Chair now makes it.

MR. MAPES: As a lawyer said in addressing the court, "If Your Honor says so, that is the law."

The House divided; and there were—ayes 33, noes 176.

THE SPEAKER: The Chair thinks it proper to state to the gentleman from Michigan that he meant no disrespect to the gentleman, and the Chair feels the gentleman was not deprived of any parliamentary privilege.

MR. JENKINS of Ohio: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

Demand for Tellers; Due Diligence

§ 9.39 A demand for tellers on a question in the House is

8. 81 CONG. REC. 5574, 75th Cong. 1st Sess.

entertained by the Chair after a division vote, a quorum count and announcement by the Chair of the result of the division vote, if a Member was on his feet seeking recognition at the proper time.

On June 5, 1940,[9] Speaker Pro Tempore Sam Rayburn, of Texas, ruled that where a recorded vote was refused on a bill, a division vote was had, a point of no quorum was made, a quorum was counted, and the Speaker announced that the bill had passed, a Member could be recognized to demand a teller vote, where he had been on his feet seeking recognition for that purpose.

Demand for Division Vote

§ 9.40 Where a Member was on his feet seeking recognition to demand a division vote on an amendment, the Chair recognized him although the Chair had announced that the ayes had it on a voice vote.

On Feb. 2, 1948,[10] Chairman Charles B. Hoeven, of Iowa, recognized Mr. John D. Dingell, of Michigan, to demand a division vote on the pending amendment, although the Chair had announced that the ayes had it on a voice vote, where Mr. Dingell had shown due diligence:

> MR. DINGELL: Mr. Chairman, I ask for a division.
>
> MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the request comes too late.
>
> MR. DINGELL: No; it does not come too late. Let the Chair rule on that.
>
> THE CHAIRMAN: Was the gentleman on his feet when he made the request?
>
> MR. [SAM] RAYBURN [of Texas]: Mr. Chairman, we have always been very liberal in the House about the matter of votes or whether Members were on their feet. We have always been very liberal in the matter of allowing division votes. As far as I am concerned I do not care anything about it.
>
> THE CHAIRMAN: If there is any doubt in the minds of the membership the Chair will resolve the doubt in favor of the gentleman from Michigan.
>
> The question was taken; and there were—ayes 202, noes 37.
>
> So the committee amendment was agreed to.

Recognition for Call of House

§ 9.41 While a point of no quorum is not in order during debate in the House when the Speaker has not put a pending question, he may, in his discretion under Rule XV clause 6, recognize any Member to move a call of the House.

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9. 86 CONG. REC. 7626, 76th Cong. 3d Sess.

10. 94 CONG. REC. 922, 80th Cong. 2d Sess.

On Mar. 30, 1977,[11] a resolution (H. Res. 445) providing for the consideration in the House as in the Committee of the Whole of another resolution (H. Res. 433, providing for the continuation of the Select Committee on Assassinations) was called up for immediate consideration following which a point of no quorum was made. The proceedings were as follows:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 445 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 445

Resolved, That upon the adoption of this resolution it shall be in order to consider the resolution (H. Res. 433) to provide for the continuation of the Select Committee on Assassinations, in the House as in the Committee of the Whole.

THE SPEAKER:[12] The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

MR. [J. J.] PICKLE [of Texas]: Mr. Speaker, I make the point of order that a quorum is not present. I move a call of the House.

THE SPEAKER: The gentleman's point of order is not in order at this particular time.

MR. PICKLE: Mr. Speaker, I renew my point of order that a quorum is not present.

THE SPEAKER: The Chair recognizes the gentleman from Missouri (Mr. Bolling) to move a call of the House.

Parliamentarian's Note: Rule XI clause 4(b) prohibits dilatory motions during the consideration of a privileged report from the Committee on Rules, but presumably that clause applies only when the report is being considered under the hour rule in the House, and not when the report is considered under the provisions of a special rule allowing debate and amendments. Although no clear precedents exist as to the applicability of "dilatory" motions (e.g., to refer, to recommit, or to lay on the table) to a report of the Committee on Rules being considered in the House as in the Committee of the Whole, the better practice is to view such motions as being in order if properly offered.

Motion That Sergeant at Arms Maintain Presence of Quorum

§ 9.42 During a filibuster by roll calls in the House the Speaker, in response to a parliamentary inquiry, indicated his reluctance to entertain a motion that the Sergeant at Arms take action to keep a quorum present in the Chamber for the remainder of the day.

11. 123 CONG. REC. 9554, 95th Cong. 1st Sess.

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

On Aug. 1, 1946,[13] the House was considering a report from the Committee on Un-American Activities on contempt proceedings against George Morford. Repeated roll calls were made to prevent consideration thereof. Mr. W. Sterling Cole, of New York, raised a parliamentary inquiry whether it was in order to make a motion that the Sergeant at Arms take whatever action was necessary to keep a quorum present in the House Chamber for the remainder of the day, any House rules to the contrary notwithstanding.

Speaker Sam Rayburn, of Texas, stated:

> The Chair would rather not recognize the gentleman for such motion at this time.

Mr. Cole then asked when such a motion would be in order, and the Speaker responded:

> Well, the Chair would like to be the judge of that. Not now.

Dilatory Tactics

§ 9.43 The Speaker announced that he would not hold a motion to be dilatory unless it was "obvious to everybody" that dilatory tactics were being used and that a filibuster was being conducted.

On July 25, 1949,[14] the House was considering House Resolution 276, making in order the consideration of H.R. 3199, the Federal Anti-Poll Tax Act. A series of roll calls was demanded to prevent adoption thereof. After the previous question had been ordered on the resolution, Speaker Sam Rayburn, of Texas, entertained a motion by Mr. Robert L. F. Sikes, of Florida, that the House adjourn. The Speaker then made the following statement:

> The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

§ 9.44 The Speaker declined to recognize a point of no quorum immediately after a vote by yeas and nays which disclosed that 362 Members were present.

On July 25, 1949,[15] a series of roll calls delayed adoption of House Resolution 276, making in order the consideration of H.R. 3199, the Federal Anti-Poll Tax Act. A motion to adjourn was

13. 92 CONG. REC. 10639, 10640, 79th Cong. 2d Sess.

14. 95 CONG. REC. 10096, 81st Cong. 1st Sess.

15. 95 CONG. REC. 10096, 81st Cong. 1st Sess.

made and entertained by Speaker Sam Rayburn, of Texas, and the yeas and nays were had on the motion, resulting in 110 yeas and 252 nays.

Mr. Tom Pickett, of Texas, immediately made the point of order that a quorum was not present. The Speaker declined to entertain the point of no quorum and stated:

> The roll call just disclosed that there were 362 Members present, quite a substantial quorum.

Parliamentarian's Note: The Speaker's declination to entertain the point of no quorum came shortly after he had made the statement that he had yet to hold a motion to be dilatory, and would not so hold until it was obvious to everybody that dilatory tactics were being indulged in and that a filibuster was being conducted.

§ 9.45 The Speaker, on a Calendar Wednesday, recognized the chairman of a committee to call up a bill in spite of repeated motions to adjourn, thereby inferentially holding such motions dilatory.

On Feb. 15, 1950,[16] which was a Calendar Wednesday, Speaker Sam Rayburn, of Texas, directed the Clerk to call the roll of committees and recognized the Chairman of the Committee on the District of Columbia to call up a bill, ignoring repeated motions to adjourn.

> THE SPEAKER: The Clerk will call the committees.
>
> The Clerk called the Committee on the District of Columbia.
>
> MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The Chair does not yield to the gentleman for a parliamentary inquiry at this time.
>
> MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.
>
> THE SPEAKER: The Clerk has called the Committee on the District of Columbia. The Chair recognizes the gentleman from South Carolina [Mr. McMillan].
>
> MR. SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn. That motion is always in order.
>
> THE SPEAKER: The Chair has recognized the gentleman from South Carolina [Mr. McMillan].
>
> MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a preferential motion.
>
> THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.
>
> MR. COLMER: Mr. Speaker, I move that the House do now adjourn.
>
> THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

16. 96 CONG. REC. 1811, 1812, 81st Cong. 2d Sess.

Demand for Reading of Engrossed Copy of Bill (Under Former Rule); Due Diligence

§ 9.46 A Member who was on his feet and who had shown due diligence was recognized to demand the reading of the engrossed copy of a bill even though the bill had been ordered engrossed and read a third time.

On Apr. 13, 1946,[17] H.R. 6064, extension of the Selective Training and Service Act, was ordered engrossed and read a third time. Mr. Edward E. Cox, of Georgia, then sought recognition to demand the reading of an engrossed copy of the bill. Speaker Sam Rayburn, of Texas, recognized Mr. Cox for that purpose, stating that he had been on his feet seeking recognition at the proper time (when the question was put on the engrossment and third reading).

Parliamentarian's Note: A Member may no longer demand the reading of an engrossed bill.

Debate on Points of Order

§ 9.47 Debate on points of order against an amendment is within the discretion of the Chair and does not come out of debate time on the merits of the amendment under the five-minute rule; thus, the proponent of an amendment against which a point of order has been reserved does not reserve a portion of his time under the five-minute rule to oppose any points of order if made, as separate debate time is permitted on points of order at the discretion of the Chair.

During consideration of H.R. 7014, the Energy Conservation and Oil Policy Act of 1975, on Aug. 1, 1975,[18] the proposition described above was demonstrated in the Committee of the Whole.

> THE CHAIRMAN:[19] Are there further amendments to title III?
>
> MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Brown of Ohio: Strike out Title III, as amended, and reinsert all except for Section 301, as amended.
>
> MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve a point of order against the amendment.
>
> MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I also reserve a point of order.
>
> MR. BROWN of Ohio: Mr. Chairman, the thrust of this amendment is to

17. 92 CONG. REC. 3669, 79th Cong. 2d Sess.

18. 121 CONG. REC. 26945, 94th Cong. 1st Sess.

19. Richard Bolling (Mo.).

strike from the bill the provisions of the Staggers pricing amendment, section 301, by revising title III to strike the whole title and to reinsert all in the title, except section 301.

Mr. Chairman, may I speak on the amendment?

THE CHAIRMAN: The gentleman has been recognized for 5 minutes, so the gentleman may proceed.

MR. BROWN of Ohio: Mr. Chairman, may I reserve 2 minutes of my time to speak on the points of order?

THE CHAIRMAN: The Chair will recognize the gentleman to speak on the points of order at the appropriate time.

MR. DINGELL: Mr. Chairman, I have not yet made the point of order. I reserved it.

THE CHAIRMAN: The Chair has recognized the gentleman from Ohio to speak on the gentleman's amendment for 5 minutes. Then the gentlemen who reserved the points of order may press them or they may not.

Reservation of Point of Order

§ 9.48 Reservation of a point of order against an amendment is within the discretion of the Chair, who may permit debate to be had by the proponent on the merits of his amendment before hearing arguments on the point of order.

The following proceedings occurred in the Committee of the Whole on May 12, 1981,[20] during consideration of H.R. 3512 (supplemental and continuing appropriations, rescissions and deferrals for fiscal year 1981):

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163), $3,883,408,000, to become available for obligation October 1, 1981, and to remain available until expended.

MR. [JAMES R.] JONES of Oklahoma: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma: Page 63, line 19, strike out "$3,883,408,000" and insert in lieu thereof "$883,408,000".

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I reserve a point of order on the amendment. . . .

MR. [TIMOTHY E.] WIRTH [of Colorado]: I ask unanimous consent the gentleman have 3 additional minutes.

THE CHAIRMAN PRO TEMPORE: Is there objection to the request of the gentleman from Colorado (Mr. Wirth)?

MR. [JOSEPH M.] MCDADE [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN PRO TEMPORE: The gentleman will state it.

MR. MCDADE: Is there not a point of order pending?

THE CHAIRMAN PRO TEMPORE: As soon as the time of the gentleman from Oklahoma (Mr. Jones) has expired, the point of order will be disposed of.

MR. MCDADE: Mr. Chairman, there is a point of order pending which the Chair has yet to rule upon. I have a substitute which I would like to offer to this matter. My understanding of

20. 127 CONG. REC. 9320, 9323, 97th Cong. 1st Sess.

the precedents is that when a point of order is pending, there cannot be discussions on matters other than the point of order.

THE CHAIRMAN PRO TEMPORE: The point of order has only been reserved and debate on the merits of the amendment has begun. It will be disposed of momentarily as soon as the time of the gentleman from Oklahoma (Mr. Jones) has expired.

Debate Under Reservation of Objection

§ 9.49 Recognition for a reservation of objection to a unanimous-consent request is within the discretion of the Speaker and sometimes he refuses to permit debate under such a reservation and immediately puts the question on the request.

On Dec. 3, 1969,[1] Speaker John W. McCormack, of Massachusetts, recognized Mrs. Edith S. Green, of Oregon, to make a unanimous-consent request for the granting of a special order to address the House. Mr. Roman C. Pucinski, of Illinois, attempted to reserve the right to object and to debate the matter, but the Speaker immediately put the question on the request:

The Chair will state that it will not recognize anyone else at this moment. Either the gentlewoman receives permission, or she does not.

Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Recognition for Hypothetical Questions

§ 9.50 The Chair does not recognize Members for hypothetical questions.

On Sept. 14, 1944,[2] Mr. Clare E. Hoffman, of Michigan, raised a parliamentary inquiry as to why a report on the amounts of money requested by military establishments, sent to the Committee on Appropriations, had been concealed from Members of Congress. Speaker Pro Tempore Orville Zimmerman, of Missouri, responded that he had no knowledge of any such report and was not in a position to answer the inquiry.

Mr. Hoffman then stated his inquiry in the form of a "hypothetical question." The Speaker Pro Tempore stated:

The Chair does not entertain a hypothetical question.

On Mar. 1, 1967,[3] the House was considering House Resolution 278, relating to the right to be

1. 115 CONG. REC. 36748, 91st Cong. 1st Sess.

2. 90 CONG. REC. 7772, 78th Cong. 2d Sess.

3. 113 CONG. REC. 4997, 90th Cong. 1st Sess.

sworn of challenged Member-elect Adam C. Powell, of New York. Mr. Joe D. Waggonner, Jr., of Louisiana, stated a lengthy parliamentary inquiry on the procedure for recognition should the previous question be voted down on the resolution. Speaker John W. McCormack, of Massachusetts, declined to answer that part of the parliamentary inquiry that involved a hypothetical parliamentary situation:

> THE SPEAKER: . . . Both the chairman and the ranking minority member of the select committee control the allocation of time. The question of recognition is one that the Chair will pass upon if that time should arise.
>
> On the other questions of the gentleman from Louisiana the Chair will determine them as they arise in accordance with the rules of the House and the precedents.

Motion To Discharge Bill

§ 9.51 The Speaker may recognize any Member who has signed a discharge petition to move to discharge the bill in question.

On Oct. 12, 1942,[4] Mr. Joseph A. Gavagan, of New York, who had signed a petition to discharge a bill from committee, moved the discharge of the bill and was recognized by Speaker Sam Rayburn, of Texas, for 10 minutes on the motion. Mr. Sam Hobbs, of Alabama, made a point of order against the motion on the ground that Mr. Gavagan did not have the authority to call it up.

The Speaker declared:

> The rule states that the Chair may recognize any Member who signed the petition to make the motion just made by the gentleman from New York [Mr. Gavagan], whom the Chair has recognized for that purpose.

Suspension of Rules

§ 9.52 Recognition for a motion to suspend the rules is entirely within the discretion of the Speaker.

On Mar. 16, 1964,[5] Mr. Chet Holifield, of California, moved to suspend the rules and pass the bill S. 2448, to amend the Atomic Energy Act. He moved to pass that bill instead of H.R. 9711, which was on the suspension list and which dealt with the same subject matter. Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry as indicated below:

> MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state the parliamentary inquiry.

4. 88 CONG. REC. 8066, 77th Cong. 2d Sess.

5. 110 CONG. REC. 5291, 88th Cong. 2d Sess.

MR. SAYLOR: Mr. Speaker, the House Calendar lists a bill to come up under suspension and it is a House bill. Does it not require unanimous consent to suspend the rules and take up a Senate bill?

THE SPEAKER: The Chair will advise the gentleman from Pennsylvania, under the rules of the House, the Speaker may recognize a Member on a motion to suspend the rules.[6]

§ 9.53 Pursuant to Rule XXVII clause 1, the Speaker may in his discretion decline to recognize a Member to move to suspend the rules.

On Mar. 5, 1974,[7] the proceedings described above were as follows:

REQUEST TO SUSPEND RULES AND CONSIDER HOUSE RESOLUTION 807

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I move that the rules be suspended and the House proceed to the consideration of the resolution, House Resolution 807, disapproving pay increases.

THE SPEAKER:[8] The Chair will state that the gentleman from Iowa has not consulted the Chair and the Chair is not going to recognize the gentleman from Iowa for that purpose.

The Chair would like to state further that the request of the gentleman from Iowa violates the "Gross" rule whereby he has requested that notification of suspensions be given 24 hours in advance.

MR. GROSS: What kind of a rule is that?

THE SPEAKER: The Gross rule.

Privileged Questions

§ 9.54 The Speaker announced his intention to recognize a Member to call up resolutions disapproving certain Presidential reorganization plans before recognizing another Member to call up a conference report, pending the arrival from the Senate of the original papers accompanying the conference report.

On Sept. 28, 1970,[9] Speaker John W. McCormack, of Massachusetts, made the following announcement:

The Chair has been informed and understands that the original papers on the next conference report have not been messaged over to the House as yet. They will be here shortly.

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6. See also 80 CONG. REC. 2239, 2240, 74th Cong. 2d Sess., Feb. 17, 1936.

The Committee on Rules has reported and the House has adopted resolutions authorizing the Speaker to recognize Members for motions to suspend the rules on days other than regular suspension days. See, for example, H. Res. 422, 107 CONG. REC. 16562, 16563, 87th Cong. 1st Sess., Aug. 21, 1961.

7. 120 CONG. REC. 5316, 93d Cong. 2d Sess.

8. Carl Albert (Okla.).

9. 116 CONG. REC. 33870, 91st Cong. 2d Sess.

The Chair will recognize the gentleman from California (Mr. Holifield) in connection with the first reorganization plan [H. Res. 1209], and if the papers arrive between consideration of the first and second reorganization plans, the Chair will recognize the gentleman from West Virginia [on the conference report] at that time.

§ 9.55 In response to a parliamentary inquiry, the Speaker stated that where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's recognition.

On Sept. 22, 1966,[10] Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry as follows:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so-called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?

THE SPEAKER: The gentleman's understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

§ 9.56 When more than one Member seeks recognition to call up privileged business it is within the discretion of the Speaker as to whom he shall recognize.

On Aug. 27, 1962, which was District of Columbia Monday,[11] Mr. Emanuel Celler, of New York, moved to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States. Mr. Thomas G. Abernethy, of Mississippi, made a point of order against recognition of Mr. Celler on the ground that he (Mr. Abernethy) wanted to offer a District of Columbia bill and that pursuant to Rule XXIV clause 8 of the House rules, District of Columbia business was privileged. He alleged that the Speaker was permitted only to recognize for District of Columbia business.

Speaker John W. McCormack, of Massachusetts, ruled as follows:

Several days ago on August 14 unanimous consent was obtained to transfer

10. 112 CONG. REC. 23691, 89th Cong. 2d Sess.

11. 108 CONG. REC. 17654, 17655, 87th Cong. 2d Sess.

the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion, and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

§ 9.57 The Speaker declined to recognize a Member to call up a resolution calling on the Office of Price Administration to furnish certain information, the resolution not being privileged.

On July 17, 1946,[12] Mr. Albert Thomas, of Texas, offered a "privileged" resolution calling on the Office of Price Administration to furnish certain information. In response to an inquiry by Speaker Sam Rayburn, of Texas, Mr. Thomas stated that a similar resolution was pending before the Committee on Banking and Currency.

The Speaker refused to recognize Mr. Thomas to call up the resolution for consideration:

THE SPEAKER: The Clerk may read the resolution, if there is no objection, but it is not a privileged resolution and the Chair will not recognize for its consideration at this time because it is not privileged.

If the gentleman desires, and if there is no objection, the Clerk may read the resolution.

Parliamentarian's Note: The resolution was not privileged as it was directed to the OPA and not to the head of a department.

§ 9.58 When a Member asserts that he rises to a question of the privileges of the House, the Speaker may hear the question and may then refuse recognition if the resolution is not admissible as a question of privilege under Rule IX.

On June 27, 1974,[13] it was demonstrated that a Member may not, by raising a question of the privileges of the House under Rule IX, attach privilege to a question not otherwise in order under the rules of the House.

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, I offer a resolution (H. Res. 1203) involving a question of privileges of the House, and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1203

Whereas on January 31, 1973, the House of Representatives voted to establish a ten-member, bipartisan Select Committee on Committees charged with conducting a "thorough and complete study of rules X and XI of the Rules of the House of Representatives; and

Whereas the select committee was further "authorized and directed to report to the House . . .

12. 92 CONG. REC. 9246, 79th Cong. 2d Sess. For the privilege of resolutions of inquiry, see Ch. 15, § 2, supra.

13. 120 CONG. REC. 21596–98, 93d Cong. 2d Sess.

> Whereas on March 21, 1974, the select committee reported House Resolution 988 in conformance with its mandate; and
>
> Whereas the chairman of the select committee has failed to seek a rule making House Resolution 988 in order for consideration by the House; and
>
> Whereas, clause 27(d)(1) of House Rule XI states, "It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote;" . . .
>
> *Resolved,* That the chairman of the select committee be directed to forthwith seek a rule making in order for consideration by the House, House Resolution 988; and be it further
>
> *Resolved,* That the House Committee on Rules be directed to give immediate consideration to such request. . . .

MR. [THOMAS P.] O'NEILL [Jr., of Massachusetts]: Mr. Speaker, I make the point of order that the resolution offered by the gentleman from Illinois does not raise the question of privilege. . . .

MR. ANDERSON of Illinois: Mr. Speaker, I desire to be heard on the point of order. My question of privilege arises under rule IX which provides that, and I quote:

> Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity and the integrity of its proceedings. . . .

Mr. Speaker, I rest my question of privilege on that clause which declares those questions privileged which relate to the integrity of the proceedings of the House. It is my contention that there has been a deliberate attempt to delay House consideration of House Resolution 988, the so-called Bolling-Martin Committee Reform Amendments of 1974, and that this intentional delay not only interferes with and flouts the integrity of the proceedings of this body, but is in clear violation of clause 27(d)(1) of rule XI of the Rules of the House.

Under that rule, and I quote:

> It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by his committee and to take or cause to be taken necessary steps to bring the matter to a vote. . . .

THE SPEAKER:[14] The Chair is ready to rule.

The gentleman from Illinois (Mr. Anderson) has submitted a resolution which he asserts involves a question of the privileges of the House under rule IX. Following the preamble of the resolution, the resolution provides that:

> *Resolved,* That the chairman of the Select Committee be directed to forthwith seek a rule making in order for consideration by the House, House Resolution 988, and be it further
>
> *Resolved,* That the House Committee on Rules be directed to give immediate consideration to such request.

As indicated in "Hinds' Precedents," volume III, section 2678, Speakers are authorized to make a preliminary determination as to those questions presented which may involve privileges. As reaffirmed by Speaker McCormack on October 8, 1968 (Record p. 30214 to 30216) when a Member asserts that he

14. Carl Albert (Okla.).

rises to a question of the privileges of the House, the Speaker may hear the question and then, if the matter is not one admissible as a question of privilege of the House he can refuse recognition.

The Chair has listened to the arguments concerning the privileged status of this resolution and has examined the precedents of the House in this regard. It will be noted that the gentleman from Illinois has relied heavily on section 2609, volume III of "Hinds' Precedents," in which it was held by Speaker Reed that a report having been ordered to be made by a select committee but not being made within a reasonable time, a resolution directing the report to be made raised a question of the privileges of the House.

That case is distinguishable from the present instance in that in this instance the chairman has made the report and the resolution is pending on the calendar of the House and it does not become privileged until the House has adopted a resolution reported from the Committee on Rules providing for the consideration of House Resolution 988. The Chair does not feel that a question of privilege of the House under rule IX should be used as a mechanism for giving privilege to a motion which would not otherwise be in order under the Rules of the House, in this case, namely, a motion to direct the Committee on Rules to take a certain action.

The Chair now would refer to Hinds' Precedents, volume III, section 2610, wherein Speaker Crisp ruled that a charge that a committee had been inactive in regard to a subject committed to it did not constitute a question of privilege of the House. . . .

The rules did not provide at the time of Speaker Reed's ruling, as is now the case in clause 27(d)(2) of Rule XI, for a mandatory filing of the reports within 7 calendar days after the measure has been ordered reported upon signed request by a committee majority.

In the instant case, however, the Select Committee on Committees has filed its report and the Chair is not aware that the chairman of the Select Committee on Committees has in any sense violated the rule cited by the gentleman from Illinois. For these reasons, the Chair holds that the gentleman's resolution does not present a question of the privileges of the House under [rule] IX and the resolution may not be considered.

One-minute Speeches

§ 9.59 Recognition for one-minute speeches is within the discretion of the Speaker, and he sometimes withholds such recognition in the hopes of expediting the business of the House.

On June 17, 1970,[15] after the disposition of a voting rights bill, Speaker John W. McCormack, of Massachusetts, recognized a Member for a unanimous-consent request to address the House for one minute. Mr. H. R. Gross, of Iowa, stated, under a reservation of objection to the request, that the Speaker had announced at the

15. 116 CONG. REC. 20245, 91st Cong. 2d Sess.

beginning of the day that he was not recognizing for one-minute speeches, in order to expedite the legislative business of the House. Mr. Gross suggested that the refusal to so recognize was motivated by a desire to prevent debate on the bill to be considered.

The Speaker responded:

> The Chair will state to the gentleman from Iowa that earlier in the day the Chair did make the statement that the Chair would not entertain unanimous-consent requests for 1-minute speeches to be delivered until later on in the day.
>
> I am sure that the gentleman from Iowa clearly understood that statement on the part of the Speaker. At that particular time the Chair stated that the Chair would recognize Members for unanimous-consent requests to extend their remarks in the Record or unanimous-consent requests to speak for 1 minute with the understanding that they would not take their time but would yield back their time.
>
> I think the Chair clearly indicated that the Chair would recognize Members for that purpose at a later time during the day. As far as the Chair is concerned the custom of the 1-minute speech procedure is adhered to as much as possible because the Chair thinks it is a very healthy custom.
>
> The Chair had the intent, after the disposition of the voting rights bill, to recognize Members for 1-minute speeches or further unanimous-consent requests if they desired to do so.[16]

§ 9.60 Recognition for one-minute speeches is within the discretion of the Speaker; and when the House has a heavy legislative schedule, he sometimes refuses to recognize Members for that purpose until the completion of legislative business.

On July 24, 1980,[17] Speaker Pro Tempore James C. Wright, Jr., of Texas, made an announcement regarding one-minute speeches, as follows:

> THE SPEAKER PRO TEMPORE: The Chair desires to announce that in view of the need to complete the legislative schedule, which has been long delayed, the Chair will recognize Members at this time only for unanimous-consent requests to revise and extend their remarks and not for 1-minute speeches.
>
> Members will be recognized for 1-minute speeches at the conclusion of the legislative business today.
>
> MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER PRO TEMPORE: The gentleman will state it.

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16. See also 114 CONG. REC. 22633, 22634, 90th Cong. 2d Sess., July 22, 1968, for a colloquy between the Speaker and minority Members on the importance of the "one-minute" speech and recognition by the Speaker for that purpose.

For a discussion of the use of the "one-minute" speech in the practice of the House, see § 73, infra.

17. 126 CONG. REC. 19386, 19387, 96th Cong. 2d Sess.

MR. BAUMAN: Mr. Speaker, it has, of course, been traditional in the House to allow 1-minute speeches at the discretion of the Chair, as the Chair has just indicated.

Is this denial of 1-minute speeches to be the policy for the remainder of the session, or is it just for today?

THE SPEAKER PRO TEMPORE: The Chair cannot and would not attempt to set a policy for the remainder of the session. For the remainder of this week, today and tomorrow, the Chair desires to complete the legislative program that is scheduled for this week and to allow Members to leave at 3 o'clock tomorrow.

Subsequently, a Member took the floor for a special-order speech to criticize the decision of the Speaker Pro Tempore to refuse to recognize for one-minute speeches prior to legislative business on that day:[18]

THE SPEAKER PRO TEMPORE: Under a previous order of the House, the gentleman from Maryland (Mr. Bauman) is recognized for 60 minutes.

(Mr. Bauman asked and was given permission to revise and extend his remarks.)

MR. BAUMAN: Mr. Speaker, I take this time to observe with sorrow the events that occurred earlier today. I did not wish to explore them at length during the 1-minute speech which I was finally permitted, but I do think they deserve some comment. I will try to confine myself to the 1-hour the House permits me under special order.

I happen to believe that the conduct of the President's brother, Billy Carter, has raised valid questions that need to be answered. . . .

So I would just suggest that we all re-examine our position and only put aside the traditions of the House and the free speech of Members if it is absolutely necessary for good reason.

§ 9.61 A point of order against the manner in which the Chair is conducting the proceedings of the House may interrupt the reading of an enrolled bill (by title) by the Clerk; but in this instance, the Chair's refusal to recognize for unanimous-consent requests to address the House before legislative business was held not to be subject to a point of order, since such question of recognition is within the discretion of the Chair, who may refuse to entertain such requests at all.

The proceedings of the House on July 25, 1980,[19] wherein a point of order was overruled, were as follows:

THE SPEAKER PRO TEMPORE:[20] . . . As the Chair announced yesterday, requests to address the House for 1 minute will be entertained at the conclusion of the legislative business today, rather than at the beginning. . . .

The Chair believes there is genuine value in the 1-minute rule in the exer-

18. *Id.* at pp. 19445, 19446.

19. 126 CONG. REC. 19762–64, 96th Cong. 2d Sess.

20. James C. Wright, Jr. (Tex.).

cise of free expression . . . . For all its value, however, the Chair does not believe that the 1-minute rule must necessarily precede, nor be permitted to postpone, the business of the House.

Subsequently, a resolution was offered relating to structural deficiencies in the West Front of the Capitol, and a motion to table the resolution was agreed to. Thereupon the following point of order was raised:

THE SPEAKER PRO TEMPORE: The Chair lays before the House the following enrolled bill.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I make a point of order at this point. . . .

The Clerk proceeded to read the enrolled bill.

MR. BAUMAN: Mr. Speaker, I make a point of order.

THE SPEAKER PRO TEMPORE: The Clerk will suspend.

A Member is seeking recognition to make a point of order. . . . [T]he Chair will ask the gentleman to state his point of order.

MR. BAUMAN: Mr. Speaker, prior to the privileged or nonprivileged motions just offered by the gentleman from Pennsylvania, the Chair unilaterally issued a ruling regarding the 1-minute speeches and stated in essence, if I recall, that these speeches would not be permitted today or during his tenure as Speaker pro tempore because of the press of legislative business in the remainder of the session. . . .

I make a point of order against the ruling of the Chair. I make a point of order that the Chair cannot in fact deny the 1-minute speeches on the ground which he stated, and as authority for that, I cite chapter 21, section 7 of Deschler's, wherein there are several instances, including those referring to July 22, 1968; June 17, 1970; and October 19, 1966, where the Chair declined to recognize Members for 1-minute speeches because of the press of business, a heavy legislative schedule, which is Deschler's phrase, and proceeding to unfinished business.

Mr. Speaker, my point of order is that the traditions of the House, as evidenced in these precedents, indicate the Chair has the discretion to deny 1-minute speeches on those grounds, but that the ruling of the gentleman from Texas (Mr. Wright), the Speaker pro tempore, has, in fact, allowed an arbitrary ground to be used at a time when there is no press of heavy legislative business manifested by the fact that the Speaker and others have announced that we will adjourn today at 3 o'clock when we can easily stay here and deal with any pressing legislative business if that exists.

Further my point of order is that the Speaker has departed from past traditions and, therefore, has exceeded his discretion in regard to 1-minutes as supported by the traditions of the House.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule on the point of order, unless other Members insist on being heard. The Chair is prepared to rule.

The gentleman's point of order in the first place comes too late. But the Chair is prepared to state that in any event it is not a sustainable point of order.

The gentleman from Maryland is aware, because he is a scholar of the rules of the House, and he is aware of the great thrust of the very section to which he made reference, paragraph 7 of chapter 21 of Deschler's Procedure.

The Chair would simply recite one or two of the precedents therein reported. Recognition for 1-minute speeches is within the discretion of the Speaker, and his evaluation of the time consumed is a matter for the Chair and is not subject to challenge or question by parliamentary inquiry.

Parliamentarian's Note: In the above instance, the Chair entertained an appeal from his ruling that no point of order lay against his refusal to entertain unanimous-consent requests to address the House before legislative business, even though such a point of order, addressed to a question of recognition, is not ordinarily subject to appeal.[1] The appeal was laid on the table.[2]

§ 9.62 Recognition is within the discretion of the Chair, who may deny a Member recognition to speak under the "one-minute rule" in order to uphold order and decorum in the House as required under clause 2 of Rule I; thus, the Speaker inquired of a Member in the well seeking recognition, as to his purpose in utilizing an object for demonstration in debate, and then denied that Member recognition pursuant to his authority under clause 2 of Rule XIV, when he determined that the object might subject the House to ridicule.

On Aug. 27, 1980,[3] the following proceedings occurred in the House:

THE SPEAKER:[4] The Chair would ask the gentleman from Pennsylvania (Mr. Shuster) what he intends to do with the doll. The Chair is not going to allow the Congress to be held up to ridicule and will object to any such exhibit being used in debate.

MR. [E. G.] SHUSTER [of Pennsylvania]: Mr. Speaker, if I may respond, I simply want to introduce this duck as a symbol of the lameduck session that I want to speak to.

THE SPEAKER: The Chair is of the opinion the Member would be holding the House up to ridicule and would ask the gentleman to make the speech without utilizing the apparatus or the doll or anything of that nature.

MR. SHUSTER: Mr. Speaker, this is certainly not the intention.

THE SPEAKER: That is the way the Chair feels about it and the Chair so rules.

1. See 2 Hinds' Precedents §§ 1425–1428; 6 Cannon's Precedents § 292; and 8 Cannon's Precedents §§ 2429, 2646, 2762.
2. 126 CONG. REC. 19764, 96th Cong. 2d Sess., July 25, 1980.
3. 126 CONG. REC. 23456, 96th Cong. 2d Sess.
4. Thomas P. O'Neill, Jr. (Mass.).

(Mr. Shuster asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Parliamentarian's Note: The original transcript shows that the Speaker first inquired as to Mr. Shuster's purpose and then denied him recognition, and that Mr. Shuster was then recognized for one minute. Thus, the Speaker was exercising his power of recognition, and was not unilaterally preventing the use of a demonstration during debate, which would be a matter to be determined by a vote of the House, under Rule XXX.

Special-order Speeches

§ 9.63 The Speaker is not required to recognize Members for scheduled "special order" speeches immediately upon completion of legislative business but may continue to recognize other Members for unanimous-consent requests and permissible motions.

On July 31, 1975,[5] the proposition stated above was demonstrated in the House as follows:

MR. JOHN L. BURTON [of California]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER:[6] The motion is not in order since we just had a vote on a similar motion and there has been no intervening business or debate. . . .

The Chair will take unanimous-consent requests.

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I move that the House recess subject to the call of the Chair.

THE SPEAKER: The Chair will state to the gentleman that is not a privileged motion. The Chair cannot entertain that motion at this time.

MR. [WILLIAM L.] ARMSTRONG [of Colorado]: Mr. Speaker, I have a parliamentary inquiry. Mr. Speaker, my parliamentary inquiry is will the Chair state what is the pending business before the House?

THE SPEAKER: The Chair will state there is no pending business. . . .

MR. ARMSTRONG: Mr. Speaker, under a previous order of the House I have been granted a special order for 60 minutes. I ask to be recognized at this time for that purpose.

THE SPEAKER: The gentleman from Colorado does not have the first special order.

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I believe I have the first special order, and I ask to be recognized.

THE SPEAKER: The Chair is not going to recognize any special order at this time, and the Chair has that authority. . . .

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: . . . Mr. Speaker, is it not correct to say that if a unanimous-consent request to allow the Committee on Rules until midnight to file a report on

5. 121 CONG. REC. 26243–47, 94th Cong. 1st Sess.

6. Carl Albert (Okla.).

the Turkish aid issue now being debated by the other body, was granted, that the House could then adjourn and at the same time work its will because then, if the Committee on Rules files a report, it could be considered then under the rules of the House, and if they did not file a report, the issue would be moot?

THE SPEAKER PRO TEMPORE: The Chair will state that that is an accurate statement of the situation, as the Chair understands it. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, there have been some remarks made that the House would be denied its will and there would be no way to consider the matter in the event the other body agreed to some legislation tonight. Am I correct in the proposition that if a bill is passed by the other body tonight, there is a procedure under the rules whereby the matter could be considered tomorrow? . . .

THE SPEAKER: The Chair will state this. The regular rule is that a report from the Rules Committee has to go over 1 day or it takes a two-thirds vote for consideration on the day reported. The other way is that a unanimous-consent request can be made, and if the Committee on Rules can file it by 10 o'clock tomorrow, and the House adjourns tonight, then it will take a majority vote for consideration tomorrow after the House meets, just as it always does on a subsequent legislative day.

§ 9.64 The Speaker may not be compelled by a motion under Rule XXV to recognize Members for scheduled "special orders" immediately upon completion of scheduled legislative business, but rather may continue to exercise his power of recognition under Rule XIV clause 2 to recognize other Members for unanimous-consent requests and permissible motions; thus, the Speaker has declined to recognize a Member who sought to invoke Rule XXV to interfere with the Speaker's power of recognition.

Rule XXV, which provides that "questions as to the priority of business shall be decided by a majority without debate," merely precludes debate on motions to go into Committee of the Whole, on questions of consideration, and on appeals from the Chair's decisions on priority of business, and should not be utilized to permit a motion directing the Speaker to recognize Members in a certain order or to otherwise establish an order of business. Thus, for example, on July 31, 1975,[7] the Speaker[8] refused to recognize a Member who sought to make a motion to direct recognition of Members for special orders.

MR. PHILLIP BURTON [of California]: Mr. Speaker, I make a point of order that a quorum is not present.

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7. 121 CONG. REC. 26249, 26251, 94th Cong. 1st Sess.

8. Carl Albert (Okla.).

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I make a point of order. . . .

Mr. Speaker, I would like to make the point of order to this effect: Under the new rules of the House, is it not true that once the House has proceeded to the closing business of the day, granting requests for absences and special orders, that it is no longer in order to make a point of order that a quorum is not present?

THE SPEAKER: The Chair has not started to recognize Members for special orders yet. All the business on the Chair's desk has been completed. . . .

MR. BAUMAN: Mr. Speaker, I make the point of order that the rules preclude a quorum at this point because personal requests have already been read from the desk. A leave of absence was granted to the gentleman from Texas (Mr. Teague).

Under the new rules, Mr. Speaker, a quorum does not lie after this point of business in the day.

THE SPEAKER: If the Chair understands the gentleman's point of order, it relates to the fact, which is a new rule, not the rule we used to follow. The rule is that once a special order has started, the Member who has the special order and is speaking cannot be taken off his feet by a point of order of no quorum. However, there is nothing in the rules of which the Chair is aware that requires the Chair to begin to call a special order at any particular time.

MR. BAUMAN: Mr. Speaker, I move under rule XXV that the House proceed to recognize the Members previously ordered to have special orders today, and on that I ask for a rollcall vote.

MR. [MICHAEL T.] BLOUIN [of Iowa]: Mr. Speaker, I move that the House do now adjourn.

The question was taken.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 137, nays 202, not voting 95, as follows: . . .

MR. BAUMAN: Mr. Speaker, under rule XXV, I again renew my motion that the Chair proceed to the recognition of other Members who have previously been granted special orders for today.

THE SPEAKER: The Chair recognizes the gentleman from California (Mr. Danielson).

MR. [GEORGE E.] DANIELSON [of California]: Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

MR. BAUMAN: Mr. Speaker, there is a motion pending.

Mr. Speaker, I object.

THE SPEAKER: Objection is heard.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move that the House do now adjourn.

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

MR. [JOHN J.] RHODES [of Arizona]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 142, nays 205, not voting 87, as follows: . . . .

§ 9.65 Once special orders have begun, it is customary not to resume legislative business, however this custom is not binding on the House and the Speaker has the authority to recognize for further business; thus, on occasion the Speaker has announced that he would begin to call the special orders, which action would not prejudice calling up of further legislative business later that day.

On Aug. 1, 1975,[9] Speaker Carl Albert, of Oklahoma, made the following statement:

> THE SPEAKER: . . . The normal procedure, as the Members know, special orders are called when the legislative business has ended. We have not called special orders yet.
>
> We have at least three bills, to my knowledge, that may come over here from the Senate.
>
> The Chair would like to take the special orders and reserve the authority to call up these bills at a later time. . . .
>
> ANNOUNCEMENT BY THE SPEAKER
>
> THE SPEAKER: Without prejudice to calling up other legislative business which might come over to the House from the Senate, the Chair will call the special orders at this time.

Recognition for Legislative Business After Special-order Speeches

§ 9.66 The Speaker announced, after a point of order had been sustained against the consideration of further scheduled legislative business for the day (necessitating consideration of a resolution by the Committee on Rules and by the House), that he had the prerogative and intention to recognize Members for consideration of further legislative business after special-order speeches had been conducted in order to complete the schedule for the day, notwithstanding the customary, but non-binding, practice that legislative business is not conducted once special-order speeches have begun.

The following proceedings occurred in the House on Mar. 22, 1983:[10]

9. 121 CONG. REC. 26952–54, 94th Cong. 1st Sess.

10. 129 CONG. REC. 6501, 6503, 98th Cong. 1st Sess.

POINT OF ORDER AGAINST CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 91, FIRST CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1984

MR. [TOM] LOEFFLER [of Texas]: Mr. Speaker, I have a point of order against consideration of this budget resolution.

THE SPEAKER PRO TEMPORE:[11] The gentleman will state his point of order.

MR. LOEFFLER: Mr. Speaker, I make a point of order against the consideration of House Concurrent Resolution 91, which is the House concurrent budget resolution for fiscal year 1984, on the grounds that its consideration would violate the provisions of clause 2(l)(6) of rule XI of the rules of the House [prohibiting the consideration of any measure or matter in the House reported by any committee (except the Committee on Rules) unless copies of the report and reported measure have been available to Members for at least three days]. . . .

THE SPEAKER PRO TEMPORE: The Chair believes that while House Resolution 144 was intended to permit immediate consideration of House Concurrent Resolution 91, the provisions of clause 2(l)(6), rule XI do technically—under the second sentence of that clause—separately require a 3-day availability of the Budget Committee's report. That part of the rule was not separately waived, and although the 10-day rule was waived effectively, the Chair will sustain the point of order and advise that under that rule the Rules Committee may immediately report out and call up a special order waiving the 3-day rule.

THE SPEAKER:[12] The Chair's understanding now is that the Rules Committee will meet and will report back somewhere around the time of 8:30. The Chair will go to Special Orders at this particular time and we could ask for a recess subject to the call of the Chair and the reporting of the Rules Committee.

Following a parliamentary inquiry that interceded at this point, the Speaker made the following announcement:

THE SPEAKER: The Chair announces, it is the intention and the prerogative of the Speaker after special orders to call up business, in case there is anybody lingering out there that thinks the Speaker does not have that power.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I had understood that it is not formalized by the rules, but there is an informal arrangement that had been agreed to early in the Congress that we would not take up business after special orders had been started.

Is that now going to be canceled at the discretion of the Chair, is that my understanding of what the Speaker is saying?

THE SPEAKER: I am sure as the gentleman appreciates, it is the special duty of the Speaker to see that the program of the day is put through. When the occasion arises when there is an exception, the Speaker would act in the best interests of the majority of the House and not just an individual or

11. Charles E. Bennett (Fla.).

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

two in the eyes of the Speaker, and consequently it would be understood by the precedents that that is the way the Speaker would act and the Speaker would recognize for consideration of legislation.

Motion To Recommit

§ 9.67 The Chair will generally recognize a minority Member (who is opposed to the measure) to offer a motion to recommit, but is not required to recognize any particular minority Member where no minority committee member seeks recognition.

On Feb. 3, 1944,[13] the Committee of the Whole was considering S. 1285, providing voting for members of the armed services. A discussion about recognition for a motion to recommit ensued, and Speaker Sam Rayburn, of Texas, took the floor to explain the Chair's position:

MR. [JOSEPH W.] MARTIN [Jr.], of Massachusetts: I might say to the gentleman from Missouri there has been a good deal of discussion about this motion to recommit. We have had one contest which was wrongly interpreted in which we fought to preserve the integrity of the rules of the House and to protect a right that has always belonged to the minority. . . .

I am perfectly willing for the Chairman to recognize the gentleman from California [Mr. Anderson] to make that motion, and he is, I know, opposed to the bill. . . .

MR. [JOHN J.] COCHRAN [of Missouri]: Unless he is opposed to the bill he is not qualified.

MR. [JOHN Z.] ANDERSON of California: Mr. Chairman, will the gentleman yield?

MR. COCHRAN: I yield to the gentleman from California.

MR. ANDERSON of California: I will say to the gentleman from Missouri that I have a motion to recommit which will request the Committee on Election of President, Vice President, and Representatives in Congress to report back the bill forthwith with the Worley bill in it. I trust that I will be recognized. . . .

MR. RAYBURN: Mr. Chairman, will the gentleman yield?

MR. COCHRAN: I yield to the distinguished Speaker of the House.

MR. RAYBURN: I trust that this colloquy will not take away from the Speaker what has always been his prerogative, to recognize any member of the minority to offer a motion to recommit when no member of the committee offers a motion.

MR. COCHRAN: In my opinion no Member on the minority side who is a member of the committee can stand up, in view of the fact that they all signed the report, and say he is opposed to the bill. Therefore some person outside of the committee will have to do it.

MR. MARTIN of Massachusetts: Mr. Chairman, will the gentleman yield?

MR. COCHRAN: I yield.

MR. MARTIN of Massachusetts: There will be no minority member of the com-

13. 90 CONG. REC. 1221, 1222, 78th Cong. 2d Sess.

mittee, in my opinion, who can stand up and say he is opposed to the bill, but I would like to address a word or two to my beloved friend, the Speaker. I realize it rests with the Speaker to recognize the Member to make the motion to recommit. The clear intent of the rule, however, in my opinion, is to give that weapon of recommitment to the minority and not to any minority of the minority.

MR. RAYBURN: I just wanted to make it entirely clear that I always recognize somebody in the minority if they qualify, but I could not allow anybody to commit me to recognize any particular member of the minority.

Motion To Adjourn

§ 9.68 Where the two Houses have adopted a concurrent resolution permitting an adjournment of the House to a day certain in excess of three days upon motion made by the Majority Leader or a Member designated by him, the Speaker may recognize the Member so designated to move to adjourn pursuant to the concurrent resolution, over another Member whose motion to adjourn if agreed to would only permit the House to adjourn overnight.

On Aug. 4, 1983,[14] the following proceedings occurred in the House:

THE SPEAKER PRO TEMPORE:[15] The Chair recognizes the gentleman from Texas.

MR. [HANK] BROWN of Colorado: Mr. Speaker, I have a privileged motion. I move the House adjourn.

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman from Texas.

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Speaker, pursuant to House Concurrent Resolution 153, I move that the House do now adjourn.

The motion was agreed to.

Recognition for Debate Under Reservation of Right To Object to Adoption of Adjournment Resolution

§ 9.69 A concurrent resolution providing for an adjournment of more than three days for the House and Senate is not debatable, but the Chair may in his discretion recognize for debate under a reservation of the right to object (to adoption of the resolution).

On Aug. 27, 1980,[16] the following proceedings occurred in the House during consideration of Senate Concurrent Resolution 118:

The Speaker laid before the House the privileged Senate concurrent reso-

14. 129 CONG. REC. 23244, 98th Cong. 1st Sess.

15. William H. Gray, 3d (Pa.).

16. 126 CONG. REC. 23459, 96th Cong. 2d Sess.

lution (S. Con. Res. 118) providing for a recess of the Senate from August 27 to September 3, 1980, and an adjournment of the House from August 28 to September 3, 1980.

The Clerk read the title of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 118

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business on Wednesday, August 27, 1980, it stand in recess until 10 o'clock a.m. on Wednesday, September 3, 1980, and that when the House completes its business on Thursday, August 28, 1980, it stand adjourned until 12 o'clock noon on Wednesday, September 3, 1980.

THE SPEAKER:[17] Without objection, the Senate concurrent resolution is concurred in.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, are we permitted to debate this matter?

THE SPEAKER: No, it is not debatable.

MR. BAUMAN: Mr. Speaker, reserving the right to object, I wondered whether any Member intended to explain the necessity for the recess, in view of the fact there has been some objection quite obviously from the minority about recessing at all because of the announced lameduck session. . . .

THE SPEAKER: The Chair will state that this is a long-announced recess, since the beginning of the year, and Members from both sides of the aisle expect to be home, of course, and in their district through Labor Day. . . .

The leadership, I am sure, was in agreement with this earlier in the year when the schedule for the year was printed.

The question comes on adoption of the Senate concurrent resolution. Without objection——

MR. BAUMAN: Mr. Speaker, I would further reserve the right to object, unless the Chair wants to put the question.

THE SPEAKER: The Chair would like to put the question unless the gentleman desires to say something further. Does the gentleman reserve the right to object to adopting the concurrent resolution by unanimous consent?

MR. BAUMAN: I reserve the right to object, Mr. Speaker.

I am only saying, Mr. Speaker, that the legislative schedule has been changed before. We have been told that we will recess on October 4, as opposed to staying and completing our work, and then we will come back into further session after the election. If that kind of a major change can be made, it seems to me there is still time for us to consider the possibility of staying in session, as has been suggested by the minority leader, the gentleman from Arizona (Mr. Rhodes).

THE SPEAKER: The Chair will put the question, and the Members, if they desire to vote on it, may vote as they see fit.

MR. BAUMAN: I thank the Chair and I urge a vote against the recess so that we can stay here and finish our business and avoid a lameduck session.

THE SPEAKER: The question is on the Senate concurrent resolution.

17. Thomas P. O'Neill, Jr. (Mass.).