AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 33. Losing or Surrendering Control

A Member in control of time may voluntarily surrender the floor by simply so stating,[15] by withdrawing the measure he is managing,[16] or by yielding for the offering of a motion or an amendment.[17]

A Member loses the floor, without the right to resume, if he yields for an amendment,[18] if he is ruled out of order for disorderly language and is not permitted by the House to proceed in order,[19] or if he yields the floor without moving the previous question.[20]

A Member may lose the floor if he yields for an ordinary motion, but he does not lose the floor if he yields for the motion to adjourn[1] or that the Committee of the Whole rise, and he does not lose the floor, when managing a conference report and amendments in disagreement, if a preferential motion is offered.[2]

15. See §§ 33.10, 33.11, infra.

16. See § 33.3, infra.

Withdrawal of bills, see Ch. 24, supra.

17. See § 30, supra.

18. See §§ 33.4–33.6, 33.8, infra.

19. See § 33.1, infra.

20. See §§ 29.9, 29.10, supra.

1. See § 30.17, supra.

2. See § 17.38, supra.

Cross References

Use of previous question, see Ch. 23, supra.

Yielding for amendments, see § 30, supra.

Yielding for motions, see § 30, supra.

Member Called to Order for Unparliamentary Words

§ 33.1 A Member called to order for words spoken in debate is required to take his seat, and where the words are held unparliamentary, he may not proceed without the consent of the House.

On Oct. 31, 1963,[3] Mr. Edgar Franklin Foreman, of Texas, was called to order for referring to another Member of the House as a "pinko." Speaker John W. McCormack, of Massachusetts, ruled that "to characterize any Member of the House as a 'pinko' is in violation of the rules."

Objection was then made to unanimous-consent requests to explain the remarks objected to and to allow Mr. Foreman to proceed in order:

> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I desire to propound a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.

3. 109 CONG. REC. 20742, 88th Cong. 1st Sess.

MR. HALLECK: Mr. Speaker, I understand that the ruling of the Chair was that the use of the word "pinko" involves a violation of the rules of the House.

THE SPEAKER: That is correct.

MR. HALLECK: Under those circumstances may not the gentleman from Texas be permitted to continue with the balance of his statement?

THE SPEAKER: Only by permission of the House.

MR. HALLECK: Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. Foreman] be permitted to continue with the balance of his statement.

THE SPEAKER: In order?

MR. HALLECK: Yes, sir.

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

MR. [JOHN J.] ROONEY [of New York]: Mr. Speaker, I object.

MR. [BRUCE R.] ALGER [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. ALGER: I do not know the accuracy of Jefferson's Manual in this respect, but it says—and I am reading from the manual:

> Disorderly words are not to be noticed till the Member has finished his speech.

THE SPEAKER: The Chair will state that in accordance with the custom and under the rules the demand may be made to take down the words during a speech.[4]

Irrelevant Remarks

§ 33.2 Where a rule provides that debate in the Committee of the Whole shall be confined to the bill, a Member must confine his remarks to the bill and if he continues to talk to other matters after repeated points of order, the Chair will request that he take his seat.

On Mar. 29, 1944,[5] the Committee of the Whole House on the State of the Union was considering H.R. 4257, to expatriate or exclude certain persons for evading military service. (The House had adopted H. Res. 482 providing for the consideration of the bill in Committee of the Whole, general debate to be "confined to the bill.")

Mr. Emanuel Celler, of New York, requested unanimous consent to speak out of order, and Mr. Noah M. Mason, of Illinois, objected to the request on the ground that "under the rule adopted by the House, debate on this bill is to be restricted to the bill."

---

4. For discussion of the requirement that a Member called to order must take his seat, see §§ 49 et seq., infra. A Member whose words are demanded to be taken down may retain the floor by obtaining unanimous consent for the withdrawal of the words (see § 51, infra) or by permission of the House (see § 52, infra).

5. 90 CONG. REC. 3263, 78th Cong. 2d Sess.

Mr. Celler was then called to order twice for speaking on a subject irrelevant to the bill, such as the conduct of certain other nations in relation to the American war effort. When Mr. Celler continued to speak out of order, the following exchange took place (Chairman James Domengeaux [La.], presiding):

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Chairman, I rise to a point of order.

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

MR. SABATH: The gentleman is not speaking to the bill. He has been admonished several times, he has refused, and I am obliged to make the point of order myself, though I regret it.

THE CHAIRMAN: The point of order is sustained and the gentleman is again requested to confine himself to the bill.

MR. MASON: Mr. Chairman, a parliamentary inquiry. How many times do we have to call the gentleman to order and try to get him to confine his remarks to the bill before the privilege of the House is withdrawn?

THE CHAIRMAN: This will be the last time. If the gentleman does not proceed in order, he will be requested to take his seat.[6]

Withdrawal of Pending Resolution

§ 33.3 The manager of a resolution providing for a special rule, pending when a recess had been declared to await the copy of an engrossed bill, retained the floor, but then withdrew the special rule from consideration.

On Apr. 8, 1964,[7] the House was considering House Resolution 665, offered by Mr. Richard Bolling, of Missouri, from the Committee on Rules, providing for taking a bill from the Speaker's table and agreeing to Senate amendments thereto. Before a vote was had on the resolution, Speaker John W. McCormack, of Massachusetts, declared a recess pending the receipt of an engrossed bill, H.R. 10222, the Food Stamp Act of 1964. When the House reconvened, the Speaker announced that the unfinished business was the reading of the latter bill. Mr. Oliver P. Bolton, of Ohio, made a parliamentary inquiry as to the status of the resolution pending at the recess and the Speaker, without responding

6. Special orders may provide that general debate in the Committee of the Whole be confined to the bill. See generally, for the requirement that debate be confined to the subject matter, §§ 35 et seq., infra. Rule XIV clause 1, *House Rules and Manual* § 749 (1995) requires that a Member confine himself to the subject under debate.

7. 110 CONG. REC. 7302–04, 88th Cong. 2d Sess.

to the inquiry, recognized Mr. Bolling, the manager of the resolution, who then withdrew the resolution from consideration.[8]

Yielding for Amendment

§ 33.4 A Member controlling time for debate in the House who yields to another Member to offer an amendment loses the floor and the right to move the previous question.

On Mar. 13, 1939,[9] Mr. Howard W. Smith, of Virginia, offered at the direction of the Committee on Rules House Resolution 113, authorizing a committee investigation. When the previous question was rejected, Speaker William B. Bankhead, of Alabama, ruled that Mr. Carl E. Mapes, of Michigan, opposed to the resolution, was entitled to recognition for one hour. Mr. Mapes inquired whether he could yield to another Member to offer an amendment and the Speaker responded that if he yielded for an amendment, he would lose control of the floor (and of the right to move the previous question).[10]

§ 33.5 Where the Member in charge of a resolution under the hour rule yields to another for the purpose of offering an amendment, he loses control of the floor and the sponsor of the amendment is given control.

On Mar. 27, 1945,[11] Speaker Sam Rayburn, of Texas, stated in response to a parliamentary inquiry that since the chairman of the Committee on Rules, Mr. Edward E. Cox, of Georgia, controlling debate on House Resolution 195, creating a select committee, yielded for an amendment to the resolution, he lost the floor and the sponsor of the amendment, Mr. Clinton P. Anderson, of New Mexico, gained control for one hour.

§ 33.6 The Member controlling the time for debate on his motion to instruct House managers at a conference loses the floor if he yields for an amendment.

On Feb. 8, 1965,[12] Mr. Robert H. Michel, of Illinois, was in con-

8. Where a Member consumes part of the hour on a resolution he has offered and then withdraws it, he may be entitled to a full hour when he again offers the resolution (see § 24.8, supra).

9. 84 Cong. Rec. 2663–73, 76th Cong. 1st Sess.

10. See also 102 Cong. Rec. 6264, 6265, 84th Cong. 2d Sess., Apr. 12, 1956.

11. 91 Cong. Rec. 2861, 2862, 79th Cong. 1st Sess.

12. 111 Cong. Rec. 2099, 89th Cong. 1st Sess.

trol of time for debate on a motion to instruct House managers at a conference, which motion he had offered. Mr. Michel yielded for five minutes to Mr. Odin Langen, of Minnesota. Mr. Langen then attempted to offer an amendment. Speaker John W. McCormack, of Massachusetts, inquired whether Mr. Michel yielded for that purpose and Mr. Michel stated that he would yield for the amendment. The Speaker advised Mr. Michel:

> The Chair will state that the gentleman from Illinois will lose the floor when he yields for that purpose.

Mr. Michel declined to yield for the offering of the amendment.

§ 33.7 The manager of a conference report controlling the floor on a motion to dispose of an amendment in disagreement, by yielding to another Member to offer an amendment to his motion, loses the floor and the Member to whom he has yielded controls one hour of debate on his amendment and may move the previous question on his amendment and on the original motion.

During consideration of the conference report on H.R. 7933 (the Defense Department appropriation bill for fiscal year 1978) in the House on Sept. 8, 1977,[13] the following proceedings occurred:

> MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I hope we have had a fair debate on the issues. My motion provides for the continuation of the B–1 program, and I rise in further support of my motion and in opposition to the Addabbo amendment.
>
> By previous arrangement, in order to be absolutely fair with the House and give the House an opportunity to work its will, I yield to the gentleman from New York (Mr. Addabbo) for the purpose of offering an amendment.
>
> MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Speaker, I offer an amendment to the motion offered by the gentleman from Texas (Mr. Mahon).
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Addabbo to the motion offered by Mr. Mahon: In lieu of the sum proposed to be inserted by said motion insert: "$6,262,000,000".
>
> MR. ADDABBO: Mr. Speaker, I will not take the hour. By previous arrangement and agreement with the chairman of the full committee, the gentleman from Texas (Mr. Mahon), who has been kind enough to recognize me at this time for the purpose of offering this amendment, the agreement was that I would after offering the substitute move the previous question so that we would have a clear vote on the question of whether or not to fund the B–1. . . .

13. 123 CONG. REC. 28130–32, 95th Cong. 1st Sess. For current practice regarding control of debate on conference reports and related matters under Rule XXVIII, see, e.g. § 34.15, infra; and see, generally, § 17, supra.

Mr. Speaker, I move the previous question on the amendment to the motion.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[14] The question is on the amendment offered by the gentleman from New York (Mr. Addabbo) to the motion offered by the gentleman from Texas (Mr. Mahon).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 199, not voting 33. . . .

So the amendment to the motion was agreed to.

The result of the vote was announced as above recorded.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Texas (Mr. Mahon), as amended.

The motion, as amended, was agreed to.

—Yielding for Amendment to Amendment

§ 33.8 A Member controlling time for debate in the House on his amendment loses control of the floor if he yields for the purpose of having another amendment offered.

On Mar. 13, 1939,[15] Mr. Howard W. Smith, of Virginia, of the Committee on Rules called up House Resolution 113, authorizing the Committee on the District of Columbia to investigate the milk industry in the District. Mr. Smith moved the previous question and it was rejected. Speaker William B. Bankhead, of Alabama, recognized Mr. Carl E. Mapes, of Michigan, to control one hour of debate in opposition to the resolution. In response to numerous parliamentary inquiries, the Speaker stated that Mr. Mapes could not accept an amendment to the amendment he proposed, or yield to another Member to offer an amendment, without losing control of the floor and losing the right to move the previous question on the resolution and on his amendment.

§ 33.9 Where a Member calling up a measure in the House offers an amendment and then yields to another Member to offer an amendment to his amendment, he loses the floor and the Member to whom he yielded is recog-

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

15. 84 CONG. REC. 2663–73, 76th Cong. 1st Sess.

nized for one hour and may move the previous question on the amendments and on the measure itself.

On Dec. 6, 1977,[16] the House had under consideration House Joint Resolution 662 (continuing appropriations for fiscal 1978) when the following proceedings occurred:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, pursuant to the rule just adopted by the House, I call up the joint resolution (H.J. Res. 662) making further continuing appropriations for the fiscal year 1978, and for other purposes. . . .

THE SPEAKER PRO TEMPORE:[17] The gentleman from Texas (Mr. Mahon) is recognized for 1 hour.

MR. MAHON: Mr. Speaker, I yield myself such time as I may consume and, Mr. Speaker, during the consideration of House Joint Resolution 662, I shall yield only for the purposes of debate and not for amendment unless I specifically so indicate. . . .

Second, immediately after I offer my amendment, I will yield to the gentleman from Illinois (Mr. Michel), the ranking minority member of the Labor-HEW Subcommittee and the ranking minority conferee on that appropriation bill for an amendment on the abortion issue. . . .

Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mahon: On page 2, after line 9, insert the following:

Such amounts as may be necessary for projects or activities provided for in the Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1978 (H.R. 7555), at a rate of operations, and to the extent and in the manner, provided for in such Act as modified by the House of Representatives on August 2, 1977, notwithstanding the provisions of section 106 of this joint resolution.

AMENDMENT OFFERED BY MR. MICHEL TO THE AMENDMENT OFFERED BY MR. MAHON

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Michel to the amendment offered by Mr. Mahon: At the end of the amendment of the gentleman from Texas strike the period, insert a semicolon, and add the following: "*Provided*, That none of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of forced rape or incest. . . .

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

MR. MICHEL: Mr. Speaker, I yield 30 minutes to the gentleman from Texas (Mr. Mahon), the chairman of our committee, pending which I yield myself such time as I may consume. . . .

Mr. Speaker, I move the previous question on the amendments and the joint resolution.

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

16. 123 CONG. REC. 38392, 38393, 38400, 38401, 95th Cong. 1st Sess.

17. Joe D. Waggonner, Jr. (La.).

There was no objection.

THE SPEAKER PRO TEMPORE: The question is on the amendment offered by the gentleman from Illinois (Mr. Michel) to the amendment offered by the gentleman from Texas (Mr. Mahon). . . .

[The] amendment to the amendment was rejected. . . .

THE SPEAKER PRO TEMPORE: The question is on the amendment offered by the gentleman from Texas (Mr. Mahon).

The amendment was agreed to.

Chairman of Committee Surrendered Control Where He Opposed Bill

§ 33.10 On one occasion, the chairman of a committee, acting at the President's request, introduced a bill, presided over the hearings in committee, reported the bill, applied to the Committee on Rules for a special rule, and moved that the House resolve itself into the Committee of the Whole; when recognized to control one-half of the debate in the Committee, he then announced his opposition to the measure and surrendered management of the bill to the ranking majority member of the committee.

On June 14, 1967,[18] Harley O. Staggers, of West Virginia, Chairman of the Committee on Interstate and Foreign Commerce, moved that the House resolve itself into the Committee of the Whole for the consideration of House Joint Resolution 559, providing for the settlement of a railroad labor dispute. The House had adopted House Resolution 511, making in order the consideration of the bill and providing that general debate be controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

In the Committee of the Whole, Chairman Wilbur D. Mills, of Arkansas, recognized Mr. Staggers to control one-half the time on the bill. Mr. Staggers made the following statement:

> Mr. Chairman, I am here today in a most unusual position. I was requested by the President to introduce the bill we have before us today, and because of my responsibilities as chairman of the committee, I introduced the bill. If the House was to be given an opportunity to work its will on this legislation, it was necessary that hearings begin promptly and continue as expeditiously as possible, and I think the record will bear me out, that the hearings before our committee have been prompt, they have not been delayed in any respect.

18. 113 CONG. REC. 15822, 15823, 90th Cong. 1st Sess.

In fact we interrupted consideration of a very important piece of health legislation in order to take up this bill. We have heard every witness who wanted to be heard on the legislation. I did this because I felt it to be my responsibility to the House as chairman of the committee.

Following the conclusion of our hearings I promptly scheduled executive sessions for consideration of the bill and we met as promptly as possible both morning and afternoon and the committee reported the bill to the House.

Yesterday I went before the Rules Committee as chairman of the committee to present the facts to the Rules Committee and attempt to obtain a rule so that the bill would be considered by the House. I have done these things because I felt it is my responsibility to do so as chairman of the committee.

Unfortunately, Mr. Chairman, I was opposed to this bill when I introduced it, and having heard all the witnesses and all the testimony, I am still opposed to it. For that reason I have asked the gentleman from Maryland [Mr. Friedel] to handle the bill in Committee of the Whole, so that I would be free to express my opposition to it. . . .

Mr. Chairman, this concludes the presentation I desire to make on the bill. At this time I request the gentleman from Maryland [Mr. Friedel], the ranking majority member on the Interstate and Foreign Commerce Committee, to take charge of managing the bill on the floor.

Parliamentarian's Note: The chairman of a committee has the responsibility of reporting or causing to be reported any measure approved by his committee and taking or causing to be taken steps to have the matter considered and voted upon in the House, regardless of his personal opposition to the measure.[19]

—*Chairman of Committee Opposed Bill as Amended*

§ 33.11 The Committee of the Whole having adopted certain amendments to a bill, the chairman of the committee from which the measure was reported expressed his objections, relinquished control of the bill and subsequently offered a motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken.

On July 5, 1956,[20] the Committee of the Whole had adopted certain amendments to H.R. 7535, to authorize federal assistance to states and local communities in financing an expanded program of school construction. Graham A. Barden, of North Carolina, who

19. See Rule XI clause 2(l)(1)(A), *House Rules and Manual* § 713a (1995).

20. 102 CONG. REC. 11849, 84th Cong. 2d Sess.

was controlling consideration of the bill as the chairman of the reporting committee (Education and Labor), then made the following statement:

> Mr. Chairman, I move to strike out the last word. . . .
>
> I have very definitely reached the conclusion that the American people do not want this legislation in its present form. Certain things have happened to the bill that make it very, very obnoxious and objectionable to the people I represent.
>
> I never have claimed to be an expert when advocating something that I was sincerely and conscientiously for. I have always felt I would be a complete flop in trying to advocate something I did not believe in and did not advocate. This bill is objectionable to me. It has so many bad features and so many things have been given priority over the consideration of the objective that we set out to accomplish that I must say, in all frankness, to the House I cannot continue in the position here of directing this bill. I feel that someone who can be fairer to the bill in its present shape than I, should handle the bill. I would have to be a much better actor than I now am to proceed in the position of handling this piece of legislation which I cannot support and do not want to pass. For that reason, I want the House to understand my very definite position in the matter. So, with that, I think the House will understand my position and those in a position on the committee to handle the bill will have my cooperation to a certain extent, but no one need to expect any assistance from me or any encouragement for the bill.

Mr. Barden later offered a motion that the Committee rise and report the bill to the House with the recommendation that the enacting clause be stricken, which was defeated (the bill itself was later also defeated).[1]

Member Offering Preferential Motion Does Not Gain Control of Time

§ 33.12 The time for debate on an amendment reported from conference in disagreement is equally divided between the majority and minority parties under Rule XXVIII clause 2(b), and a Member offering a preferential motion does not thereby gain control of time for debate; nor can the Member who has offered the preferential motion move the previous question during time yielded to him for debate, since that would deprive the Members in charge of control of the time for debate.

On Dec. 4, 1975,[2] an example of the proposition described above occurred in the House during consideration of the conference report on H.R. 8069 (the Department of

1. *Id.* at pp. 11868, 11869.
2. 121 CONG. REC. 38714, 38716, 38717, 94th Cong. 1st Sess.

Health, Education, and Welfare and related agencies appropriation bill):

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Flood moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:
>
> "Sec. 209. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest or next nearest the student's home. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

> Mr. Bauman moves that the House recede from its disagreement to Senate amendment No. 72 and concur therein.

THE SPEAKER:[3] The Chair recognizes the gentleman from Pennsylvania (Mr. Flood).

MR. BAUMAN: Mr. Speaker, may I inquire, who has the right to the time under the motion?

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) has 30 minutes, and the gentleman from Illinois (Mr. Michel) has 30 minutes. The time is controlled by the committee leadership on each side, and they are not taken from the floor by a preferential motion. . . .

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Bauman).

MR. BAUMAN: The gentleman from Maryland has made his case and if the gentleman would like to concur in the stand taken by the majority party in favor of busing he can do that. I do not concur.

Mr. Speaker, I move the previous question on the motion.

MR. FLOOD: Mr. Speaker, I demand the question be divided.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman from Pennsylvania (Mr. Flood) has the floor and the Chair is trying to let the gentleman be heard.

MR. FLOOD: Mr. Speaker, I demand a division.

MR. BAUMAN: Mr. Speaker, I have not yielded. My time has not expired.

THE SPEAKER: The gentleman has time for debate only.

MR. BAUMAN: No; Mr. Speaker, it was not yielded for debate only.

THE SPEAKER: The gentleman from Maryland has 15 seconds.

MR. BAUMAN: Mr. Speaker, I move the previous question.

THE SPEAKER: The gentleman was yielded to for debate only. The gentleman from Illinois had no authority under clause 2, rule XXVIII to yield for any other purpose but debate.

Parliamentarian's Note: Debate on a motion that the House recede from its disagreement to a Senate amendment and concur is under the hour rule. In the above instance, the motion to recede and concur was divided.[4] If the mo-

3. Carl Albert (Okla.).

4. 121 CONG. REC. 38717, 94th Cong. 1st Sess.

tion is so divided, the hour rule applies to each motion separately.[5] Thus, technically, the Bauman motion to concur could have been debated under the hour rule, since the request for division of the question was made prior to the ordering of the previous question. Control of the time, however, would have remained with the majority and minority under the rule.

Whether or not the division demand was made before or after the ordering of the previous question on the motion to recede and concur, the preferential motion offered by Mr. Flood to concur with an amendment could have been debated under the hour rule equally divided, since it was a separate motion not affected by ordering the previous question on the motion to recede and concur.

Had the Bauman motion to concur been rejected, the motion to concur with another amendment would have been in order, and preferential to a motion to insist on disagreement.

§ 33.13 Time for debate on motions to dispose of amendments in disagreement is equally divided, under Rule XXVIII clause 2(b), between the majority and minority party; and if a minority Member has been designated by his party to control time, another minority Member who offers a preferential motion does not thereby gain control of the time given to the minority.

On May 14, 1975,[6] during consideration of the conference report on H.R. 4881[7] in the House, the following proceedings occurred:

> THE SPEAKER:[8] The Clerk will report the next amendment in disagreement.
>
> The Clerk read as follows:
>
> Senate amendment No. 61: Page 41, line 9, insert:
>
> "FEDERAL RAILROAD ADMINISTRATION
>
> "RAIL TRANSPORTATION IMPROVEMENT AND EMPLOYMENT
>
> "For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $700,000,000. . . .
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> Mr. Mahon moves that the House insist on its disagreement to the amendment of the Senate numbered 61.

5. See 86 CONG. REC. 5889, 76th Cong. 3d Sess., May 9, 1940.

6. 121 CONG. REC. 14385, 14386, 94th Cong. 1st Sess.

7. The Emergency Employment Appropriations for fiscal year 1975.

8. Carl Albert (Okla.).

PREFERENTIAL MOTION OFFERED BY MR. CONTE

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Conte moves that the House recede from its disagreement to Senate amendment Number 61 and concur therein with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

"CHAPTER VIII

"DEPARTMENT OF TRANSPORTATION

"FEDERAL RAILROAD ADMINISTRATION

"For payment of financial assistance to assist railroads by providing funds for repairing, rehabilitating, and improving railroad roadbeds and facilities, $200,000,000. . . .

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

THE SPEAKER: The gentleman will state it.

MR. SHUSTER: Mr. Speaker, how is the time divided?

THE SPEAKER: The time is divided equally between the gentleman from Texas (Mr. Mahon), who has 30 minutes, and the gentleman from Illinois (Mr. Michel) who has 30 minutes or such small fraction thereof as he may decide to use.

§ 33.14 The offering of a preferential motion cannot deprive the Member making an original motion (to dispose of a Senate amendment) of control of the floor for debate, and the Chair will recognize the Member controlling the floor when a preferential motion is offered.

During consideration of the foreign assistance appropriation bill (H.R. 7797) in the House on Oct. 18, 1977,[9] the following motions were offered:

MR. [CLARENCE D.] LONG of Maryland: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"Sec. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines.". . .

MR. [C. W.] YOUNG of Florida: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Young of Florida moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein.

THE SPEAKER PRO TEMPORE:[10] The Chair recognizes the gentleman from Maryland (Mr. Long).

9. 123 CONG. REC. 34112, 95th Cong. 1st Sess.

10. William H. Natcher (Ky.).

Parliamentarian's Note: Although during the above proceedings Mr. Young moved the previous question on his preferential motion, ordinarily the maker of a preferential motion should not be permitted to move the previous question thereon, since he does not gain the floor for any purpose other than to offer the motion. The manager of the bill should be the one recognized to move the previous question on the motion.

Although, as in the above instance, the minority Member controlling half the time on a motion on an amendment in disagreement may make a preferential motion during his time for debate, the more usual practice is that the preferential motion be made either before or after the hour of debate on the initial motion.

§ 33.15 The motion to recede and concur in a Senate amendment reported back from conference in disagreement takes precedence over a motion to insist on disagreement thereto, but the proponent of the preferential motion does not thereby gain control of the time for debate.

During consideration of the conference report on H.R. 14238 (the legislative branch appropriations for fiscal year 1977) in the House on Sept. 22, 1976,[11] the following proceedings occurred:

THE SPEAKER:[12] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 35, line 1 insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $25,000,000. . . .

MR. [GEORGE E.] SHIPLEY [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Shipley moves that the House insist on its disagreement to the amendment of the Senate numbered 56.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Speaker, I offer a preferential motion to recede and concur in the Senate amendment No. 56 to the legislative appropriation conference report.

The Clerk read as follows:

Mr. Stratton moves that the House recede from its disagreement to the amendment of the Senate number 56 and concur therein.

---

11. 122 CONG. REC. 31899, 31900, 31902, 94th Cong. 2d Sess.

12. Carl Albert (Okla.).

MR. STRATTON: Mr. Speaker, will the distinguished gentleman from Illinois, the chairman, yield me 5 minutes.

MR. SHIPLEY: I yield the gentleman from New York 5 minutes. . . .

MR. STRATTON: Mr. Speaker, the gentleman from Illinois (Mr. Yates) wishes to offer a substitute motion to recede and concur with an amendment striking the cost plus fixed fee contract.

Is it in order for that motion to be offered if I withdraw my motion?

THE SPEAKER: The Chair will state that the gentleman may offer his motion if the gentleman from New York (Mr. Stratton) withdraws his preferential motion. . . .

MR. STRATTON: . . . Would a motion to recede and concur with an amendment be a preferential motion?

THE SPEAKER: It would be preferential over a motion to insist on disagreement. . . .

MR. STRATTON: . . . I withdraw my motion. . . .

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

THE SPEAKER: The Clerk will report the preferential motion.

The Clerk read as follows:

> Mr. Yates moves on amendment 56 to recede and concur with the Senate on amendment No. 56 with an amendment as follows: On page 35, line 11, strike out the words "including cost-plus-fixed-fee contracts". . . .

MR. SHIPLEY: Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Yates).

§ 33.16 Although the motion to concur in a Senate amendment takes precedence over the motion to disagree where the stage of disagreement has been reached, the Member offering the preferential motion does not thereby gain control of the time for debate, which remains in the control of the manager of the bill under the hour rule.

On Nov. 29, 1977,[13] the following proceedings occurred in the House:

MR. [DANIEL J.] FLOOD [of Pennsylvania]: Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, with the amendment of the Senate to the amendment of the House to the amendment of the Senate No. 82, and disagree thereto.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendment No. 82, as follows:

> In lieu of the matter proposed to be inserted by the amendment of the House to the amendment of the Senate numbered 82, insert the following:
>
> Sec. 209. None of the funds contained in this Act shall be used to perform abortions: . . .

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I offer a preferential motion.

13. 123 CONG. REC. 38033, 95th Cong. 1st Sess.

The Clerk read as follows:

Mr. Mahon moves that the House concur in the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82. . . .

THE SPEAKER:[14] The gentleman from Pennsylvania is recognized for 1 hour.

Parliamentarian's Note: Debate on a motion to dispose of a Senate amendment which has not been reported from conference in disagreement but which is otherwise before the House, the stage of disagreement having been reached, is under the control of the manager of the bill under the hour rule and is not divided between the majority and minority parties under clause 2(b) of Rule XXVIII.

Member in Control of General Debate Loses Control Only if Time Is Yielded Back

§ 33.17 A Member controlling time for general debate in Committee of the Whole loses the right to consume such time only if it is yielded back, and not pursuant to any informal agreement on management of time that may be reached by the managers of the bill.

During consideration of the Immigration Reform and Control Act of 1982 (H.R. 7357) in the Committee of the Whole on Dec. 16, 1982,[15] the following exchange occurred:

THE CHAIRMAN:[16] For what purpose does the gentleman from California (Mr. Miller) rise?

MR. [GEORGE] MILLER of California: For the purpose of clarification, Mr. Chairman. It was my understanding under the agreement reached earlier today, that if you did not use your full allotment of your time in these 2 hours, you would lose it, and that tomorrow we would have 3 hours of debate, an hour remaining for Education and Labor, an hour remaining for Judiciary, and an hour for Agriculture.

THE CHAIRMAN: The Chair advises the gentleman from California that the only way you would lose your time, you would have to yield it back.

Parliamentarian's Note: If a case arose where no Member controlling general debate sought recognition to consume time or to move that the Committee rise, the Chair could, after requesting the managers whether they sought time, direct the Clerk to read the bill for amendment under the five-minute rule.

Time Yielded Back by One to Whom Time Was Yielded Reverts to Member in Control

§ 33.18 Debate time yielded back by a Member to whom

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

15. 128 CONG. REC. 31809, 97th Cong. 2d Sess.

16. William H. Natcher (Ky.).

time was yielded under the hour rule reverts to the Member in control of the hour.

During consideration of House Resolution 97 (to seat Richard D. McIntyre as a Member from Indiana) in the House on Mar. 4, 1985,[17] the following proceedings occurred:

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Speaker, I rise to a question of privilege.

Mr. Speaker, I send to the desk a privileged resolution (H. Res. 97) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 97

Whereas a certificate of election to the House of Representatives always carries with it the presumption that the State election procedures have been timely, regular, and fairly implemented; and . . .

Whereas the presumption of the validity and regularity of the certificate of election held by Richard D. McIntyre has not been overcome by any substantial evidence or claim of irregularity; Now, therefore be it

Resolved, That the Speaker is hereby authorized and directed to administer the oath of office to the gentleman from Indiana, Mr. Richard D. McIntyre.

Resolved, That the question of the final right of Mr. McIntyre to a seat in the 99th Congress is referred to the Committee on House Administration.

THE SPEAKER PRO TEMPORE:[18] . . . The Chair recognizes the gentleman from Arkansas (Mr. Alexander).

MR. [WILLIAM V.] ALEXANDER [of Arkansas]: Mr. Speaker, I move that the resolution be referred to the Committee on House Administration. . . .

THE SPEAKER PRO TEMPORE: The gentleman is entitled to 1 hour under that motion, during which time the gentleman from Arkansas controls the time. . . .

MR. ALEXANDER: Mr. Speaker, I would yield 30 minutes for purposes of debate only, to the gentleman from Illinois (Mr. Michel). . . .

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

THE SPEAKER PRO TEMPORE: The gentleman from Illinois has consumed 10 minutes. The gentleman from Illinois (Mr. Michel) has 20 minutes remaining, and the gentleman from Arkansas (Mr. Alexander) has 10 minutes remaining.

Does the gentleman from Illinois desire to yield additional time?

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

MR. ALEXANDER: How much time do I have remaining?

THE SPEAKER PRO TEMPORE: The gentleman has 25 minutes remaining.

MR. ALEXANDER: I thank the Chair.

MR. MICHEL: Mr. Speaker, I reserve the right with one remaining speaker.

MR. ALEXANDER: Mr. Speaker, the gentleman yielded back the balance of his time.

THE SPEAKER PRO TEMPORE: Let the Chair state that the gentleman from Il-

17. 131 CONG. REC. 4277, 4282, 4283, 99th Cong. 1st Sess.

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

linois—the Chair understood the gentleman from Illinois to yield back the balance of his time.

—Member to Whom Time Was Yielded May Not Reserve a Portion

§ 33.19 A Member to whom time was yielded under the hour rule in the House may not, except by unanimous consent, reserve a portion of that time to himself; the unused time reverts to the Member controlling the hour who may subsequently yield further time to that Member.

The following proceedings occurred in the House on Feb. 8, 1972,[19] during consideration of House Resolution 164 (creating a select committee on privacy, human values, and democratic institutions):

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 164 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 164 . . .

Whereas the full significance and the effects of technology on society and on the operations of industry and Government are largely unknown . . . .

Resolved, That there is hereby created a select committee to be known as the Select Committee on Privacy, Human Values, and Democratic Institutions. . . .

MR. MADDEN: Mr. Speaker, I yield 10 minutes to the gentleman from New Jersey (Mr. Gallagher).

MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Speaker, may I take 5 minutes now and reserve 5 minutes to the end of the debate since it is my bill?

THE SPEAKER:[20] The gentleman may do that. Without objection, it is so ordered.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, reserving the right to object . . . is it in order to have a unanimous-consent request at a time like this when the time is controlled by the members of the Committee on Rules. . . ?

MR. GALLAGHER: . . . It was my understanding that I would have the time at the conclusion of debate.

MR. HALL: Mr. Speaker, I submit this is between the gentleman and the man handling the rule, and therefore I must object.

THE SPEAKER: The Chair will notify the gentleman when 5 minutes are up. . . .

The gentleman from New Jersey has consumed 5 minutes.

MR. GALLAGHER: Mr. Speaker, I reserve the balance of my time.

THE SPEAKER: . . . The gentleman from Indiana has control of the time. . . .

If the gentleman from Indiana desires to yield further time at this time he can do so.

19. 118 CONG. REC. 3181–84, 92d Cong. 2d Sess.

20. Carl Albert (Okla.).

Under Trade Act: Member Controlling Time in Opposition May Not Be Compelled To Use Less Than Time Allotted

§ 33.20 Debate on an implementing revenue bill must be equally divided and controlled among those favoring and those opposing the bill under section 151(f)(2) of the Trade Act of 1974, and unanimous consent is required to divide the time between the chairman and ranking minority member of the committee if both favor the bill; in the absence of such a unanimous-consent agreement, a Member opposed to the bill is entitled to control 10 hours of debate in opposition, with priority of recognition to opposing members of the Committee on Ways and Means; and the Member recognized to control the time in opposition may not be compelled to use less than that amount of time unless the Committee rises and the House limits further debate in the Committee of the Whole.

During consideration of the Trade Agreement Act of 1979 (H.R. 4537) in the House on July 10, 1979,[1] the following proceedings occurred:

> MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, pursuant to Section 151(f) of Public Law 93–618, the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be equally divided and controlled between the gentleman from New York (Mr. Conable) and myself. . . .
>
> THE SPEAKER:[2] Is there objection to the request of the gentleman from Oregon (Mr. Ullman)?
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, reserving the right to object. . . .
>
> I take this reservation for the purpose of propounding a parliamentary inquiry to the Chair.
>
> The rule, section 151, before consideration says:
>
>> Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours which shall be divided equally between those favoring and those opposing the bill or resolution. . . .
>
> My query to the Chair as a part of my reservation is, if the unanimous-consent request of the chairman is granted can the chairman then move

1. 125 CONG. REC. 17812, 17813, 96th Cong. 1st Sess.
2. Thomas P. O'Neill, Jr. (Mass.).

to terminate debate at any time during the course of debate before the 20 hours have expired?

THE SPEAKER: Reading the statute a motion further to limit the debate shall not be debatable, and that would be made in the House, either now or later, and not in the Committee of the Whole.

MR. ASHBROOK: Mr. Speaker, further reserving the right to object, if the gentleman from Ohio were to be recognized as opposing the bill, does the gentleman have the absolute right to the 10 hours regardless of the time that would be taken on the other side?

THE SPEAKER: Unless all general debate were further limited by the House a member of the Committee on Ways and Means who is opposed to the bill could seek to control the 10 hours of time. The gentleman would be entitled to the 10 hours unless a request came from a member of the Committee on Ways and Means who would be in opposition. . . .

MR. ASHBROOK: I thank the Speaker.

I ask this for a very specific purpose. Further reserving the right to object, it is my understanding then that the gentleman from Oregon could not foreclose debate as long as whoever controls the opposition time still has part of the 10 hours remaining. Is that correct, under the statute providing for consideration of this trade bill? . . .

THE SPEAKER: Not unless the committee rose and the House limited all debate.

A motion to limit general debate would not be entertained in the Committee of the Whole and the Chair cannot foresee something of that nature happening.

Effect of Rejection of Previous Question on Motion To Instruct Conferees

§ 33.21 Under Rule XXVIII, clause 1(b), debate on any motion to instruct conferees is equally divided between majority and minority parties or among them and an opponent; but where the previous question is rejected on a motion to instruct, a separate hour of debate on any amendment to the motion is fully controlled by the proponent of the amendment under the hour rule (Rule XIV, clause 2), as the manager of the original motion loses the floor.

The following proceedings occurred in the House on Oct. 3, 1989,[3] during consideration of H.R. 3026 (District of Columbia appropriations for fiscal year 1990):

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3026) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District

3. 135 CONG. REC. 22859, 22862, 22863, 101st Cong. 1st Sess.

For further discussion of Rule XXVIII, see § 26, supra.

for the fiscal year ending September 30, 1990, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

THE SPEAKER PRO TEMPORE:[4] Is there objection to the request of the gentleman from California?

There was no objection.

MR. [BILL] GREEN [of New York]: Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

> Mr. Green moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 3026, be instructed to agree to the amendment of the Senate numbered 3.

THE SPEAKER PRO TEMPORE: The gentleman from New York [Mr. Green] is recognized for 30 minutes in support his motion. . . .

MR. GREEN: Mr. Speaker, I move the previous question on the motion to instruct. . . .

THE SPEAKER PRO TEMPORE: The question is on ordering the previous question.

[The previous question was rejected.]

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

I understand now that the gentleman from California [Mr. Dannemeyer] intends to offer an amendment to the motion offered by the gentleman from New York [Mr. Green].

My question is: Under the offering will I receive part of the time?

THE SPEAKER PRO TEMPORE: The Chair would state to the gentleman from California [Mr. Dixon] that 1 hour would be allotted to the gentleman from California [Mr. Dannemeyer]. He would have to yield time to the gentleman from California [Mr. Dixon]. . . .

The Clerk read as follows:

> Amendment offered by Mr. Dannemeyer to the motion to instruct: At the end of the pending motion, strike the period, insert a semicolon, and add the following language: "; *Provided further* that the conferees be instructed to agree to the provisions contained in Senate amendment numbered 22."

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Dannemeyer] is recognized for 1 hour.

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Speaker, I yield one-half of the time to the gentleman from California [Mr. Dixon], for purposes of debate only.

Parliamentarian's Note: The control of debate in the above instance is to be distinguished from debate on motions in the House to dispose of amendments in disagreement. In the latter case, although the manager of the original motion might lose the floor upon defeat of his motion, debate on a subsequent motion is nevertheless divided under Rule XXVIII, clause 2(b). It is only debate on amendments to such motions, when pending, that is not divided.

4. William J. Hughes (N.J.).

Member in Control Must Remain Standing—Member Inadvertently Seated Himself

§ 33.22 While a Member controlling the floor in debate must remain standing, a Member who inadvertently seats himself and then immediately stands again before the Chair recognizes another Member may be permitted to retain control of the floor.

On Oct. 19, 1977,[5] the following proceedings occurred in the Committee of the Whole during consideration of the Energy Transportation Security Act of 1977 (H.R. 1037):

> MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I make the point of order that the gentleman from California (Mr. McCloskey) seated himself and thereby yielded back the balance of his time.
>
> THE CHAIRMAN:[6] The Chair adopts a commonsense interpretation of the rule.
>
> MR. DANIELSON: Mr. Chairman, I ask for regular order.
>
> THE CHAIRMAN: The gentleman from California (Mr. McCloskey) was back up on his feet almost immediately and indicated that he wanted to continue his colloquy with the gentleman from New York (Mr. Murphy).
>
> Does the gentleman from California (Mr. McCloskey) desire to yield to the gentleman from New York (Mr. Murphy)?
>
> MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Chairman, I desire to yield to the gentleman from New York (Mr. Murphy).

§ 34. Control Passing to Opposition

As noted earlier, when an essential motion made by the Member in charge of the bill is decided adversely, the right to prior recognition passes to the Member leading the opposition to the motion. Under this principle the control of the measure passes to the opposition when the House disagrees to the recommendation of the committee reporting the bill or when the motion for the previous question on the measure is rejected.[7]

The opposing side also gains control of some time, but not of the pending proposition, where the rules or an agreement provides that on a certain question or motion a fixed amount of debate be conducted, equally divided between those favoring and those opposing the question.[8]

---

5. 123 CONG. REC. 34220, 95th Cong. 1st Sess.

6. Morris K. Udall (Ariz.).

7. *House Rules and Manual* § 755 (1995).

8. See, for example, § 30.6, supra (where opposition recognized for five minutes on motion to recommit, of-