

There was no objection.

**§ 52.18 While a Member who is held to have breached the rules of decorum in debate is presumptively disabled from further recognition on that day, by tradition the Speaker's ruling and any necessary**

**expungement of the Record are deemed sufficient sanction, and by custom the chastened Member is permitted to proceed in order (usually by unanimous consent).**

See the proceedings of July 29, 1994, discussed in § 48.13, *supra*.

## G. REFERENCES TO HOUSE, COMMITTEES, OR MEMBERS

### § 53. Criticism of House or Party

In order that free debate not be hindered in the deliberations of the House, Members are permitted to voice critical opinions of Congress, of the House, and of the political parties.<sup>(10)</sup> In this regard, a wider latitude is permitted Members today than in early Congresses.<sup>(11)</sup> However, critical opinions in debate of the House or of its membership may not extend to

gross misstatements of motive<sup>(12)</sup> or to descriptions employing language objectionable in itself.<sup>(13)</sup>

#### *Congress*

**§ 53.1 Statements that are critical of Congress will not be ruled out of order for that reason alone; thus, a statement in debate claiming that the campaign expenses of Members were paid by certain interests was held not to be a personal reflection on any Member of the House and to be in order.**

On Mar. 16, 1939,<sup>(14)</sup> Mr. Francis D. Culkin, of New York, demanded that the following

10. See the statements of Speaker Sam Rayburn (Tex.), cited at §§ 53.2, 53.3, *infra*.

11. In early Congresses it was held not in order to cast reflections on the House or its membership present or past, 5 Hinds' Precedents §§ 5132–5138, 5161, 5162, and the Speaker would intervene on his own initiative to prevent objectionable references. 5 Hinds' Precedents §§ 5132, 5137, 5163. For a recent occasion of such intervention, see § 54.10, *infra*.

12. See § 53.3, *infra*.

13. See 5 Hinds' Precedents § 5135 (“damnable heresies”).

14. 84 CONG. REC. 2883, 2884, 76th Cong. 1st Sess.

words used in debate be taken down:

Mr. Chairman, I will tell you what is behind all this. You need not camouflage it. The Power Trust that paid a lot of campaign expenses last year. That is what is behind it.

The Committee rose and the words objected to were reported to the House whereupon Speaker William B. Bankhead, of Alabama, ruled that since the language was not a personal reflection upon any individual Member of the House, the words did not violate the rules or proprieties of debate.

On Sept. 25, 1961,<sup>(15)</sup> Mr. Clare E. Hoffman, of Michigan, asked unanimous consent that at the conclusion of the business of the House he be permitted to proceed for five minutes on the topic "Is the Congress Mentally Ill?". Mr. Frank T. Bow, of Ohio, raised a parliamentary inquiry as to whether that was a proper subject for debate on the floor of the House, and Speaker Pro Tempore John W. McCormack, of Massachusetts, declined to rule in advance as to whether the speech would be unparliamentary.

### *Political Parties*

#### **§ 53.2 A statement in debate referring to "irresponsible**

15. 107 CONG. REC. 21466, 87th Cong. 1st Sess.

**actions by members of the President's own party" was held in order as not reflecting on the character of any House Member.**

On Mar. 27, 1957,<sup>(16)</sup> Mr. B. F. Sisk, of California, delivered the following words in debate which were demanded to be taken down:

I could not help but admire him [Mr. John E. Fogarty, of Rhode Island] for his courage and for his devotion to the American people to get up here time after time after time to defend the administration's budget against irresponsible actions by members of the President's own party.

Speaker Sam Rayburn, of Texas, ruled that the words were not unparliamentary since they did not reflect on the character of any House Member. The Speaker added that objections to words in debate could reach the point where a Member could not criticize, thereby restricting debate in the House.

#### **§ 53.3 A statement in debate referring to members of the Republican Conference as avoiding an issue and describing lynching as a "proper means of justice" was held to be in violation of the rules of debate.**

16. 103 CONG. REC. 4557, 4558, 85th Cong. 1st Sess.

On July 26, 1951,<sup>(17)</sup> Mr. Joseph W. Martin, Jr., of Massachusetts, demanded that words used in debate by Mr. John J. Rooney, of New York, in reference to the Republican Conference be taken down. Speaker Sam Rayburn, of Texas, ruled as follows:

The Chair in every instance of this kind has been most liberal with the Member who uttered the words objected to, because he has always thought that great liberality must be indulged in so that we may have free and full debate. On very few occasions has the present occupant of the chair held that remarks were a violation of the rules of the House.

The Chair can hardly agree, however, that the words, applied to the meeting of the Republicans in caucus yesterday were quite proper.

*Parliamentarian's Note:* The words used, which were stricken from the Record, read as follows: "The way to handle the situation is to work up to it squarely, unashamedly, and straight forwardly, and not peek through keyholes, hide behind doors, and tremble at the first sign of opposition as you did yesterday [referring to the Republican Conference]; they are saying nothing less than lynching is a proper means of justice."

**§ 53.4 It was not out of order to ask in debate whether it**

17. 97 CONG. REC. 8969, 82d Cong. 1st Sess.

**was a proper parliamentary inquiry to ask that a bill be printed in such a way that the Republicans could understand it.**

On Mar. 31, 1938,<sup>(18)</sup> Mr. Clare E. Hoffman, of Michigan, demanded that the following words used in debate by Mr. Thomas F. Ford, of California, be taken down: "Mr. Chairman, is it a parliamentary inquiry then to ask that the bill be reprinted in words of one syllable so that the Republicans can understand it?"

Speaker William B. Bankhead, of Alabama, ruled that the language was not objectionable under the House rules.

**§ 53.5 A statement in debate that a Member was leading the Republican party in a policy of opportunism was held not to transgress the rules of the House or reflect upon the integrity of Members and therefore to be in order.**

On Feb. 8, 1941,<sup>(19)</sup> the following words used by Mr. John W. McCormack, of Massachusetts, in debate were demanded to be

18. 83 CONG. REC. 4484, 4485, 75th Cong. 3d Sess.

19. 87 CONG. REC. 796, 77th Cong. 1st Sess.

taken down by Mr. Clare E. Hoffman, of Michigan:

The gentleman from New York who was leading the Republican Party in the policy of opportunism that is being engaged in in connection with a bill serious to the fate of our country relating to our national defense.

The Committee of the Whole rose and the words were reported to the House, where Speaker Sam Rayburn, of Texas, ruled that the words did not reflect upon the integrity of any Members and were therefore not violative of the rules of the House.

**§ 53.6 Reference in debate to the minority party as “having some motivation other than fully objective concern for the House in the timing of a resolution” and the assertion that the House could proceed with “greater dignity and honor” at another time, together with the disclaimer that the minority leader did not necessarily share that motivation, was held not to impugn the motives of any Member and to be parliamentary.**

During consideration of House Resolution 578 (directing the Committee on Rules to make certain inquiries) on Feb. 13,

1980,<sup>(20)</sup> the following proceedings occurred in the House:

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I send to the desk a privileged resolution (H. Res. 578) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 578

*Resolved*, Whereas it was reported in the public press on February 9, 1980, that, “The House of Representatives this week lost a secret effort in court to obtain a ruling that congressmen do not have to respond to federal grand jury subpoenas for House records;” . . .

*Therefore be it resolved*, That the Committee on Rules be instructed to inquire into the truth or falsity of the newspaper account and promptly report back to the House its findings and any recommendations thereon. . . .

MR. BOLLING: . . . The gentleman from Missouri has not felt more strongly about a matter in a very long time than he does about this. . . . The gentleman from Missouri obviously has no difficulty with the content of the resolution and feels that he could in honor offer it. The gentleman from Missouri has a very, very strong feeling about the timing of the offering of this proposal by the minority, and the gentleman from Missouri has carefully differentiated between what he has said earlier about the minority leader and what he is now saying about the minority.

I fear me, and I do not suspect the gentleman from Arizona of having this

20. 126 CONG. REC. 2768, 2769, 96th Cong. 2d Sess.

view, I fear me that there is some motivation other than fully objective concern for the House in the timing of the resolution, not in the content. And that is the reason that the gentleman from Missouri took the unusual course of offering the minority's proposition. He feels that it is appropriate for the House, through the Rules Committee initially, to look into this matter. But he thinks it might be done with greater dignity, and one might say with greater honor, if it were not done at this particular time of confusion. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I demand that the words of the gentleman from Missouri be taken down. . . .

If the record is read back by the Clerk, I believe the Chair will find that the gentleman from Missouri referred to the motivation behind the offering of this resolution at this time and referred to the minority leader and the members of the minority party. Subsequent to that the gentleman from Missouri referred to that motivation being dishonorable. I think this falls within the rules of the House that clearly say that a Member of the House cannot question the motivation of other Members of the House in their actions. The gentleman from Missouri did refer to the minority leader, and all of the Members of the minority and their motivation.

THE SPEAKER:<sup>(1)</sup> The Clerk will report the words. . . .

The gentleman from Missouri has referred in his remarks that he feels that it is appropriate for the House, through the Rules Committee, initially to look into this matter, and he thinks

it might be done with greater dignity and, one might say, with greater honor if done by the committee or considered at another time.

The Chair, in its opinion, feels that he has not transgressed on the honor or the dignity of the minority party or the minority leader, and the point of order is not well taken.

The gentleman from Missouri.

MR. BAUMAN: Mr. Speaker, would the Chair address himself to the issue of motivation the gentleman from Missouri raised, as to whether that is a correct use of parliamentary language.

THE SPEAKER: In the opinion of the Chair the gentleman did not talk about or refer to the dishonor of any Member of the House, nor did he characterize the motives of any specific Member in an unparliamentary way.

The Chair repeats, the point of order is not well taken.

### *Stealing an Election*

**§ 53.7 In response to a parliamentary inquiry, the Chair indicated that it was not in order in debate to refer to an identifiable group of sitting Members as having committed a crime, such as "stealing" an election.**

The prohibition in Rule XIV, clause 1,<sup>(2)</sup> against Members' engaging in "personality" during debate, applies to allegations that an identifiable group of sitting

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

2. See *House Rules and Manual* § 749 (1995).

Members have committed a crime. Such application of the rule is shown by the proceedings of Feb. 27, 1985,<sup>(3)</sup> in which a statement made by Mr. John Rowland, of Connecticut, as indicated below, concerning an allegedly “stolen” election, was the subject of a demand that the words be taken down:

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I demand the gentleman’s words be taken down in that he said “stolen.”

THE CHAIRMAN: Words will be taken down.

THE SPEAKER PRO TEMPORE:<sup>(4)</sup> The Clerk will read the words taken down. The Clerk read as follows:

The scary thing about it, as a person who served in the legislature for 4 years, and as a person who happens to be sitting as the youngest Member of Congress, I find it difficult that the first situation that we run into in this House, the first class project, as we may call it, is trying to retain a seat that has been stolen from the Republican side of the aisle, and I think it is rather frustrating.

THE SPEAKER PRO TEMPORE: Would the gentleman care to modify his remarks before the Chair rules?

MR. ROWLAND of Connecticut: Yes, I would, Mr. Speaker.

THE SPEAKER PRO TEMPORE: In what way does the gentleman care to modify?

MR. ROWLAND of Connecticut: I would like to ask unanimous consent

3. 131 CONG. REC. 3898, 3899, 99th Cong. 1st Sess.

4. Tommy F. Robinson (Ark.).

that the words objected to be withdrawn. . . .

The word “stolen,” Mr. Speaker.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Connecticut?

There was no objection. . . .

THE SPEAKER PRO TEMPORE: The gentleman from Georgia is recognized.

MR. [NEWT] GINGRICH [of Georgia]: I would yield in just a moment, after asking the Chair if in fact Members were convinced an action were being taken which involved a word which was ruled by the Chair to be inappropriate, how could a Member report to the House on that action? Should we substitute the word “banana”? What is it one should say if in fact—not just as a joke, but if in fact—Members of the Republican side honestly believed strongly something is being done? In other words, is “unconstitutional” an acceptable term but “illegal” not acceptable? . . .

THE SPEAKER PRO TEMPORE: Simply put, Members should not accuse other Members of committing a crime. When the majority is accused of “stealing,” that may suggest illegality. Other words could be used but not those accusing Members of committing a crime.

MR. GINGRICH: What if one honestly believes, for a moment, that a crime is being committed? Would it in fact be against the rules—

THE SPEAKER PRO TEMPORE: Members may not engage in personalities.

MR. GINGRICH: But he did not talk in personalities.

MR. ROWLAND of Connecticut: Mr. Speaker, will the gentleman yield?

MR. GINGRICH: I will be glad to yield to the gentleman.

MR. ROWLAND of Connecticut: I thank the gentleman for yielding.

Mr. Speaker, I would simply point out that I did not refer to anybody stealing an election. I just referred to the frustration that we as freshmen are exhibiting and fearing as we go through the deliberations. I did not refer to anybody.

THE SPEAKER PRO TEMPORE: The gentleman seemed to refer to the majority of the House, that it had stolen the election.

## § 54. Criticism of Committees or Their Members

Although a Member may generally criticize the action or inaction of a House committee or subcommittee or a member thereof,<sup>(5)</sup> he may not impugn the motives or honesty of committee members<sup>(6)</sup> such as charging that a committee proceeding is motivated by a desire to violate House rules in order to defame a witness.<sup>(7)</sup>

### *Particular Allegations; Abuse of Committee Power*

#### § 54.1 Although improper charges of unlawful committee activity have been stricken from the Record, a

5. See §§ 54.6, 54.8, 54.13, *infra*.

6. See §§ 54.1–54.5, *infra*.

7. See §§ 54.1 et seq., *infra*.

#### **Member in debate may generally criticize the actions of a committee, as by alleging an abuse of its powers.**

On Jan. 17, 1949,<sup>(8)</sup> Mr. Clare E. Hoffman, of Michigan, objected to the following language used in debate by Mr. Chet Holifield, of California, in reference to a House committee: “The gentleman from California [Mr. Havenner] has been the victim of the abusive, vicious, and irresponsible use of the power of a congressional committee twice.”

Speaker Sam Rayburn, of Texas, ruled as follows:

The Chair thinks that the gentleman would be going quite far afield if he said a Member of the House would not have the right to criticize the actions of a committee of the House. The gentleman from California will proceed in order.

On June 24, 1958,<sup>(9)</sup> during a discussion on the floor of the House about the proceedings in a subcommittee hearing, allegations were made that the subcommittee was deliberately trying to defame certain individuals. The precise words (which do not appear in the Record) were: “There is no question but that this procedure is the

8. 95 CONG. REC. 428, 429, 81st Cong. 1st Sess.

9. 104 CONG. REC. 12120, 85th Cong. 2d Sess.