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an amendment to a substitute amendment to a bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, the Committee divided; the tellers tallied the vote, and the Chairman[6] announced that the amendment to the substitute amendment was rejected.

Immediately thereafter, Mr. Robert N. C. Nix, of Pennsylvania, requested that he be permitted to change his vote from "no" to "aye." The Chairman stated that it would be ordered if there were no objections. There being no objection, Mr. Nix' vote was recorded as requested.

A similar result was obtained on the very next recorded teller vote when Mr. John L. McMillan, of South Carolina, sought unanimous consent to change his vote from "yea" to "nay," following the Chair's announcement that the particular amendment had been rejected. Again, the Chair inquired as to whether any Member objected, and none being heard, the change was recorded.

6. William L. Hungate (Mo.).

§ 41. Announcement of Member Pertaining to His Own Vote; Announcing How Absent Colleague Would Have Voted

The practice in the House regarding a Member's announcement of how he would have voted had he been present on a record vote, where he was in fact absent, has changed during the last half-century. Such announcements are now routinely accepted by unanimous consent. Announcements on behalf of absent colleagues, on the other hand, are not entertained under current procedures used in the House. The precedents in this section illustrate this evolution.

§ 41.1 Under current practice, a Member may announce how he would have voted when the roll was called had he been present to vote.

On May 20, 1959,[7] having missed a roll call vote on a motion to suspend the rules and pass a bill (H.R. 7007) making appropriations for the National Aeronautics and Space Administration, Mr.

7. 105 CONG. REC. 8634, 8690, 86th Cong. 1st Sess.

Robert R. Barry, of New York, made the following statement:

MR. BARRY: Mr. Speaker, on rollcall No. 46 I was unavoidably detained. Had I been present, I would have voted "yea." I ask unanimous consent that the Record so indicate.

THE SPEAKER:[8] Without objection, it is so ordered.

There was no objection.

§ 41.2 A Member may announce how he would have voted on a roll call had he been present, but may not do so before the announcement of the vote.

On May 11, 1964,[9] the House agreed to a resolution (H. Res. 650) which provided that upon its adoption, the House would resolve itself into the Committee of the Whole for the consideration of a bill (H.R. 8986) to adjust the rates of basic compensation of certain officers and employees in the federal government, and for other purposes.

Prior to the Speaker's announcement of the result, Mr. William M. Colmer, of Mississippi, made the following statement:

Mr. Speaker, I was temporarily absent from the Chamber. I did not hear the second bell ring, and I did not hear my name called. I am very anxious to vote. Do I qualify?

THE SPEAKER:[10] Having in mind the statement just made by the distinguished gentleman from Mississippi, the Chair is reluctantly constrained to rule that he cannot vote; he does not qualify.

MR. COLMER: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COLMER: Mr. Speaker, under the rules am I permitted to state how I would have voted had I qualified?

THE SPEAKER: Not at this particular time.

After the Chair announced the result of the vote, Mr. Colmer then made a request as follows:

MR. COLMER: Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

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

There was no objection.

MR. COLMER: Mr. Speaker, had I been able to qualify on the vote just taken, I would have voted "no" on the resolution.

§ 41.3 The rules do not preclude a Member from announcing, after a record vote on which he failed to answer, how he would have voted if present.

On June 27, 1957,[11] after a roll call vote on a motion to recommit

8. Sam Rayburn (Tex.).
9. 110 CONG. REC. 4905, 88th Cong. 2d Sess.
10. John W. McCormack (Mass.).
11. 103 CONG. REC. 10521, 85th Cong. 1st Sess.

a bill (S. 1429) authorizing structural and other improvements on the Senate Office Building, Mr. Paul C. Jones, of Missouri, was recognized by the Speaker[12] and stated:

> Mr. Speaker, I was not in the Chamber when my name was reached on the rollcall which has just been completed, although I was here during a part of the debate and also before the rollcall was completed. However, I cannot qualify to be recorded. If I had the opportunity to vote I would have voted "no." . . . The only reason I make this explanation is to indicate that I was not absent and have been engaged in official work in the interest of my constituents during the entire day.

Mr. Clarence Cannon, of Missouri, then rose and initiated the following proceedings:

> MR. CANNON: Mr. Speaker, if the Speaker will permit a parliamentary inquiry, there have been an increasing number of announcements in the last few weeks by Members on how they would have voted if present when the roll was called. May I ask the Speaker as to the practice?
>
> THE SPEAKER: The gentleman from Missouri raised that question with the Chair the other day and stated that it was unparliamentary for a Member who could not qualify to announce later on that had he been here he would have voted yea or nay. Now, the Chair does not know of any way that we could keep a Member from asking unanimous consent to proceed for a minute or an hour and announce before a bill was brought up how he was going to vote if he was present or how he would have voted when the matter came up. So the Chair cannot see any reason for not allowing Members to express themselves how they would have voted or how they are going to vote. If there is any rule of the House that that violates, the Chair does not know anything about it.

Parliamentarian's Note: The Chair's ruling remains viable as the current practice,[13] although Mr. Cannon, in his extensions of remarks, noted that such announcements were not permitted under the earlier practice:

> MR. CANNON: In response to the Speaker's inquiry, may I quote from section 3151 of the Precedents of the House.
>
> 3151. It is not in order after a record vote on which he failed to vote for a Member to announce how he would have voted if present.

On February 6, 1915, Mr. John E. Raker, of California, rising in his place, said:

> Mr. Speaker, I want to ask unanimous consent to make a statement for a minute. I was here yesterday afternoon, but on account of sickness in my family I was called out and could not get back in time to vote on the motion to recommit the naval appropriation bill. I returned, but too late to have my vote recorded. If I had been here, I would have voted against the motion to recommit.

Mr. James R. Mann, of Illinois, made the point of order that the statement was wholly improper.

12. Sam Rayburn (Tex.).

13. See §§ 41.1, 41.2, supra.

The Speaker sustained the point of order and said:

The statement is out of order.

Mr. Cannon continued his statement, pointing out an earlier ruling by Speaker Henry T. Rainey, of Illinois, in the 73d Congress, where the Chair quoted from Rule XV:[14]

After the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting; and thereafter the Speaker shall not entertain a request to record a vote.

Mr. Cannon continued:

The rule is founded on sound policy. Such announcements may be cited in contrast with others who failed to vote, as an inference of less interest in the proceedings and less attention to the question at issue.

If one Member makes the announcement, critics may make it the occasion of inquiry as to why other absent Members did not announce a position on the vote.

The pair clerks pair all Members who do not vote. Subsequent announcement of how a Member would have voted if present automatically places the Member, with whom he is paired, on the other side of the question.

Such practice renders Members less responsive to inconvenient rollcalls, when their position can later be announced at a more convenient time.

No Speaker has ever held such announcements in order.

§ 41.4 Where a Member entered the Chamber too late to be recorded on the question of overriding a veto, he stated the reasons for his absence, entered his name on the pair list, and indicated how he would have voted if he had been able to do so.

On Feb. 24, 1944,[15] the House voted to override the President's veto of a tax revenue bill (H.R. 3687). Shortly thereafter, several Members received unanimous consent to address the House on the issue for a brief period of time. Among them was Mr. Chet Holifield, of California, who made the following request:

MR. HOLIFIELD: Mr. Speaker, I ask unanimous consent to extend my own remarks at this point in the Record.

THE SPEAKER:[16] Without objection, it is so ordered.

There was no objection.

MR. HOLIFIELD: Mr. Speaker, I arrived on the floor after my name had been called for a vote to sustain or reject the President's veto on the tax bill. Due to an unavoidable appearance before the State Department on an immigration matter for a constituent, I arrived some 3 minutes late. In such a case the rules of the House prohibit

14. Mr. Cannon incorrectly attributed the ruling to Speaker Rayburn. See 77 CONG. REC. 2587, 2588, 73d Cong. 1st Sess., Apr. 28, 1933.

15. 90 CONG. REC. 2013, 2016, 78th Cong. 2d Sess.

16. Sam Rayburn (Tex.).

the Member qualifying for the roll-call vote. I immediately entered my name on the pair list in favor of sustaining the President's veto. If I had been present in time for qualification, I would have cast my vote in favor of sustaining the President's veto.

Parliamentarian's Note: Although the result of the vote had not been announced when Mr. Holifield entered the Chamber, under the prevailing rules of the day his failure to answer to his name when it was called, precluded him from casting a vote. In order to do so, he would have had to "qualify" by stating that he had been in the Chamber, listening, when his name had been called and had failed to hear it. These criteria were eliminated in 1969.

Announcements Pertaining to Absent Members

§ 41.5 The Chair stated that the practice of announcing how an absent Member would have voted after a roll call vote is not a proper practice under the established precedents.

On Apr. 14, 1937,[17] the House having just passed a bill (H.R. 1668) by roll call vote, to amend the Interstate Commerce Act, the following exchange took place:

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I was unavoidably detained and was not in the Chamber at the time my name was called. I desire to submit a parliamentary inquiry.

THE SPEAKER:[18] The gentleman will state it.

MR. CANNON of Missouri: Would I be entitled to recognition by the Chair for the purpose of announcing how I would have voted had I been present?

THE SPEAKER: Under a strict construction of the precedents the Chair does not think the gentleman would be permitted to do so.

MR. CANNON of Missouri: Under the same circumstance, Mr. Speaker, would I be entitled to recognition by the Chair to announce how a colleague would have voted had he been present?

THE SPEAKER: The Chair would make the same ruling in that respect.

In view of the fact the question has been raised by the parliamentary inquiry of the gentleman from Missouri, the Chair will state that a practice has grown up in the House, because no objection has been raised by any Member, whereby when certain Members fail to be present and answer to their names, some of their colleagues undertake to explain how they would have voted if present. This question has been raised several times in the past, and it has been held uniformly that it is an improper practice. The Chair, therefore, is inclined to adhere to the decisions heretofore established.

§ 41.6 In response to a Member's inquiry, the Chair stated that it possessed no authority other than that impliedly granted by unanimous consent to recognize a

17. 81 CONG. REC. 3489, 3490, 75th Cong. 1st Sess.

18. William B. Bankhead (Ala.).

Member for the purpose of stating how an absent colleague would have voted.

On Mar. 21, 1938,[19] Mr. Clifton A. Woodrum, of Virginia, addressed the Chair with the following parliamentary inquiry:

MR. WOODRUM: Mr. Speaker, a practice seems to have grown up of late in the House of Members announcing how their colleagues would have voted had they been present. Entirely without regard to these particular cases, as to which I, of course, have no objection, this was actually carried to the point a few days ago of permitting a Member to have the Record corrected to show that had he been present he would have voted in a certain way, and this particular Member, although absent at the time under some sort of misapprehension, actually voted on the matter.

I wish to inquire, Mr. Speaker, whether under the rules of the House there is any parliamentary authority for such announcements being made in the House?

THE SPEAKER:[20] In reply to the parliamentary inquiry of the gentleman from Virginia the Chair will state that when a record vote is taken in the House only the names of those who are present and voting or paired are shown in the Record.

There has grown up a practice of Members arising in their places after votes are taken and asking unanimous consent to make a statement with reference to how some absent colleague would have voted had he been present. There is no authority for the Chair to recognize a Member for that purpose except by unanimous consent. The Chair, of course, when a Member rises for the purpose of submitting such a unanimous-consent request, feels that in fairness he should submit the matter to the House as a question of unanimous consent. If any objection is made there is no parliamentary authority for a Member to make such a statement.

§ 41.7 A point of order having been made earlier in the day against the practice of Members announcing how absent colleagues would have voted, if present, on a roll call vote, the Speaker declined later the same day to recognize Members for that purpose.

On Aug. 15, 1940,[1] the House voted on a joint resolution (S.J. Res. 286) to strengthen the common defense and to authorize the President to order members and units of reserve components and retired personnel of the Regular Army into active military service. The vote having been taken by the yeas and the nays, 342 Members voted "yea," 34 Members voted "nay," and 54 Members did not vote.

Shortly after the announcement of the result of the vote, the Chair recognized Mr. Joseph A.

19. 83 CONG. REC. 3768, 75th Cong. 3d Sess.

20. William B. Bankhead (Ala.).

1. 86 CONG. REC. 10448, 10449, 10460, 10461, 76th Cong. 3d Sess.

Gavagan, of New York, who commenced the following exchange:

MR. GAVAGAN: Mr. Speaker, I announce that my colleagues the gentlemen from New York, Mr. Celler——

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I very much regret to have to call attention to the rule against announcement of how another Member would have voted if present.

THE SPEAKER:[2] The gentleman from Missouri objects to the announcement of how the colleagues of the gentleman from New York would have voted. Under the rule, such an announcement is not in order.

A few moments later, the Speaker announced that "the Chair will now recognize Members only for unanimous-consent requests," thereby prompting another brief exchange initiated by Mr. Gavagan, as follows:

MR. GAVAGAN: Mr. Speaker, under the right to submit unanimous-consent requests, I wish to announce to the House that my colleagues——

MR. CANNON of Missouri: I regret that I have to object, Mr. Speaker. The proper method would be for the Member himself to later speak or extend remarks giving his views.

THE SPEAKER: The gentleman from Missouri objects to the announcement. . . .

MR. ENGLEBRIGHT: Mr. Speaker, I ask unanimous consent to proceed for one-half minute to make a short statement.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

MR. ENGLEBRIGHT: Mr. Speaker, I am authorized to state that had Mr. Andresen of Minnesota, and Mr. Hope, of Kansas, been present they would have voted "aye"——

THE SPEAKER: The Chair cannot entertain that statement in view of the objection made by the gentleman from Missouri (Mr. Cannon) earlier in the day, to other statements of that sort.

MR. CANNON of Missouri: Mr. Speaker, it is not a matter of any Member objecting but, under the rules, the Chair is not permitted to recognize Members for that purpose.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Speaker, will the gentleman yield?

MR. CANNON of Missouri: I yield.

MR. WOLCOTT: May not the whip or the leader, or whoever is charged with that responsibility obtain a minute to address the House for that purpose by unanimous consent?

MR. CANNON of Missouri: Unfortunately, the whips, like other Members, are subject to the rules of the House. It is a rule which has been observed for a hundred years, and, like every other rule of the House, there is an excellent reason for its observance.

In the first place, it places a Member on record by proxy. A Member may not be recorded unless present and answering when his name is called and a Member may not vote by proxy. Such announcements in effect nullify both these provisions of the rules and place Members on record on the announcements of a colleague.

In the second place, such announcements flagrantly misrepresent the position of other Members of the House.

2. William B. Bankhead (Ala.).

All Members who fail to answer on roll call are arbitrarily paired without consulting their wishes or inquiring as to their attitude on the question on which the vote is taken, and always without their knowledge or consent as to with whom paired. Then for some Member to rise on the floor at the conclusion of the vote and announce that the Member with whom they are unwittingly paired would have voted in the affirmative or the negative if present, automatically places them on the opposite of the question although they may have been emphatically pledged to their constituency to the contrary. Again, such announcements are a reflection on all Members who, through some unavoidable exigency, failed to vote on the roll call, as they infer less interest in the proceedings and less attention to the question at issue than that exhibited by the Members whose position is announced by an assiduous, if not officious, colleague. If such a practice should become general it would impose on spokesmen for each delegation in the House the nerve-wracking duty of seeing that every Member of his delegation was accounted for in these announcements at the close of every vote thereby contributing immeasurably to the confusion on the floor and the delay in the proceedings of the House every time the roll was called.

Not the least objectionable feature of this violation of the rules is its encouragement of delinquency. When a Member may enter his appearance in and be placed of record in this manner he has less hesitancy in absenting himself from the Chamber and the city. Something like 40 Members were included in a recent announcement of this character, and if it is extended to permit the whips on either side of the aisle to thus round up their charges, it is easy to foresee a situation in which a majority of the membership of the House might leave their vote and their conscience in the keeping of a colleague while they attend to more inviting matters. In fact, so objectionable is the practice that the Chair has held that Members could not be recognized even for the purpose of asking unanimous consent to make such announcements.

MR. WOLCOTT: Will the gentleman yield further?

MR. CANNON of Missouri: I yield.

MR. WOLCOTT: I am merely asking this question to clarify the matter. I can see the gentleman's points, but is this a rule or a tradition?

MR. CANNON of Missouri: It is a practice of immemorial standing. There are decisions by practically every Speaker of the House since Mulhenberg to the effect that the Chair cannot recognize for that purpose.

MR. WOLCOTT: It would not be violating any of the rules if the whip on either side, for the purpose of announcing the votes, asked unanimous consent to proceed for 1 minute for that purpose, would it?

MR. CANNON of Missouri: The Speaker is not authorized to put a unanimous-consent request for that purpose. You cannot vitiate the rule by indirection. It is a long-established rule that you cannot do by indirection anything directly prohibited by the rules.

MR. WOLCOTT: That is why I asked if it was a rule or simply a practice.

MR. CANNON of Missouri: Both. The rules do not provide for it and the

practice of the House does not permit it.

MR. WOLCOTT: There is nothing in the written rules of the House to prevent it, as I understand?

MR. CANNON of Missouri: There is nothing in the written rules of the House to permit it.

MR. WOLCOTT: But the gentleman is familiar with the rules. Will he advise the House whether there is anything in the written rules which prevents such announcement?

MR. CANNON of Missouri: The gentleman remembers the statement by the distinguished Member from Ohio, Mr. Longworth, at one time Speaker of the House, in which he said that about half of the law of the House was written and half unwritten, and that frequently the unwritten was the more important of the two. And Speaker Cannon, in passing on a point of order in a proceeding under suspension of the rules, pointed out that the motion not only suspended all rules but included in its scope the unwritten law and practice of the House.

MR. GAVAGAN: The gentleman concedes that the written rules of the House make no provision for the gentleman's objection to the unanimous-consent request.

MR. CANNON of Missouri: The written rules of the House make no provision for it. It is not permissible under the rules.

MR. GAVAGAN: I would like also to call the gentleman's attention to a specific rule of this House which prevents Members from voting standing here in the Well of the House; yet I have seen the gentleman time in and time out violate that rule. From today onward the gentleman will stand at his seat and vote.

MR. CANNON of Missouri: I would like to have the gentleman cite an occasion when I did so.

MR. GAVAGAN: I submit that repeatedly the gentleman has stood in the Well of this House and voted.

MR. CANNON of Missouri: The gentleman is mistaken about that.

MR. GAVAGAN: Unquestionably the gentleman is not mistaken, and from today onward the gentleman from Missouri will vote from his seat and not the Well.

MR. CANNON of Missouri: The gentleman's memory is in error. I positively have never violated that rule.

MR. [VITO] MARCANTONIO [of New York]: As I understand the situation now, the gentleman from California asked and did receive unanimous consent to proceed for one-half minute.

MR. CANNON of Missouri: A Member speaking under unanimous consent cannot violate a rule of the House.

THE SPEAKER: The gentleman from California asked unanimous consent to proceed for one-half minute. When he got to the point of stating how certain Members would have voted, the Chair, under the protest made by the gentleman from Missouri [Mr. Cannon], said the Chair could not recognize him for that purpose. There are a number of precedents to sustain the Chair in this ruling.

§ 41.8 In the later practice, the Chair has repeatedly held that it is not in order to announce or place in the Record a statement as to

how an absent colleague would have voted on a roll call, if present—regardless of whether unanimous consent was sought or whether another Member raised a point of order against the practice.

Parliamentarian's Note: In a series of rulings over a 13-month period between January 1941, and February 1942, the Chair[3] gradually delineated the parliamentary status of Members' announcements as to how certain absent colleagues would have voted on particular roll call votes. While the permissibility of such announcements had always been a matter of some doubt,[4] the trend of the Chair's rulings ultimately culminated in the determination that these announcements were improper, per se.

Thus, on Jan. 22, 1941,[5] Mr. Richard J. Welch, of California, made the following announcement:

> Mr. Speaker, the gentleman from California, Mr. Johnson, is ill and confined to his room. Were he here, he would have voted "yea" on the bill (H.R. 1437) authorizing additional shipbuilding and ordnance manufacturing facilities for the United States Navy, and for other purposes.

Before any other Member could make a similar announcement, however, the Speaker stated:

> The Chair desires to make an announcement. The Chair a moment ago recognized a gentleman to make an announcement of how an absent Member would vote if he were here. The Chair did that because the present occupant of the chair has not yet made a ruling upon the matter. A statement like that is prohibited by the rules of the House and the Speaker will hereafter recognize no Member to announce how an absent Member would vote.

Later in the year, after a roll call vote on a bill (H.R. 6159) making supplemental appropriations for the national defense, the Chair recognized Mr. John Taber, of New York, who sought unanimous consent to address the House for one minute.[6] There being no objection to his request, Mr. Taber proceeded to announce how certain absent Members would have voted on the preceding roll call. Mr. Clarence Cannon, of Missouri, then raised the point of order that Mr. Taber's announcements were out of order. A brief discussion ensued.

In the course of that discussion, Mr. Earl C. Michener, of Michi-

3. Speaker Sam Rayburn (Tex.), occupied the Chair in each of the instances which follow.

4. See §§ 41.5, 41.6, 41.7, supra.

5. 87 CONG. REC. 243, 77th Cong. 1st Sess.

6. 87 CONG. REC. 9496, 9497, 77th Cong. 1st Sess., Dec. 5, 1941.

gan, noted that Mr. Taber "was given the unanimous consent of the House to proceed for one minute; therefore he is permitted to say anything so long as he uses parliamentary language." Mr. Cannon, however, subscribed to a different point of view, noting that he wished:

> . . . there were some parliamentary way for this information to be made available to the House at this time. But it is a rule of long standing . . . and we cannot relax it for one and enforce it for others. As a matter of fact, a point of order is not required. It is the duty of the Speaker, and the practice of the Speaker to enforce it just as he would enforce the rule against an explanation of a vote during roll call or any other automatic rule of procedure. . . .

The Chair ruled that:

> . . . Even though the gentleman from New York [Mr. Taber] had unanimous consent to proceed for 1 minute, when he began making the explanation he did, the Chair must sustain the point of order under all precedents.

Three days later, on Dec. 8, 1941,[7] the House having just voted on a motion to suspend the rules and pass a joint resolution (H.J. Res. 254) declaring war on Japan, the Speaker made the following statement:

> The Chair desires to announce that he has held in the past and will hold henceforth that it is contrary to the rules of the House for any Member to announce how an absent Member would vote if present.

In the second session of the same Congress, the Chair was again pressed to rule on this issue. After a roll call vote on a Navy Department appropriations bill (H.R. 6460), Mr. Fred C. Gilchrist, of Iowa, was recognized by the Chair, and posed the following question:[8]

> Mr. Speaker, would it be in order as a parliamentary regulation for me at this time to ask if I might place in the Record a statement which the gentleman from Iowa [Mr. Jensen], who is absent on account of illness, would have voted for the measure just passed had he been present?

The Chair neither relied on a point of order[9] nor felt compelled to address any unanimous-consent implications[10] in stating that:

> The Chair thinks it is positively against the rules and practices for one Member to announce how another would have voted had he been present.

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7. CONG. REC. (daily ed.), 77th Cong. 1st Sess.

8. 88 CONG. REC. 757, 77th Cong. 2d Sess., Jan. 27, 1942.

9. See § 41.7, supra.

10. See § 41.6, supra.