

C. Adjournment *Sine Die*

§ 14. In General; Privilege; Inclusion of Other Matter

Adjournment *sine die* (literally “without day,” that is, without setting the date for reconvening in the concurrent resolution) is used to terminate a session of a Congress. Since under art. I, § 5, clause 4 of the Constitution neither House may adjourn for more than three days without the consent of the other House, and since Congress normally completes its work for a session more than three days prior to the constitutional date for the convening of the next session, in the usual practice adjournment *sine die* is accomplished by the adoption of a concurrent resolution. This is the practice even where the final adjournment of a session is only one or two days before the constitutional end of term.⁽¹⁾ A *sine die* adjournment resolution need not specify the date of reconvening because under § 2 of the 20th Amendment, a regular session of a Congress begins at noon of Jan. 3 of every year, unless Congress sets a different date by law.⁽²⁾ A session terminates automatically

1. See § 14.1, *infra*.

2. See Ch. 1, § 3, *supra*.

at the end of the constitutional term.⁽³⁾ Until recent years, *sine die* adjournments in even-numbered (election) years were normally taken by October (under the assumption that the business of the Congress be completed before Members to the next Congress are elected), and usually somewhat later in nonelection odd-numbered years. In more recent (105th-108th) Congresses, however, the final *sine die* adjournment of Congress has come after a “lame-duck” session following the election of Members to the Congress beginning in January of the subsequent odd-numbered year.⁽⁴⁾

Sine die adjournment concurrent resolutions may be called up from the floor as privileged, or if originating in the Senate, may be laid before the House from the Speaker’s table as privileged. While such a resolution is not debatable, a Member may be recognized during its consideration either by unanimous consent or

3. See §§ 14.11, 14.12, *infra*.

4. See 150 CONG. REC. 25728, 108th Cong. 2d Sess., Dec. 7, 2004 (H. Con. Res. 531); 148 CONG. REC. 23523, 107th Cong. 2d Sess., Nov. 22, 2002 (S Con. Res. 160); 146 CONG. REC. 27111, 106th Cong. 2d Sess., Dec. 15, 2000 (H. Con. Res. 446); and 144 CONG. REC. 28113, 105th Cong. 2d Sess., Dec. 19, 1998 (H. Con. Res. 353). See also *House Rules and Manual* § 84 (2007).

under a reservation of objection to a unanimous-consent request that the resolution be agreed to.⁽⁵⁾ The resolution requires a quorum for adoption.⁽⁶⁾ Unless called up as privileged, a measure relating to “final” adjournment of Congress is within the jurisdiction of the Committee on Rules.⁽⁷⁾ Once a session of Congress has been adjourned *sine die*, it may be reconvened either pursuant to leadership recall provisions contained in the concurrent resolution⁽⁸⁾ or by the President under the Constitution “on extraordinary Occasions”.⁽⁹⁾

A *sine die* resolution may specify the particular legislative or calendar day of adjournment or may specify two or more optional dates, in the latter case effected by a motion of the Majority Leader or the Majority Leader’s designee, and may be amended to provide for an adjournment on a date other than that specified.⁽¹⁰⁾ A resolution may provide for an adjournment to a date certain, unless the House sooner received a specified message from the Senate that it has adopted a House-

5. See § 14.9, *infra*.
6. See § 14.2, *infra*.
7. Rule X clause 1(n)(2), *House Rules and Manual* § 733 (2007).
8. See § 15, *infra*.
9. U.S. Const. art. II, § 3.
10. See, e.g., § 14.6, *infra*.

passed *sine die* adjournment resolution, in which case it would stand adjourned *sine die*.⁽¹¹⁾ A resolution providing *sine die* adjournment of a first session may include a provision that when the second session convenes, the two Houses may not conduct organizational or legislative business but shall adjourn on that day to a date certain, unless sooner recalled. However, such a resolution is not privileged since containing an order of business in addition to the *sine die* adjournment.⁽¹²⁾

Inclusion in such a resolution of a section asserting congressional prerogatives regarding “pocket vetoes” during *sine die* periods does not destroy the privilege of the concurrent resolution, since constituting a separate question of privilege.⁽¹³⁾

Privileged Status

§ 14.1 A concurrent resolution providing for an adjournment of the two Houses *sine die* is called up as privileged.

On Dec. 31, 1970,⁽¹⁾ the concurrent resolution below was called

11. See §§ 14.14, 15.1, *infra*.
12. See § 14.13, *infra*; but see § 14.14, *infra*.
13. See also §§ 14.15, 14.16, *infra*.
 1. 116 CONG. REC. 44308, 91st Cong. 2d Sess.

up as privileged by the Majority Leader:

Mr. [Carl] ALBERT [of Oklahoma]. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 799) and ask for its immediate consideration.

The Clerk read as follows:

H. CON. RES. 799

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Saturday, January 2, 1971, and that when they adjourn on said day, they stand adjourned sine die.⁽²⁾

Quorum Requirement

§ 14.2 A quorum is required for the adoption of a concurrent resolution providing for a *sine die* adjournment of the two Houses.

On Oct. 18, 1972,⁽¹⁾ when a concurrent resolution to the effect that Congress adjourn *sine die* was offered in the House, a point of order was made that a quorum was not present on the question of adoption:

Mr. [Thomas P.] O'NEILL [Jr., of Massachusetts]. Mr. Speaker, I offer a

2. For additional instances of first session adjournments, see § 14.6, *infra*. See also 117 CONG. REC. 47676, 92d Cong. 1st Sess., Dec. 17, 1971 (H. Con. Res. 498); and 107 CONG. REC. 21528, 87th Cong. 1st Sess., Sept. 27, 1961 (Calendar Day) (S. Con. Res. 55).

1. 118 CONG. REC. 37061, 37062, 92d Cong. 2d Sess.

privileged concurrent resolution (H. Con. Res. 726) and ask for its immediate consideration.

The Clerk read as follows:

H. CON. RES. 726

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Wednesday, October 18, 1972, and that when they adjourn on said day, they stand adjourned sine die.

The SPEAKER.⁽²⁾ The question is on the concurrent resolution.

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

Mr. [James G.] O'HARA [of Michigan]. 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. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 240, nays 21, not voting 170, as follows:

[Roll No. 460] . . .

So the concurrent resolution was agreed to.

Rejection of Resolution

§ 14.3 The House has rejected a concurrent resolution providing for adjournment *sine die*.

2. Carl Albert (OK).

On July 29, 1954,⁽¹⁾ the House by a yeas and nays vote rejected a concurrent resolution providing for adjournment *sine die*:

Mr. [Charles A.] HALLECK [of Indiana]. Mr. Speaker, I offer a privileged resolution (H. Con. Res. 265) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring therein), That the two Houses of Congress shall adjourn on Saturday, July 31, 1954, and that when they adjourn on said day they stand adjourned sine die.

Mr. HALLECK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER.⁽²⁾ The question is on the passage of the resolution.

Mr. [John W.] McCORMACK [of Massachusetts]. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 183, nays 193, not voting 56, as follows:

[Roll No. 126] . . .

So the concurrent resolution was rejected.

Effect of Rejection of Previous Resolution

§ 14.4 Where the House rejected a concurrent resolution

1. 100 CONG. REC. 12561, 12562, 83d Cong. 2d Sess. See also H. Jour. pp. 812, 813 (1954).
2. Joseph W. Martin, Jr. (MA).

tion providing for adjournment *sine die*, a second identical concurrent resolution providing for adjournment *sine die* was in order during the same week inasmuch as there had been intervening business.

On July 30, 1954,⁽¹⁾ a Member objected to a second concurrent resolution for adjournment *sine die*:

Mr. [Charles A.] HALLECK [of Indiana]. Mr. Speaker, I offer a concurrent resolution and ask for its immediate consideration.

The Clerk read as follows:

HOUSE CONCURRENT RESOLUTION 266

Resolved by the House of Representatives (the Senate concurring therein), That the two Houses of Congress shall adjourn on Saturday, July 31, 1954, and that when they adjourn on said day they stand adjourned sine die. . . .

Mr. [Herman P.] EBERHARTER [of Pennsylvania]. My parliamentary inquiry is this: Within this week the House voted on an exactly similar resolution. Thereafter a motion to reconsider was laid on the table. I make the point of order, Mr. Speaker, that the motion to reconsider having been laid on the table on exactly the same resolution, it is not again in order at this time.

1. 100 CONG. REC. 12810, 12811, 83d Cong. 2d Sess.

The SPEAKER.⁽²⁾ In reply to the gentleman from Pennsylvania, the Chair will say that the House has transacted considerable legislative business since the last resolution was defeated on a preceding day.

The question is on the concurrent resolution.

Changing Date of Adjournment

§ 14.5 The House agreed to a Senate amendment in the nature of a substitute to a concurrent resolution providing for adjournment *sine die*, changing the date of adjournment from Oct. 11, 1984, to that date or Oct. 12, 1984.

On Oct. 11, 1984,⁽¹⁾ the Speaker laid before the House as privileged a Senate amendment to a concurrent resolution providing for adjournment *sine die*:

MESSAGE FROM THE SENATE

The SPEAKER pro tempore.⁽²⁾ The Chair lays before the House the following privileged message from the Senate.

The Clerk read as follows:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 377) entitled "Concurrent resolution providing for the sine die adjournment of the Ninety-eighth Congress".

2. Joseph W. Martin, Jr. (MA).

1. 130 CONG. REC. 32314, 98th Cong. 2d Sess.

2. Frank Harrison (PA).

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That the two Houses of Congress shall adjourn on Thursday, October 11, 1984, or on Friday October 12, 1984, and that when they adjourn on said day, they stand adjourned sine die.

PARLIAMENTARY INQUIRY

Mr. [Tom] LOEFFLER [of Texas]. Mr. Speaker, for the clarification of the body, is it correct to assume that this technical amendment to the sine die resolution does not include the so-called call-back provision but, rather, addresses the dates of today and tomorrow so that we might conclude our work without having to stop the clock?

The SPEAKER pro tempore. The gentleman's assumption is correct.

Mr. LOEFFLER. I thank the Chair.

The SPEAKER pro tempore. The question is on the Senate amendment.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

§ 14.6 A House concurrent resolution providing for adjournment *sine die* was amended by the Senate to provide for adjournment on a later day than that originally proposed in the resolution.

On the legislative day of Sept. 14, 1959,⁽¹⁾ Speaker Sam Rayburn, of Texas, laid before the House as privileged, Senate amendments to a House concurrent resolution, as follows:

HOUSE CONCURRENT RESOLUTION
440

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Monday, September 14, 1959, and that when they adjourn on said day, they stand adjourned sine die.

With the following Senate amendments:

Line 3, strike out "Monday, September 14," and insert "Tuesday, September 15."

Amend the title so as to read: "Establishing that when the two Houses adjourn on Tuesday, September 15, 1959, they stand adjourned sine die."

The Senate amendments were concurred in.

§ 14.7 The House agreed to a concurrent resolution adjourning the first session of the 80th Congress *sine die* on Dec. 19, 1947, notwithstanding a concurrent resolution adopted at an earlier date adjourning the Congress until Jan. 2, 1948.

On Dec. 19, 1947,⁽¹⁾ the House agreed to a concurrent resolution

1. 105 CONG. REC. 19746, 86th Cong. 1st Sess., Sept. 15, 1959 (Calendar Day).

1. 93 CONG. REC. 11738, 80th Cong. 1st Sess.

changing the date for adjournment *sine die*. The Congress had adjourned from July 27, 1947, until Jan. 2, 1948, but the President called the Congress back into session on Nov. 17, 1947, thus resuming the first session on a date earlier than that to which it had adjourned. Hence the language of the following adjournment resolution:

Mr. [Charles A.] HALLECK [of Indiana]. Mr. Speaker, I offer a [privileged] House concurrent resolution (H. Con. Res. 127) which I send to the Clerk's desk.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of the Senate Concurrent Resolution 33, Eightieth Congress, the two Houses of Congress shall adjourn on Friday, December 19, 1947, and that when they adjourn on said day, they stand adjourned sine die.

The concurrent resolution was agreed to.

House Consent to Subsequent Senate Adjournment

§ 14.8 The House adopted a concurrent resolution providing for an adjournment *sine die* of the House and giving the consent of the House to a subsequent adjournment *sine die* of the Senate, and in the interim, to such Senate adjournments in excess of

three days as it might determine.

On Aug. 20, 1954,⁽¹⁾ a House concurrent resolution affecting dates of adjournment *sine die* of the two Houses was called up with an amendment:

Mr. [Leo E.] ALLEN of Illinois. Mr. Speaker, I call up the concurrent resolution (H. Con. Res. 266) providing for adjournment *sine die* of the 83d Congress, 2d session, with an amendment of the Senate thereto, and move that the House concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert "That the House of Representatives shall adjourn on August 20, 1954, and that when it adjourns on said day, it stand adjourned *sine die*."

"Resolved further, That the consent of the House of Representatives is hereby given to an adjournment *sine die* of the Senate at any time prior to December 25, 1954, when the Senate shall so determine; and that the Senate, in the meantime may adjourn or recess for such periods in excess of 3 days as it may determine."

The Senate amendment was concurred in, and a motion to reconsider was laid on the table.

Debate on Resolution

§ 14.9 Although a concurrent resolution providing for the

1. 100 CONG. REC. 15554, 83d Cong. 2d Sess.

adjournment of the second session of a Congress *sine die* is not debatable, a Member may be recognized during the consideration of such a concurrent resolution under a reservation of objection to a unanimous-consent request propounded by the Chair that the concurrent resolution be agreed to.

On Oct. 27, 1990,⁽¹⁾ the House, for the first time since the 93d Congress,⁽²⁾ included recall language in a privileged concurrent resolution providing for the adjournment of a second session *sine die*:

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM SATURDAY, OCTOBER 27, 1990, SINE DIE, AND ADJOURNMENT OF THE SENATE FROM SATURDAY, OCTOBER 27, SUNDAY, OCTOBER 28, OR MONDAY, OCTOBER 29, 1990, SINE DIE

Mr. [Richard A.] GEPHARDT [of Missouri]. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 399) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 399

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on

1. 136 CONG. REC. 36850, 101st Cong. 2d Sess.
2. See 15.7, *infra*.

the legislative day of October 27, 1990, and the Senate adjourns on Saturday, October 27, Sunday, October 28 or Monday, October 29, 1990, they stand adjourned sine die or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore.⁽³⁾ Is there objection to agreeing to the resolution?

Mr. [Robert S.] WALKER [of Pennsylvania]. Mr. Speaker, reserving the right to object, I shall not object, but I just want to inquire of the majority leader: there was some question on our side about the recall provision of this that I have been asked about. The minority leader is here now.

Mr. Leader, reserving the right to object, have we cleared that language?

Mr. [Robert H.] MICHEL [of Illinois]. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, reserving the right to object, I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, to respond to the gentleman, of course, the administration would prefer that there be no reference whatsoever, but, quite frankly, it is not a joint resolution and does not require the President's signature.

There is ample precedent for it, I think, in 1974 when President Ford, during one of those sessions, and also in 1943, and, quite frankly, it says, in effect, that if the Speaker and the majority leader of the Senate after consultation with the minority leader of both the House and the Senate feel that there ought to be a reconvening of the Members for whatever purpose that, from my point of view, I think it is well in order, and that we ought to approve it as it is written.

Mr. WALKER. Further reserving the right to object, under that provision, since we adjourn sine die, would that be a reconstitution then of the 101st Congress at that point, or would we have a new session if this Congress was adjourned sine die?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I believe such recall would be a reassembling of this session of the 101st Congress.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the adoption of the concurrent resolution? . . .

Is there objection to agreeing to the resolution?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

§ 14.10 A concurrent resolution providing for an adjournment *sine die* is ordinarily

3. Michael R. McNulty (NY).

not debatable; however, debate has been permitted where no point of order was raised against it. A resolution appointing a committee to notify the President of an impending *sine die* adjournment is debatable.

In the Senate, on Oct. 11, 1968,⁽¹⁾ a Senate concurrent resolution (S. Con. Res. 83) was called up and agreed to. This concurrent resolution provided for the *sine die* adjournment of both Houses of Congress at the close of business on Friday, Oct. 11, 1968. The resolution was not taken up on this date in the House as certain Members of the House hoped that those Senators opposed to a bill permitting nationally televised debates between Presidential candidates might reconsider their position. (The matter was not, however, brought to a vote in the Senate.) The House did agree to a resolution authorizing the appointment of a committee to join a similar Senate committee to notify the President of plans to adjourn *sine die*.⁽²⁾

Mr. [Carl] ALBERT [of Oklahoma].
Mr. Speaker, I offer a resolution (H.

1. 114 CONG. REC. 31103, 90th Cong. 2d Sess.
2. *Id.* at p. 30767.

For discussion of House agreement to Senate concurrent resolutions, see Chs. 24, 32, 33, *supra*.

Res. 1320) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1320

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

Mr. ALBERT. Mr. Speaker, I yield one-half minute to the gentleman from Michigan [Mr. O'HARA] to make a statement.

Mr. [James G.] O'HARA of Michigan, Mr. Speaker, as many Members of the House are aware, I am not in agreement with the statement in the resolution that both Houses have completed their business. I am very strongly of the opinion that the Senate has very important business remaining, but on this resolution I would not attempt to make that judgment for the Senate. I hope that they will reach that decision for themselves. I will, therefore, not oppose this resolution, Mr. Speaker, but I will, of course, reserve the right to oppose a motion to adjourn *sine die*.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER.⁽³⁾ The Chair appoints as members on the part of the House of the committee to notify the President, the gentleman from Oklahoma, Mr. ALBERT, and the gentleman from Michigan, Mr. GERALD R. FORD.

In the absence of House concurrence to the Senate resolution for

3. John W. McCormack (MA).

adjournment *sine die*, the Senate adjourned until Monday noon, Oct. 14, 1968.⁽⁴⁾ The House adjourned at 7:53 p.m. on Friday, Oct. 11, 1968,⁽⁵⁾ to reconvene Saturday, Oct. 12, 1968, at noon. On Saturday, Oct. 12, 1968,⁽⁶⁾ the House convened at 12 noon, and at 1:06 p.m., adjourned until Monday, Oct. 14, at noon.⁽⁷⁾

When the House convened on Monday, Oct. 14,⁽⁸⁾ the Senate resolution was called up in the House, and an amendment was offered changing the date to conform with the date anticipated for adjournment, that same Monday, the 14th.⁽⁹⁾ Mr. James G. O'Hara, of Michigan, was yielded five minutes for debate by the Majority Leader, who was recognized for debate without objection:

Mr. [Carl] ALBERT [of Oklahoma]. Mr. Speaker, I call up Senate Concurrent Resolution 83, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 83

Resolved by the Senate (the House of Representatives concurring), That

4. 114 CONG. REC. 31115, 90th Cong. 2d Sess., Oct. 11, 1968.
5. *Id.* at p. 30817.
6. *Id.* at p. 31116.
7. *Id.* at p. 31154.
8. *Id.* at p. 31311.
9. *Id.* at pp. 31312, 31313.

the two Houses of Congress shall adjourn on Friday, October 11, 1968, and that when they adjourn on said day, they stand adjourned sine die.

Mr. ALBERT. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALBERT: Page 1, line 3, strike out "Friday, October 11, 1968," and insert "Monday, October 14, 1968."

Mr. ALBERT. Mr. Speaker, I yield 5 minutes for the purpose of debate to the gentleman from Michigan [Mr. O'HARA]. . . .

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. O'HARA of Michigan. Mr. Speaker, I had announced on Friday of last week that I would attempt to prevent the adjournment of this session of Congress until the Senate had considered what I believe to be, in terms of the functioning of our political system, one of the most important bills that we have considered in the last 4 years. That proposal, Mr. Speaker, was the proposal that would have permitted network TV debates among the major candidates, for the Presidency of the United States. . . .

I have also had an opportunity to carefully review the situation in which the U.S. Senate finds itself. I have come to the reluctant conclusion that it will probably not be possible to acquire a quorum for the consideration of this legislation. I have become convinced that the minority will persist in its obstructionist tactics; that it is desperate to avoid this confrontation.

For these reasons and because I certainly do not want to inconvenience

Members of the House of Representatives, I wish to announce that I will not attempt to prevent the passage of the sine die adjournment resolution. But I remain convinced, Mr. Speaker, that the other body has done a disservice to the country, that the Congress has an unfulfilled obligation to the American people and that we ought to be dealing with that obligation rather than going home.

Then, Mr. Albert, who had yielded the time to Mr. O'Hara, yielded himself one minute to concur with Mr. O'Hara's statements regarding the House's position on televised debates, the situation in the Senate, and the adjournment:⁽¹⁰⁾

Mr. ALBERT. Mr. Speaker, I yield myself 1 minute only for the purpose of observing that the bill which has precipitated this discussion came to this body from the Senate. It was a Senate bill. The House amended the bill and sent it back to the Senate. It seems to us, therefore, that the Senate should have taken action under the circumstances. The statement made by our distinguish colleague, the gentleman from Michigan [Mr. O'Hara], amply sets forth the numerous reasons why we on this side of the aisle feel as we do about this matter.

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

The previous question was ordered.

The SPEAKER. The question is on the amendment offered by the gentleman from Oklahoma [Mr. Albert].

The amendment was agreed to.

10. *Id.* at p. 31313.

The resolution was agreed to.

Declaration at Constitutional End of Session

§ 14.11 Because § 2 of the 20th Amendment requires that a regular session of a Congress begin at noon on Jan. 3 of each year (unless a different date is set by law), then if the House is in session at that time the Speaker declares the pending session adjourned *sine die* so that the next regular session may begin at noon.

On Jan. 3, 1996,⁽¹⁾ the following proceedings occurred in the House:

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 55 minutes a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the . . . prayer[.] . . .

PLEDGE OF ALLEGIANCE

The SPEAKER.⁽²⁾ Will the gentleman from New York [Mr. SOLOMON]

- 1. 142 CONG. REC. 38609, 38610, 104th Cong. 1st Sess.
- 2. Newt Gingrich (GA).

come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 1643. An act to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria. . . .

COMMUNICATION FROM THE HONORABLE TOM DELAY, MAJORITY WHIP

The SPEAKER laid before the House the following communication from the Honorable TOM DELAY, majority whip: . . .

COMMUNICATION FROM THE SERGEANT AT ARMS OF THE HOUSE

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives: . . .

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following message from the Clerk of the House of Representatives.

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, December 29, 1995.

Hon. NEWT GINGRICH,
*House of Representatives, Wash-
ington, D.C.*

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, December 29, 1995, at 12:10 p.m. and said to contain a message from the President whereby he submits a semiannual report on the Russian Federation's continued compliance with emigration criteria as required by sections 402 and 409 of the Trade Act of 1974.

Sincerely,

ROBIN H. CARLE,
Clerk.

CONTINUED MOST-FAVORED-NATION STATUS FOR RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-154)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed: . . .

PARLIAMENTARY INQUIRY

Mr. [Steny H.] HOYER [of Maryland]. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOYER. Mr. Speaker, would it be in order for me at this time to ask unanimous consent to take up H.R. 1643, the bill just reported to us by the other body?

The SPEAKER. The Chair asks the gentleman to suspend. The House will come right back in session. . . .

SINE DIE ADJOURNMENT

The SPEAKER. Pursuant to the 20th amendment of the Constitution of the United States, the Chair declares the 1st session of the 104th Congress adjourned sine die.

Thereupon (at 12 noon) pursuant to the 20th amendment of the Constitution of the United States, the House adjourned.

Parliamentarian's Note: The Speaker laid these matters before the House within the five minutes remaining in the session, but could have waited until the second session, beginning at noon. On Jan. 3, 1992, the House adjourned by motion, but it seemed more prudent to adjourn by the Speaker's declaration, since a recorded vote on the motion, if ordered, might have taken the House beyond the noon expiration time for the session, requiring the clock to

be stopped to avoid a point of order under the Constitution.⁽³⁾

§ 14.12 Pursuant to § 2 of the 20th Amendment to the Constitution, a regular session of a Congress must begin at noon on Jan. 3 of every year, unless Congress establishes a different date by law, and if the House is in session at that time the Speaker declares the House adjourned *sine die* without a motion being made from the floor, so that the next regular session of that Congress, or the first regular session of the next Congress, as the case may be, may assemble at noon on that day.

On Jan. 3, 1980,⁽¹⁾ the following proceedings occurred in the House:

The House met at 11:55 a.m. and was called to order by the Speaker pro tempore (Mr. MOAKLEY).

The Chaplain, Rev. James David Ford, D.D., offered the . . . prayer[.] . . .

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3. 137 CONG. REC. 36367, 102d Cong. 1st Sess. See also 126 CONG. REC. 3, 6, 96th Cong. 2d Sess., Jan. 3, 1980; and *House Rules and Manual* § 242 (2007).
 1. 126 CONG. REC. 37773, 37774, 96th Cong. 1st Sess.

THE JOURNAL

The SPEAKER pro tempore.⁽²⁾ The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, and without objection, the Journal stands approved.

There was no objection. . . .

ADJOURNMENT

The SPEAKER pro tempore. The hour of 12 noon having arrived, pursuant to the 20th amendment of the Constitution, the Chair declares the first session of the 96th Congress adjourned sine die.

Thereupon (at 12 o'clock noon), pursuant to the 20th amendment of the Constitution, the House adjourned sine die.

Parliamentarian's Note: There are two prior instances wherein the House or both Houses adjourned at the constitutional expiration of the session. On Dec. 1, 1913, the House adjourned *sine die* on the final day by declaration.⁽³⁾

Inclusion of Nonprivileged Matter

§ 14.13 By unanimous consent the House considered a non-

2. John Joseph Moakley (MA).

3. See 8 Cannon's Precedents §3375. See also *The Congressional Globe*, 816, 817, 40th Cong. 1st Sess., Dec. 2, 1867.

privileged concurrent resolution providing for an adjournment of the House and the Senate to 11:55 a.m. on Jan. 3 or until recalled by joint leadership; providing that the House shall not conduct organizational or legislative business when reconvening the second session on Jan. 3; and providing for an adjournment from Jan. 3 to Jan. 22 or until recalled by joint leadership.

On Nov. 26, 1991,⁽¹⁾ the Majority Leader offered the following concurrent resolution:

Mr. [Richard A.] GEPHARDT [of Missouri]. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 260) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore.⁽²⁾ The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 260

Resolved by the House of Representatives (the Senate concurring), That when the House and Senate adjourn on the calendar day of Wednesday, November 27, 1991, in accordance with this resolution, they stand adjourned until 11:55 a.m. on Friday, January 3, 1992, or until noon on the second day after Members are notified to reassemble, whichever occurs first.

1. 137 CONG. REC. 35840, 35841, 102d Cong. 1st Sess.

2. Steny H. Hoyer (MD).

SEC. 2. That when the Congress convenes on January 3, 1992, for the second session of the 102d Congress, the House shall not conduct organizational or legislative business and when it adjourns on that day, it stand adjourned until noon on Wednesday, January 22, 1992, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I ask for this time to explain the resolution and give the Members a sense of the schedule.

Let me first say on the schedule that there obviously could be a vote on this adjournment resolution in the next few moments. It is not debatable, and we will move to vote very rapidly if there is a vote.

After that, there is one additional matter that I am aware of that may require a vote, and that has to do with the Medicaid legislation which is here, and we will be coming forward with a rule, and there could be a vote on it at the end of its consideration.

Other than that, there should not be further votes, assuming the adjournment resolution passes.

Let me say this: This concurrent resolution provides that the House will, when we finish business today, recess until 11:55 a.m., January 3, 1992, at

which time we will conclude the first session of this, the 102d Congress. At 12 noon that day, January 3, 1992, we will convene the second session of the 102d Congress and will then immediately proceed to recess until January 22, 1992.

During these recess periods, the House will be subject to the call of the Chair. If it becomes necessary or desirable to reconvene the two Houses to act on the President's returned veto of legislation we are sending to him for his consideration or because the scheduled work of the committees which has been described produces economic legislation which is ready for floor action or for other reasons, we will be able to reconvene in a timely manner.

Any such reconvening of the House will be done in the consultation with the leadership on both sides of the aisle.

That concludes my explanation of the concurrent resolution.

Parliamentarian's Note: The prohibition of business in the next session, stipulated in § 2 of the concurrent resolution, destroyed its privilege.⁽³⁾

§ 14.14 The House agreed to a concurrent resolution providing for adjournment of

3. See 125 CONG. REC. 37317, 96th Cong. 2d Sess., Dec. 20, 1979 (H. Con. Res. 232), for the last time (which was also the first time) a *sine die* adjournment and an adjournment to a date certain in the next session were combined in a single resolution (although, here, it was not technically a *sine die* adjournment). But see § 14.14, *infra*.

the first session of the 106th Congress *sine die* and providing that the House conduct no organizational or legislative business on the first day of the second session.

On Nov. 18, 1999,⁽¹⁾ the Majority Leader offered the following concurrent resolution:

PROVIDING FOR ADJOURNMENT SINE DIE AFTER COMPLETION OF BUSINESS OF FIRST SESSION OF 106TH CONGRESS AND SETTING FORTH SCHEDULE FOR CERTAIN DATES DURING JANUARY 2000 OF SECOND SESSION

Mr. [Richard K.] ARMEY [of Texas]. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 235), and ask for its immediate consideration.

The SPEAKER pro tempore.⁽²⁾ The Clerk will report the concurrent resolution.

The Clerk read as follows:

That when the House adjourns on any legislative day from Thursday, November 18, 1999, through Monday, November 22, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned until noon on Thursday, December 2, 1999 (unless it sooner has received a message from the Senate transmitting its concurrence in the conference report to accompany H.R. 3194, in which case the House shall

stand adjourned *sine die*), or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution; and that when the Senate adjourns on any day from Thursday, November 18, 1999, through Thursday, December 2, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned *sine die*, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

SEC. 2. When the House convenes for the second session of the One Hundred Sixth Congress, it shall conduct no organizational or legislative business on that day and, when the House adjourns on that day, it shall stand adjourned until noon on January 27, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 4. The Congress declares that clause 2(h) of rule II of the Rules of the House of Representatives and the order of the Senate of January 6, 1999, authorize for the duration of the One Hundred Sixth Congress the Clerk of the House of Representatives and the Secretary of the Senate, respectively, to receive messages from the President during periods when the House and Senate are not in session, and thereby preserve until adjournment *sine die* of the final regular session of the One Hundred Sixth Congress the constitutional prerogative of the House and

1. 145 CONG. REC. 30734, 30735, 106th Cong. 1st Sess.
2. Ed Pease (IN).

Senate to reconsider vetoed measures in light of the objections of the President, since the availability of the Clerk and the Secretary during any earlier adjournment of either House during the current Congress does not prevent the return by the President of any bill presented to him for approval.

SEC. 5. The Clerk of the House of Representatives shall inform the President of the United States of the adoption of this concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: Although Majority Leader Armev claimed to be calling up the resolution as privileged, it was not privileged as indicated in § 14.13, *supra*, since it included a special order of business.

Pocket Vetoes During Sine Die and Intrasession Periods

§ 14.15 The President's return to the House by message under seal of a bill previously presented to him, together with a statement of his objections thereto, in which he asserted the power to "pocket veto" the bill during an intrasession adjournment of the originating House by withholding his approval, was laid before the House by the Speaker accom-

panied by an announcement from the chair regarding prior correspondence in the *Congressional Record*.

On Nov. 13, 2000,⁽¹⁾ the House, by unanimous consent, referred a veto message and bill to committee:

INTELLIGENCE AUTHORIZATION
ACT FOR FISCAL YEAR 2001—
VETO MESSAGE FROM THE
PRESIDENT OF THE UNITED
STATES

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

Today, I am disapproving H.R. 4392, the "Intelligence Authorization Act for Fiscal Year 2001," because of one badly flawed provision that would have made a felony of unauthorized disclosures of classified information. Although well intentioned, that provision is overbroad and may unnecessarily chill legitimate activities that are at the heart of a democracy. . . .

Since the adjournment of the congress has prevented my return of H.R. 4392 within the meaning of Article I, section 7, clause 2 of the Constitution, my withholding of approval from the bill precludes its becoming law. The

1. 147 CONG. REC. 26022, 26023, 107th Cong. 1st Sess. See also § 14.16, *infra*, for the complete Extension of Remarks carried in the *Congressional Record*.

See also Ch. 24, *supra*, for further discussion on pocket vetoes.

Pocket Veto Case, 279 U.S. 655 (1929). In addition to withholding my signature and thereby invoking my constitutional power to “pocket veto” bills during an adjournment of the Congress, to avoid litigation, I am also sending H.R. 4392 to the House of Representatives with my objections, to leave no possible doubt that I have vetoed the measure.

Sincerely,
WILLIAM J. CLINTON.
THE WHITE HOUSE, *November 4, 2000.*

□ 1845

The SPEAKER pro tempore (Mr. PEASE).⁽²⁾ The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

On September 19, 2000, the Speaker inserted in the Extensions of Remarks portion of the RECORD a copy of a letter dated September 7, 2000, signed jointly by him and the Democratic leader and addressed to the President of the United States, expressing their views on the limits of the “pocket-veto” power and including a similar letter from Speaker Foley and Republican leader Michel sent to President Bush on November 21, 1989. Without objection, that correspondence is reinserted at this point in the RECORD, since no response has been received to the September 7, 2000, letter and the same assertion by the President of “pocket-veto” power during an intrasession adjournment of Congress to a day certain is contained in the veto message just read to the House.

Parliamentarian’s Note: While treatment of pocket vetoes is also

2. Ed Pease (IN).

included in Ch. 24, *supra*, it is included here as related to congressional adjournments.

§ 14.16 Under permission to extend remarks, the Speaker inserted in the *Congressional Record* correspondence dated Sept. 7, 2000, to President Clinton from Speaker Hastert and Minority Leader Gephardt, and dated Nov. 21, 1989, to President Bush from Speaker Foley and Minority Leader Michel, expressing views on the extent of the President’s “pocket veto” authority during *sine die* and intrasession adjournment periods.

On Sept. 19, 2000,⁽¹⁾ the following was inserted into the Extension of Remarks section of the *Congressional Record*:

POCKET-VETO POWER
HON. J. DENNIS HASTERT
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 19, 2000

Mr. HASTERT. Mr. Speaker, I submit for the RECORD a copy of a letter signed jointly by myself and the Democratic Leader, Mr. Gephardt. It is addressed to President Clinton. In it, we

1. 136 CONG. REC. 18594, 107th Cong. 1st Sess.

express our views on the limits of the “pocket-veto” power. I also submit a copy of the letter referenced therein, which was sent to President Bush on November 21, 1989, by Speaker Foley and Republican Leader Michel.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES
Washington, DC, September 7, 2000.

Hon. WILLIAM J. CLINTON,
The President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: This is in response to your actions on H.R. 4810, the Marriage Tax Relief Reconciliation Act of 2000, and H.R. 8, the Death Tax Elimination Act of 2000. On August 5, 2000, you returned H.R. 4810 to the House of Representatives without your approval and with a message stating your objections to its enactment. On August 31, 2000, you returned H.R. 8 to the House of Representatives without your approval and with a message stating your objections to its enactment. In addition, however, in both cases you included near the end of your message the following:

[“]Since the adjournment of the Congress has prevented my return of [the respective bill] within the meaning of Article I, section 7, clause 2 of the Constitution, my withholding of approval from the bill precludes its becoming law. The Pocket Veto Case, 279 U.S. 655 (1929). In addition to withholding my signature and thereby invoking my constitutional power to “pocket veto” bills during an adjournment of the Congress, to avoid litigation, I am also sending [the respective bill] to the House of Representatives with my objections, to leave no possible doubt that I have vetoed the measure.[”]

President Bush similarly asserted a pocket-veto authority during an inter-session adjournment with respect to H.R. 2712 of the 101st Congress but, by nevertheless returning the enrollment, similarly permitted the Congress to reconsider it in light of his objections, as contemplated by the Constitution. Your allusion to the existence of a pocket-veto power during even an intrasession adjournment continues to be most troubling. We find that assertion to be inconsistent with the return-veto that it accompanies. We also find that assertion to be inconsistent with your previous use of the return-veto under similar circumstances but without similar dictum concerning the pocket-veto. On January 9, 1996, you stated your disapproval of H.R. 4 of the 104th Congress and, on January 10, 1996—the tenth Constitutional day after its presentment—returned the bill to the Clerk of the House. At the time, the House stood adjourned to a date certain 12 days hence. Your message included no dictum concerning the pocket-veto.

We enclose a copy of a letter dated November 21, 1989, from Speaker Foley and Minority Leader Michel to President Bush. That letter expressed the profound concern of the bipartisan leaderships over the assertion of a pocket veto during an intrasession adjournment. That letter states in pertinent part that “[s]uccessive Presidential administrations since 1974 have, in accommodation of *Kennedy v. Sampson*, exercised the veto power during intrasession adjournments only by messages returning measures to the Congress.” It also states our belief that it is not “constructive to resurrect constitutional controversies long considered as settled, especially without notice or consultation.” The Congress, on

numerous occasions, has reinforced the stance taken in that letter by including in certain resolutions of adjournment language affirming to the President the absence of “pocket veto” authority during adjournments between its first and second sessions. The House and the Senate continue to designate the Clerk of the House and the Secretary of the Senate, respectively, as their agents to receive messages from the President during periods of adjournment. Clause 2(h) of rule II, Rules of the House of Representatives; House Resolution 5, 106th Congress, January 6, 1999; the standing order of the Senate of January 6, 1999. In *Kennedy v. Sampson*, 511 F.2d 430 (D.C. Cir. 1974), the court held that the “pocket veto” is not constitutionally available during an intrasession adjournment of the Congress if a congressional agent is appointed to receive veto messages from the President during such adjournment.

On these premises we find your assertion of a pocket veto power during an intrasession adjournment extremely troublesome. Such assertions should be avoided, in appropriate deference to such judicial resolution of the question as has been possible within the bounds of justifiability.

Meanwhile, citing the precedent of January 23, 1990, relating to H.R. 2712 of the 101st Congress, the House yesterday treated both H.R. 4810 and H.R. 8 as having been returned to the originating House, their respective returns not having been prevented by an adjournment within the meaning of article I, section 7, clause 2 of the Constitution.

Sincerely,

J. DENNIS HASTERT,
Speaker.
RICHARD A. GEPHARDT,
Democratic Leader

CONGRESS OF THE UNITED STATES,
Washington, DC, November 21, 1989.

Hon. GEORGE BUSH,
*President of the United States, The
White House, Washington, DC.*

DEAR MR. PRESIDENT: This is in response to your action on House Joint Resolution 390. On August 16, 1989, you issued a memorandum of disapproval asserting that you would “prevent H.J. Res. 390 from becoming a law by withholding (your) signature from it.” You did not return the bill to the House of Representatives.

House Joint Resolution 390 authorized a “hand enrollment” of H.R. 1278, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, by waiving the requirement that the bill be printed on parchment. The hand enrollment option was requested by the Department of the Treasury to insure that the mounting daily costs of the savings-and-loan crisis could be stemmed by the earliest practicable enactment of H.R. 1278. In the end, a hand enrollment was not necessary since the bill was printed on parchment in time to be presented to you in that form.

We appreciate your judgment that House Joint Resolution 390 was, in the end, unnecessary. We believe, however, that you should communicate any such veto by a message returning the resolution to the Congress since the intrasession pocket veto is constitutionally infirm.

In *Kennedy v. Sampson*, the United States Court of Appeals held that “pocket veto” is not constitutionally available during an intrasession adjournment of the Congress if a congressional agent is appointed to receive veto messages from the President during such adjournment. 511 F.2d 430

(D.C. Cir. 1974). In the standing rules of the House, the Clerk is duly authorized to receive messages from the President at any time that the House is not in session. (Clause 5, Rule III, Rules of the House of Representatives; House Resolution 5, 101st Congress, January 3, 1989.)

Successive Presidential administrations since 1974 have, in accommodation of *Kennedy v. Sampson*, exercised the veto power during intrasession adjournments only by messages returning measures to the Congress.

We therefore find your assertion of a pocket veto power during an intrasession adjournment extremely troublesome. We do not think it constructive to resurrect constitutional controversies long considered as settled, especially without notice of consultation. It is our hope that you might join us in urging the Archivist to assign a public law number to House Joint Resolution 390, and that you might eschew the notion of an intrasession pocket veto power, in appropriate deference to the judicial resolution of that question.

Sincerely,

THOMAS S. FOLEY,
Speaker.

ROBERT H. MICHEL,
Republican Leader.

§ 15. Conditional Adjournments *Sine Die*; Recall

The first examples of coupling *sine die* adjournment with the conferral of leadership recall authority during the *sine die* period

were in the 93d Congress, on Dec. 22, 1973, and on Dec. 20, 1974.⁽¹⁾ Inclusion of leadership recall authority in adjournment resolutions was discontinued in 1975 and re-instituted in the 101st Congress, second session, when the joint recall authority was conferred only on the majority leaderships (not separately on the joint minority leaderships, who merely had to be consulted).⁽²⁾ The form of leadership recall authority as re-instituted in the 101st Congress remained the practice through the 108th Congress.⁽³⁾

Before the inclusion of leadership recall authority, only the President could reconvene either or both Houses after *sine die* adjournment, pursuant to art. II, § 3 of the Constitution. The President's authority in the same section to adjourn the two Houses to such time as he shall think proper, where there is a disagreement between the two Houses, has never been used.

See also § 13, *supra*, for discussion of leadership recall authority included in concurrent resolutions providing for adjournment to a day certain. The now-standard recall language allowing reassembly at another "place" was first used

1. See §§ 15.10, 15.11, *infra*.

2. See § 15.7, *infra*.

3. See §§ 15.1, 15.15, *infra*.