

The motion was agreed to.

The SPEAKER. In accordance with the provisions of House Concurrent Resolution 412, the Chair declares the 1st session of the 93d Congress adjourned sine die.

Thereupon (at 2 o'clock and 2 minutes p.m.), pursuant to House Concurrent Resolution 412, the House adjourned sine die.

Speaker's Designees to Exercise Recall Authority

§ 15.12 A Speaker pro tempore, by unanimous consent, announced the Speaker's designations of (1) the Majority Leader to exercise recall authority under the concurrent resolution of adjournment in the event of the death or inability of the Speaker, and (2) certain alternates in a letter placed with the Clerk to, in turn, exercise the same authority in the event of the death or inability of the primary designee.

On Nov. 22, 2002,⁽¹⁾ the following occurred in the House:

RECALL DESIGNEE

The SPEAKER pro tempore (Mr. KERNS).⁽²⁾ Without objection, and pursuant to section 2 of Senate Concurrent Resolution 160, the Chair an-

1. 148 CONG. REC. 23517, 23518, 107th Cong. 2d Sess.
2. Brian Kerns (IN).

nounces the Speaker's designation of Representative RICHARD K. ARMEY of Texas to act jointly with the majority leader of the Senate or his designee, in the event of the death or inability of the Speaker, to notify the Members of the House and the Senate, respectively, of any reassembly under that concurrent resolution, and further, in the event of the death or inability of that designee, the alternate Members of the House listed in the letter bearing this date that the Speaker has placed with the Clerk are designed, in turn, for that same purpose.

There was no objection.

Parliamentarian's Note: Beginning in the 108th Congress, clause 8(b)(3) of Rule I was added to confer this designation authority on the Speaker.⁽³⁾

§ 16. Where Required or Prohibited by Law

The Legislative Reorganization Act of 1970 provides for a *sine die* adjournment of "not later than July 31 of each year; or (2) in case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by roll call vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in

3. *House Rules and Manual* § 632 (2007).

September (Labor Day) of such year to the second day after Labor Day.”⁽¹⁾ The section is not applicable if the Nation is in a state of war declared by Congress.⁽²⁾ In even-numbered years and some odd-numbered years, the House has agreed to concurrent resolutions waiving the provisions of this law to provide that the two Houses shall not adjourn for more than three days or *sine die* until they have adopted a concurrent resolution to that effect.⁽³⁾ To obviate the necessity of adoption of such a concurrent resolution waiving § 132 of the Legislative Reorganization Act of 1946, the two Houses have included language “in consonance with section 132(a)” in its concurrent resolutions providing for adjournments from July until September.⁽⁴⁾

1. See *House Rules and Manual* §§ 1105, 1106 (2007); 2 USC § 198.
2. *Ibid.*
3. See § 16.2, *infra*. See also 145 CONG. REC. 18763, 106th Cong. 1st Sess., July 30, 1999 (H. Con. 266); 140 CONG. REC. 18611–15, 103d Cong. 2d Sess., July 29, 1994 (H. Con. Res. 275); 132 CONG. REC. 18146, 18147, 99th Cong. 2d Sess., July 30, 1986 (H. Con. Res. 374); 128 CONG. REC. 18562, 18563, 97th Cong. 2d Sess., July 29, 1982 (H. Con. Res. 386); and 120 CONG. REC. 25008, 93th Cong. 2d Sess., July 24, 1974 (H. Con. Res. 568).
4. See § 16.1, *infra*. See also § 12.1, *supra*.

The 1970 Act superseded the provisions of the Legislative Reorganization Act of 1946 which required that Congress adjourn *sine die* by the end of July each year unless there existed a state of war or national emergency declared by the President. Presidentially declared national emergencies of Sept. 8, 1939,⁽⁵⁾ May 27, 1941,⁽⁶⁾ and Dec 16, 1950,⁽⁷⁾ made the July 31 adjournment provision moot.⁽⁸⁾

The requirement in former § 310(f) of the Congressional Budget Act of 1974 that *sine die* adjournment resolutions cannot be considered until Congress has completed action on the second concurrent resolution on the budget and on any required reconciliation legislation was repealed by the Balanced Budget and Emergency Deficit Control Act of 1985.⁽⁹⁾

Legislative Reorganization Act of 1970

§ 16.1 The House by unanimous consent considered a

5. Presidential Proclamation 2352 (54 Stat. 2643).
6. Presidential Proclamation 2487 (55 Stat. 1647).
7. Presidential Proclamation 2914 (64 Stat. A454).
8. See, *e.g.*, § 16.3, *infra*.
9. See *House Rules and Manual* § 1127 (2007); 2 USC §§ 601 *et seq.*

concurrent resolution of adjournment for its “August” recess rendered unprivileged by § 309 and § 310 of the Budget Act.

On July 27, 2000,⁽¹⁾ the Speaker pro tempore laid before the House a Senate concurrent resolution providing for adjournment (or recess) of each House for more than three days, from separate alternate departure dates, to separate dates certain, subject to joint leadership recall. The proceedings were as follows:

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore.⁽²⁾ Without objection, the Chair lays before the House the following Senate concurrent resolution (S. Con. Res. 132), providing for a conditional adjournment or recess of the Senate and conditional adjournment of the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on

1. 146 CONG. REC. 16620, 16621, 106th Cong. 2d Sess.
2. Edward A. Pease (IN).

Thursday, July 27, 2000, Friday, July 28, 2000, or on Saturday, July 29, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 5, 2000, or until noon on Wednesday, September 6, 2000, or until such time on either day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, July 27, 2000, or Friday, July 28, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Wednesday, September 6, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

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

□ 1815

The SPEAKER pro tempore (Mr. PEASE). Without objection, the concurrent resolution is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, House Resolution 567 is laid on the table.

There was no objection.

§ 16.2 By unanimous consent, the House considered and then agreed to a concurrent resolution providing that notwithstanding the requirement of the Legislative Reorganization Act of 1970 (2 USC § 198) that the two Houses adjourn *sine die* by July 31 in an even-numbered year, the House and Senate not adjourn for more than three days or *sine die* until they had adopted a concurrent resolution to that effect.

On July 25, 1972,⁽¹⁾ the House, by unanimous consent, took up a concurrent resolution providing that the two Houses would remain in session beyond the day specified by the Legislative Reorganization Act of 1970. The relevant section of the Legislative Reorganization Act of 1970 (2 USC § 198) to which the concurrent resolution addressed itself states that unless otherwise provided by Congress, the two Houses shall either (a) adjourn *sine die* by July 31 of each year; or (b) in odd-numbered years, adjourn from the first Friday in August until the second day after Labor Day pursuant to a concurrent resolution adopted by roll call vote in each House. The

1. 118 CONG. REC. 25145, 25146, 92d Cong. 2d Sess.

following proceedings then occurred:

Mr. [Hale] BOGGS [of Louisiana]. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 648) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 648

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of Sec. 132(a) of the Legislative Reorganization Act of 1946 (2 USC 198), as amended by Section 461 of the Legislative Reorganization Act of 1970 [Pub. Law 91-510; 84 Stat. 1193], the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn *sine die*, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment *sine die*.

The SPEAKER.⁽²⁾ Is there objection to the request of the gentleman from Louisiana?

Mr. [Durward G.] HALL [of Missouri]. Mr. Speaker, reserving the right to object—as I understand the Clerk's reading of this resolution, and from contact with the distinguished majority leader just prior to its presentation, this requested approval will for all intents and purposes obviate the intent of the Joint Commission on the Reorganization of Congress and indeed the statute evolving from the Reorganization Act of 1970.

It was the hope of that Commission, which held 3 years of hearings, and of

2. Carl Albert (OK).

the Committee on Rules, which later submitted the bill that became the Reorganization Act of 1970, that the Congress could obviate the impasse between the legislative and/or authorizing committees vis-a-vis the operating or appropriations committees to the place where we could accomplish our work in a so-called constitutionally defined short session of any given Congress, and be out of here at least by the end of July.

I understand the need and the necessity for the House-Senate concurrent resolution as submitted by the gentleman from Louisiana. I do not understand why it needs to be open ended as to date.

I wonder if the distinguished majority leader can explain, Mr. Speaker, why it is until such time as subsequent concurrent action or joint action sets a date certain, or adjourns for over 3 days.

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

Mr. HALL. I am glad to yield to my friend from Louisiana.

Mr. BOGGS. The gentleman is, of course, correct in his principal statement that under the terms of the so-called Reorganization Act passed several years ago, unless some action is taken, the Congress would be forced to adjourn by July 31. The gentleman, of course, is well aware of the fact that there are a number of very important authorization bills, and still a series of appropriation bills that have not cleared one body or the other.

The idea at this time of attempting to set a date certain for adjournment is something that is just without the knowledge either of the Speaker or of

the majority leader. We just do not know.

As the gentleman has been informed heretofore, we do not expect to complete the work of this session prior to the Friday before the Republican National Convention, which convenes, I believe, on August 21.

So the best answer I can give the gentleman is we just do not have a date certain. Until such time as we were in a position to write a date certain, it would be a vain and useless thing to do so now.

Mr. HALL. Mr. Speaker, further reserving the right to object, I appreciate the gentleman's efforts, and those of the leadership[.] . . .

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. [H. R.] GROSS [of Iowa]. Mr. Speaker, further reserving the right to object, could the House have any assurance, the slightest assurance, that having returned after Labor Day, following the Republican Convention, there will be a sine die adjournment of Congress sometime in September?

Mr. BOGGS. Will the gentleman yield?

Mr. GROSS. I am happy to yield to the gentleman.

Mr. BOGGS. The gentleman knows that the leadership prepared a schedule of days off for this session and, if the gentleman will refer to this, he will note that we expressed the hope then that we would have completed the business of this session by August 18, which is the Friday before the Republican National Convention.

Now, in truth and in fact, the House has done, in my judgment, quite well. But we still have the foreign aid bills, the foreign aid authorization and the foreign aid appropriation, the military construction appropriation bill, and the defense appropriation. These are very important matters, particularly the defense appropriation bill. There is also the Water Quality Act which is still in conference and there is the debt limit extension and a housing bill.

I will not seek to enumerate all of them, but there are matters of importance pending before this body. . . .

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. [Joe D.] WAGGONNER [Jr., of Louisiana]. Mr. Speaker, reserving the right to object, I want to ask my distinguished colleague from Louisiana if he meant he was taking the position that as majority leader he was not going to allow this House to adjourn or this Congress to adjourn sine die until all of the legislative proposals he recommended had been signed into law.

Mr. BOGGS. No. Not at all. . . .

Mr. WAGGONNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Legislative Reorganization Act of 1946

§ 16.3 The Speaker responded to parliamentary inquiries as

to whether it was necessary for the Congress to provide for the continuance of its session beyond July 1949, and whether committees may sit and act in view of the provisions of § 132 of the Legislative Reorganization Act of 1946, requiring that adjournment take place the last of July unless otherwise provided by the Congress.

The Speaker stated that a concurrent resolution to continue the session beyond July 1949 was not necessary inasmuch as the United States was still at war and that the national emergencies proclaimed by the President in 1939 and in 1941 were still in effect.

There was inserted in the *Congressional Record* opinion and supporting evidence of the Legislative Reference Service of the Library of Congress to the effect that a concurrent resolution to continue the session beyond July 1949 was not necessary because of the current state of war and the national emergencies proclaimed by the President in 1939 and in 1941.

On July 27, 1949,⁽¹⁾ the Minority Leader posed the following parliamentary inquiry:

1. 95 CONG. REC. 10290-93, 81st Cong. 1st Sess.

CONTINUATION OF SESSIONS BEYOND
JULY 31, 1949

Mr. [Joseph W.] Martin, [Jr., of Massachusetts]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER.⁽²⁾ The gentleman will state it.

Mr. MARTIN of Massachusetts. Mr. Speaker, I rise to propound an inquiry to the Speaker and the majority leader.

Three years ago in response to a wide public demand the then Democratic Congress passed what was known as the reorganization bill. The purpose of the legislation was to initiate legislative reforms. The bill was warmly supported by the press, magazines, labor leaders, business executives, eminent educators, and students of public affairs. One of the reforms particularly stressed was the establishment of a fixed date for the adjournment of Congress.

In that bill was a paragraph, which I read:

SEC. 132. Except in time of war in a national emergency proclaimed by the President, the two Houses shall adjourn sine die not later than the last day (Sundays excepted) in the month of July in each year unless otherwise provided by the Congress.

You will note that this is mandatory language, subject only to emergencies. Unless the House is ready to accept the flimsy excuse that 4 years after the ending of a shooting war we are still at war, there are only two other ways we can continue legally to legislate after August 1. One is through the passage of a concurrent resolution, and the other the proclaiming by the President

of an emergency. There may be emergencies at this time, and if so, I would like to have them specified.

As I stated, there has been talk of keeping the Congress in session on the pretext we are in war. Technically that, of course, is true, but I submit, Mr. Speaker, that will not ring true with the American people. It is doubtful from the progress we are making toward the ending of the war that we will ever reach the time when the war shall be officially ended. Certainly there will never be peace if we are obliged to get the consent of Russia.

I further submit that to continue without a resolution will place in jeopardy legislation which we pass after August 1. The Supreme Court only the other day in the Christoffel case said a tribunal that is not competent is no tribunal. It might say in this instance that a Congress sitting without a legal right to sit is not qualified to enact legislation. Surely we are playing risky and throwing a "cloud" over our work.

Now, as to the war-emergency excuse. The President and the Congress have both given adequate evidence that they do not believe there is now an emergency. This has been indicated through the frequent relaxation of emergency controls.

President Truman, in his message to Congress on February 19, 1947, said:

To the Congress of the United States:

During the year and a half that have elapsed since the defeat of our last enemy in battle we have progressively eliminated the great majority of emergency controls over the Nation's economy. The progress of reconversion now makes it possible to take an additional step toward freeing our economy of wartime controls.

2. Sam Rayburn (TX).

Accordingly I am recommending that the Congress repeal certain temporary statutes still in effect by virtue of the emergencies proclaimed by the President in 1939 and 1941, and I have requested the executive departments and agencies to cease operations under powers derived from certain permanent statutes that are effective only during emergencies, to the extent that such operations are related to the 1939 and 1941 emergencies.

Note that he ordered those powers should be suspended which were effective only during emergencies.

The recommendations I have present for the consideration of the Congress will, if accepted materially assist in further freeing the country of war controls and will help make possible an early ending of the emergencies. I have under continuing study the question of terminating the emergencies proclaimed in 1939 and 1941, and intend to take action as soon as circumstances permit.

In my recent message to the Congress on the state of the Union I outlined the following program with respect to the termination of emergency and wartime powers:

“Two groups of temporary laws still remain: The first are those which by congressional mandate are to last during the ‘emergency’; the second are those which are to continue until the ‘termination of the war.’

“I shall submit to the Congress recommendations for the repeal of certain of the statutes which by their terms continue for the duration of the ‘emergency.’ I shall at the same time recommend that others within this classification be extended until the state of war has been ended by treaty or by legislative action. As to those statutes which continue until the state of war has been terminated, I urge that the Congress

promptly consider each statute individually, and repeal such emergency legislation where advisable.”

Accordingly, I now submit recommendations with respect to more than 100 laws which are affected by the limited emergency declared September 8, 1939, or the unlimited emergency declared May 27, 1941.

In the case of those statutes that remain in force until termination of the war, I have directed the executive departments and agencies to assist the Congress in its consideration of these statutes, individually, by making available full information concerning them to the appropriate congressional committees. The work done on this subject in the Seventy-ninth Congress by the Committee on the Judiciary of both Houses, with the assistance of the Office of War Mobilization and Reconversion, the Department of Justice, and other Government agencies, should offer valuable aid to the Congress in accomplishing the task which remains. At a later date it may prove desirable to send a further communication to the Congress concerning these statutes.

Emergency laws dealt with in this message fall into five broad classes: (a) Temporary statutes which are no longer needed, and which consequently should be repealed forthwith; (b) permanent statutes under which operations related to the 1939 or 1941 emergencies have been or are being discontinued, but which should remain for possible use during future emergencies; (c) statutes appropriating funds, which should, when the funds are no longer required be handled by rescission of funds rather than by repeal of the statutes; (d) statutes which should be temporarily extended by the Congress pending consideration of permanent legislation or other disposition as indicated below; (e) statutes which should continue in force for the period or purpose stipulated.

In appendixes to this message the statutes under reference are enumerated according to the above classifications.

It will be observed there is no mention of this particular restriction in Congress adjournment. Furthermore, I am informed that the committee which framed this resolution in 1946 came very nearly omitting the reference to emergencies. It was only included by the House as an extreme precautionary measure. At the time the reorganization bill was adopted there was no emergency in their minds, and we are now 3 years later.

On January 1, 1947, the President said:

Although a state of war still exists, it is at this time possible to declare, and I find it to be in the public interest to declare, that hostilities are terminated.

Then he went on to talk about the controls that should be eliminated.

The President on February 19, 1947, sent another message to the Congress, and he said:

During the year and a half that have elapsed since the defeat of our last enemy in battle, we have progressively eliminated the great majority of emergency controls over the Nation's economy. The progress of reconversion now makes it possible to take an additional step toward freeing our economy of wartime controls.

Accordingly, I am recommending that the Congress repeal certain temporary statutes still in effect by virtue of the emergencies proclaimed by the President in 1939 and 1941, and I have requested the executive departments and agencies to cease operations under powers derived from certain permanent statutes

that are effective only during emergencies, to the extent that such operations are related to the 1939 and 1941 emergencies.

The recommendations I here present for the consideration of the Congress will, if accepted, materially assist in further freeing the country of war controls and will help make possible an early ending of the emergencies. I have under continuing study the question of terminating the emergencies proclaimed in 1939 and 1941, and intend to take action as soon as circumstances permit.

In my recent message to the Congress on the state of the Union I outlined the following program with respect to the termination of emergency and wartime powers:

"Two groups of temporary laws still remain: The first are those which by Congressional mandate are to last during the 'emergency'; the second are those which are to continue until the 'termination of the war'.

"Accordingly, I now submit these recommendations."

You will note from that the President had progressively ended war controls because the emergencies were over.

Mr. Speaker, I bring this up, I assure you, not in any partisan manner; not in any manner except to clarify the situation, that we may know properly where we stand. I want to remove if possible the cloud over our legislative acts. I believe that this can only legally be assured through the adoption of a resolution by both branches of the Congress. The fact it is so easy for Congress to continue its session by resolution is sufficient reason that emergency wartime proposals should not be utilized to keep Congress in session. If the Congress by any chance was in such a position that it could not help

itself, there might be some reason to defend the restriction. Congress is here. Congress could simply pass a resolution extending it indefinitely or to a given date. But I submit, Mr. Speaker, that not only for today but for the years to come, unless we exercise common sense and reason we will go on indefinitely being deprived of one of the essential reforms of the reorganization act because we are at war.

Mr. Speaker, I submit this question to you with confidence in your integrity. I do it as a contribution to orderly procedure and in an effort to clarify a grave doubt.

The SPEAKER. The Chair is prepared to answer the parliamentary inquiry of the gentleman from Massachusetts. The gentleman from Massachusetts was kind enough to advise the Chair on last Monday that he intended to raise this question so that the House might have an interpretation for its guidance.

Section 132 of the Legislative Reorganization Act of 1946 provides:

SEC. 132. Except in time of war or during a national emergency proclaimed by the President, the two Houses shall adjourn sine die not later than the last day (Sundays excepted) in the month of July in each year unless otherwise provided by the Congress.

It is indisputable that we were on August 2, 1946, the time the Legislative Reorganization Act was passed, in a state of war, and that the national emergencies declared by the President on September 8, 1939, and May 27, 1941, were still in effect. That same state of affairs continues today. The state of war still exists, and the national emergencies declared by the President still exist.

That fact—that the state of war and national emergencies have continued to exist—has been recognized on numerous occasions. Following the passage of the Legislative Reorganization Act the President on December 31, 1946, issued his proclamation declaring the cessation of hostilities of World War II. At that time the President stated that his proclamation did not effect the termination of the national emergencies or of the state of war.

The Supreme Court on at least two occasions since the passage of the Legislative Reorganization Act, and as recently as February 1948, recognized the distinction between the termination of hostilities and the termination of the war itself.

In *Fleming v. Mohawk Wrecking & Lumber Co.* (331 U. S. 111), decided in 1947, the Supreme Court unanimously upholding the exercise of authority by the President under title I of the First War Powers Act of 1941, which the President was authorized to use only in matters relating to the conduct of the present war, said:

The cessation of hostilities does not necessarily end the war power.

In *Woods v. Miller Co.* (333 U. S. 138), decided in 1948, the Supreme Court again, and once more unanimously, upheld the constitutionality of the Housing and Rent Act of 1947 as a valid exercise by the Congress of its war powers, saying:

Whatever may be the consequences when war is officially terminated, the war power does not necessarily end with the cessation of hostilities.

The Congress itself in enacting Senate Joint Resolution 123, Eightieth

Congress, a year after the passage of the Legislative Reorganization Act, recognized the continued existence of the state of war and of the emergencies.

It will be recalled that Senate Joint Resolution 123, which became Public Law 239 of the Eightieth Congress, provided that with respect to a number of specified statutory provisions the war and the emergencies should be considered terminated. But the central principle—that the state of war and the national emergencies continued to exist—was clearly recognized and reinforced.

The Chair is not aware that either the Congress or the President has taken any step whatever which would have the effect of terminating World War II as such or the national emergencies as such. For the foregoing reasons it is clear that section 132 of the Legislative Reorganization Act has no effect at this time because in its own words it is not effective “in time of war or during a national emergency proclaimed by the President.”

Mr. [Charles A.] HALLECK [of Indiana]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALLECK. I assume, of course, from the response of the Speaker that we are to continue with the session after August 1, with no further action in the way of a resolution by the Congress.

The SPEAKER. That would be the interpretation of the Chair, that it would not be necessary to pass a concurrent resolution for the continuance of the Congress beyond the 1st of August.

Mr. HALLECK. Then, Mr. Speaker, since it is apparent that we are going to go beyond the 1st of August, I wonder if the Speaker can give us any information as to when we may reasonably expect that the work of the House of Representatives may be concluded in order that we may be in a little better position to make our plans for the rest of the year and, I believe, to make some determinations as to the legislative program. I understand, that it may well be that the Speaker is not in any position at this time to say anything to us about this matter about which I am inquiring, but I can see around me what I am sure is a lot of interest in the matter about which I have inquired. I am quite sure that my colleagues will join with me in expressing the hope that very shortly we can come to the end of the labors of this session and get back home.

The SPEAKER. The Chair may say, in response to the inquiry of the gentleman from Indiana, that anything he may say about the length of this session would be only the expression of a hope.

Mr. [John E.] RANKIN [of Mississippi]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RANKIN. Mr. Speaker, if the Supreme Court should decide that the war has terminated, would that not vitiate every law that we would pass from now on without passing a resolution?

May I say to the Speaker that I am somewhat alarmed at a recent decision of the Supreme Court setting aside the conviction of a man for committing perjury before a committee of the House

on the ground there was not a quorum present. Suppose the Supreme Court should go off on a similar tangent and decide that the war has been terminated, would that not vitiate any legislation we might pass unless we passed a resolution to continue the session, as the law provides, and would it not be a simple matter to bring in a resolution extending the regular session as provided by law and thus eliminate that danger?

The SPEAKER. Of course, the Chair is not in position or not of a disposition to guess or prognosticate on what the Supreme Court of the United States will do.

Mr. RANKIN. I would not impose that burden on the Chair, of course.

The SPEAKER. But if and when that time comes the Congress could by its own action clear up those things.

Mr. RANKIN. The trouble is, Mr. Speaker, that after we have legislated for 6 weeks more, and I think we will be here until the middle of September, if the Supreme Court were to hold that the war had terminated and that we were sitting without authority, it might affect every law that we would pass in the next 6 weeks.

The SPEAKER. The Chair would think that the Supreme Court of the United States reads the CONGRESSIONAL RECORD.

Mr. [Earl C.] MICHENER [of Michigan]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MICHENER. Mr. Speaker, we all appreciate that this is a very vital question, that it is a question of law and in the final analysis has to be de-

ecided by the Supreme Court of the United States.

The Chair has made his ruling and that ruling is binding upon the House and can only be challenged in the courts.

This question gave me some concern and on yesterday I asked the American Law Division of the Legislative Reference Service to prepare a brief for me on the questions involved. That brief was delivered to me a few minutes ago. I have not had time to thoroughly digest it. Some of the brief is not in keeping with what my views were; however, I may possibly be wrong.

Inasmuch as this is a legal proposition to be decided by the law and the precedents, I think the entire membership of the House is entitled to the conclusion of this agency which the Congress has set up in the Library of Congress for the express purpose of advising the Congress as to what the decisions indicate, as well as its conclusions.

I therefore ask unanimous consent, Mr. Speaker, that the opinion rendered by Mr. Frank B. Horne, American Law Section, of July 26, be included at this point in the RECORD.

The SPEAKER. Would the gentleman be willing to have that inserted in the Appendix of the RECORD?

Mr. MICHENER. If the Speaker desires, I would be willing, but inasmuch as this whole question is so vital and should all be considered together, I believe it should be inserted at this point. I may say to the Chair that the opinion is not at variance with the ruling which the Speaker has made, even though it is not in keeping with my preconceived views.

The cases to which the Speaker has referred are cited as well as many others. I think it would be for the benefit of all those interested to have these views at one spot in the CONGRESSSIONAL RECORD. Of course, I shall be pleased to abide by whatever the Speaker says.

Mr. RANKIN. Mr. Speaker, reserving the right to object, and I shall not object, I would like to say to the gentleman from Michigan, and to the House, that it seems to me that the wise thing to do is to pass a continuing resolution immediately. I do not think there would be any particular objection to it, and it would eliminate the danger of having the laws we pass during the rest of the session set aside by the Supreme Court.

Mr. MICHENER. There is no question about that. I was on the Reorganization Committee, and the intent and the purpose was to fix a final and a definite date which would control the annual sine die adjournment unless the Congress, in its wisdom, decided otherwise before the date specified, on the 31st day of July in each year, arrived. The Speakers ruling holds that we are still at war technically, that an emergency declared by the President in 1937 and another one declared in 1941 still exists. Therefore, the only solution, if we want to adjourn, is to pass a resolution of adjournment, fixing the date. That will remove all doubt.

The SPEAKER. As to the request of the gentleman from Michigan, of course, the gentleman from Michigan knows that the Chair has no more respect for any other Member of the House than he has for him, but the Chair would prefer, if the gentleman does not object, that the matter he

speaks of be extended in the Appendix of the RECORD.

Mr. MICHENER. Mr. Speaker, may I suggest, in view of what I said, that if it is not objectionable, that the decision be inserted immediately preceding the ruling of the Chair? It is not at variance with the ruling; it is amplifying.

The SPEAKER. The Chair, of course, would not object to that himself.

Mr. [Clare E.] HOFFMAN of Michigan. I object, Mr. Speaker.

The SPEAKER. But the Chair thinks that that would hardly be the place for it to go.

Mr. [John M.] VORYS [of Ohio]. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. VORYS. The Chair has given an expression of his views, but is this not the case, that the only way in which the Chair could rule on the point would be if a point of order were made after July 31 to some action of the House on the ground that the House is not in session? The Chair cannot rule in advance.

The SPEAKER. The Chair assumes that the gentleman from Massachusetts [Mr. MARTIN] made his parliamentary inquiry today in order to obviate a thing like that.

The proceedings continued in the House on Aug. 1, 1949:⁽³⁾

The House met at 12 o'clock noon.

The Acting Chaplain, Rev. James P. Wesberry, LL. D., offered the . . . prayer[. . .]

3. 95 CONG. REC. 10486, 81st Cong. 1st Sess.

Mr. HALLECK. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. HALLECK. Mr. Speaker, I make the point of order that the House is not legally in session. I make it at this time because I am quite sure that the point should be made before the Journal is read.

I make the point of order for the reason that under the Reorganization Act recently passed by the Congress which is now the law of the land, it is provided that Congress shall adjourn on the last day of July unless the Nation is at war, or there is a national emergency proclaimed by the President, or unless the Congress determines otherwise.

The Congress has not determined otherwise. No action has been taken by the Congress in line with the provisions of the Reorganization Act. I insist, Mr. Speaker, that there is no such state of war existing, and there is no such national emergency declared by the President existing as contemplated by the Reorganization Act, which would avoid the necessity of the Congress acting affirmatively as provided in the act if we are to be legally in session.

Mr. Speaker, I am, of course, familiar with the Speaker's response of last week to the inquiry addressed to the Chair by the minority leader, the gentleman from Massachusetts [Mr. MARTIN]. Being so convinced, however, that there should be no cloud whatever upon the legality of the action of the Congress that may hereafter be taken, and because I am convinced that the only way to remove any threat to such

legality is for the Congress to act affirmatively, I am constrained at this time to raise the point of order.

The SPEAKER. The Chair is prepared to rule.

In response to the parliamentary inquiry propounded by the gentleman from Massachusetts [Mr. MARTIN] on last July 27, the Chair stated what the Chair thought and still thinks is the law: that the Congress is legally in session. The Chair therefore overrules the point of order made by the gentleman from Indiana.

Mr. [Ralph E.] CHURCH [of Illinois]. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. CHURCH. Mr. Speaker, I make a further point of order. This goes beyond what the Speaker has ruled with reference to the point of order just made by the gentleman from Indiana [Mr. HALLECK]. First, let me say that there is nothing to prevent the President from calling a special session today, or any day, to begin immediately.

Mr. Speaker, I make the point of order that the House is not legally in session, that when the House adjourned last Thursday and the Senate adjourned last Friday the adjournment constituted a sine die adjournment pursuant to section 132 of the Legislative Reorganization Act of 1946.

Mr. Speaker, in view of the fact, not merely that Congress has not by concurrent resolution adjourned, but in addition thereto, that the President has not yet called us today or on tomorrow into special session, I raise this further point of order and insist on my objection with respect to every measure before the Congress.

While the Speaker has ruled that no formal action is necessary to prevent a sine die adjournment as provided by section 132 of the Legislative Reorganization Act of 1946, there is nonetheless some doubt as to the validity of our proceedings. The ruling of the Speaker can be challenged in the courts should occasion arise where any of the measures we pass should be challenged.

In order to remove all possible doubt as to the validity of our proceedings after the last day of July, I had hoped that the leadership would bring in a formal resolution. Such action not having been taken, I believe that the President should call a special session. He should do this in order to give formal legal status to our proceedings. He should do this in order that the question may never arise at some future date as to the validity under our Constitution of what we may attempt to do in the coming days that it is proposed we continue in session.

I repeat that there is nothing to prevent the President from calling a special session today to begin immediately.

Mr. Speaker, I do this with a view to certainty and for the dignity of this Congress. The people who sent us here, expect the Congress to legislate, and not a President and not a Speaker. I do this in all seriousness in order that the President may, before the day is over, instantaneously, now, call us in special session.

I make that point of order.

The SPEAKER. In response to the point of order, the Chair has already held that the Congress is legally assembled and in session; therefore,

there is no reason for the President to call a special session of the Congress at this time.

The Chair overrules the point of order.

On Aug. 2, 1949,⁽⁴⁾ Rep. Church raised the following point of order:

LEGALITY OF SESSION OF CONGRESS

Mr. CHURCH. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. CHURCH. Mr. Speaker, I make the point of order that the House is not legally in session, and again cite section 132 of the Reorganization Act passed by the Congress. Today, Mr. Speaker, the situation is different in one particular from the situation on yesterday, when the two points of order were raised by the gentleman from Indiana [Mr. HALLECK] and myself.

Mr. Speaker, section 132 reads as follows:

CONGRESSIONAL ADJOURNMENT

SEC. 132. Except in time of war or during a national emergency proclaimed by the President, the two Houses shall adjourn sine die not later than the last day (Sundays excepted) in the month of July in each year unless otherwise provided by Congress.

Mr. Speaker, I emphasize the words in parenthesis "Sundays excepted." If through any interpretation the words "Sundays excepted" give legality to the session of yesterday, then, Mr. Speaker, that interpretation could not carry

4. *Id.* at p. 10591.

that legality to include today. Therefore, I renew my point of order that the House is not legally in session, for the reasons stated by the gentleman from Massachusetts last July 27 and by the gentleman from Indiana and me on yesterday, and in addition for the reason that I have just stated, namely, that the words "Sundays excepted" cannot carry a legal session into today. Mr. Speaker, the President can instantler call a "special session" to meet immediately, and thereby remove the doubt as to the legality of the future proceedings of the Congress.

The SPEAKER. The Chair is ready to rule.

The Chair makes the statement again that on July 27, in response to the parliamentary inquiry propounded by the gentleman from Massachusetts [Mr. MARTIN], the Chair held, and he so holds today, that the Congress is in session.

The point of order is overruled.

On Aug. 4, 1949,⁽⁵⁾ Mr. John E. Lyle, Jr., of Texas, called up, by direction of the Committee on Rules, House Resolution 310, providing for the consideration of H. R. 1758, a bill to amend the Natural Gas Act approved June 21, 1938, as amended, and asked for its immediate consideration. The following point of order was then made:

Mr. [John W.] HESELTON [of Massachusetts]. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. HESELTON. Mr. Speaker, I make the point of order that the House is not legally in session.

I recognize that this matter has been raised in a general sense on at least two occasions. I do not wish to burden the Speaker, the membership or the record with repetition. Therefore, I would like to recognize and incorporate by references the parliamentary inquiry of the gentleman from Massachusetts [Mr. MARTIN] on July 27, the further parliamentary inquiries of the gentlemen from Indiana [Mr. HALLECK], from Mississippi [Mr. RANKIN], from Michigan [Mr. MICHENER], and from Ohio [Mr. VORYS], as well as the several rulings of the Speaker; also the points of order of August 1 by the gentleman from Indiana [Mr. HALLECK], and the gentleman from Illinois [Mr. CHURCH], as well as the rulings of the Speaker on those occasions.

My reason for making this point of order at this time is more specific. I have been advised upon what I believe to be reliable authority that if H. R. 1758, the resolution we will now consider, is enacted into law, with or without the proposed amendments, its legality will be challenged. Obviously, this might have a far-reaching effect not only upon the industry concerned but upon the entire problem of developing an effective fuel policy involving our energy resources.

In view of this possibility, it would seem to me that I would be derelict in my obligations as a Member of this body if I did not raise the point of order in terms of the consideration of this specific legislation.

Moreover, another problem is involved by reason of the recent decision

5. *Id.* at pp. 10777, 10778.

of the Supreme Court of the United States in the Christoffel case. It seems to me that it is the primary responsibility of proponents of H. R. 1758, particularly during the reading of the bill for amendment, to establish affirmatively at all times that a quorum is present and voting. However, I do not think that this is of major importance in terms of the point of order which I have raised and wish to submit to the Speaker.

The SPEAKER. The Chair will repeat, as he will repeatedly repeat when questions of this kind are raised, that on July 27, in answer to a parliamentary inquiry by the gentleman from Massachusetts [Mr. MARTIN] the Chair ruled that the House is legally in session, committees may legally meet, and may legally report bills.

The Chair overrules the point of order.

On Aug. 5, 1949,⁽⁶⁾ Mr. Heselton was recognized for the following parliamentary inquiry in the Committee of the Whole:

Mr. HESELTON. Mr. Chairman, yesterday, when the resolution reporting the rule was before the House, I made the point of order that the House was not legally in session, which point of order was overruled. I have been advised that in order to properly present the matter in terms of the consideration of this bill, now that we have it at the point where it is being read for amendment, I should renew the point of order.

I would like to inquire whether that is in order or whether it should be sub-

mitted at the conclusion of the reading of the bill and when it is reported back to the House?

The CHAIRMAN.⁽⁷⁾ The point raised by the gentleman from Massachusetts is not for the Committee of the Whole to pass on. If he will reserve the point of order, it should be propounded in the House.

§ 17. Procedure and Business at Adjournment

The House customarily authorizes the Speaker to appoint a committee to notify the President of the completion of business and the intention of the two Houses to adjourn *sine die* unless the President has some further communication to make.⁽¹⁾ This authority is provided by a simple resolution called up as privileged following adoption of the concurrent resolution to adjourn *sine die*. The committee is usually composed of the Majority and Minority Leaders of the House and joins a similar committee from the Senate if appointed.

Between the adoption of a *sine die* concurrent resolution and the actual *sine die* adjournment of the House by motion, the House customarily gives permission to facilitate the conduct of some items of

7. Brooks Hays (AR).

1. See § 17.1, *infra*.

6. *Id.* at p. 10858.