

the Interstate and Foreign Commerce Committee that the ranking minority member of that committee should have an opportunity to be here, or at least been notified before it was brought out on the floor.

MR. RAYBURN: It is my impression it would not go to that committee.

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

THE SPEAKER: The gentleman will state it.

MR. SNELL: What committee would this resolution naturally go to?

THE SPEAKER: The Committee on Interstate and Foreign Commerce.

Mr. Rayburn's unanimous-consent request was objected to.⁽²⁰⁾

And, on the following day,⁽²¹⁾ the Speaker referred the measure to the Committee on Interstate and Foreign Commerce.

§ 28. Motions to Rerefer

Debate on Motion

§ 28.1 A motion to rerefer a bill is not debatable except by unanimous consent.

On Jan. 13, 1941,⁽²²⁾ Speaker Sam Rayburn, of Texas, recognized Andrew J. May, of Kentucky, Chairman of the Com-

mittee on Military Affairs [now the Committee on Armed Services], who requested unanimous consent to address the House for 10 minutes. The Members were aware that Mr. May intended to offer a motion to rerefer H.R. 1776, the so-called "Lend Lease" or "Aid to Britain" bill from the Committee on Foreign Affairs to the Committee on Military Affairs. There were several reservations of objection, and a brief colloquy which included the following exchange:

MR. [R. EWING] THOMASON [of Texas]: Mr. Speaker, it is very apparent that this is all a debate on the question of the jurisdiction of this bill. I make the parliamentary inquiry as to whether or not this question is debatable? I am opposed to my chairman in his effort to re-refer the bill and so voted in the Committee on Military Affairs, as did several others. The action of the committee was not unanimous. I think the Speaker should be sustained in the exercise of his sound discretion.

THE SPEAKER: It can only be debated by unanimous consent.

MR. MAY: Mr. Speaker, I admit that the motion to re-refer the bill which I expect to make is not subject to debate. The only purpose I had in propounding the unanimous-consent request was to say something to the House about it.

§ 28.2 While a motion to rerefer may not be debated under the rules, where a Member obtained unanimous

20. *Id.* at p. 3626.

21. 79 CONG. REC. 3776, 74th Cong. 1st Sess., Mar. 15, 1935.

22. 87 CONG. REC. 126, 127, 77th Cong. 1st sess.

consent to address the House for one minute and proceeded to discuss reasons for a bill's rereferal, the Chair held, in response to a point of order, that such action would not bar the subsequent submission of the motion to rerefer.

On Apr. 21, 1942,⁽¹⁾ Speaker Sam Rayburn, of Texas, recognized Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), who obtained unanimous consent to address the House for one minute. Mr. Dickstein then outlined several reasons why a bill (H.R. 6915), previously referred to the Committee on the Judiciary, should be referred to the committee he chaired. Immediately thereafter, by direction of the Committee on Immigration and Naturalization, he so moved.

At this juncture, three points of order were raised—one of which prompted the following exchange:

MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I make the point of order against the motion that it is made in violation of the rule⁽²⁾ under which it

is supposed to be presented, in that there was debate by the distinguished gentleman from New York for 1 minute immediately preceding the submission of the motion, whereas the opposition is denied that right by the rule.

THE SPEAKER: The Chair did not know what the gentleman from New York was going to talk about. The Chair cannot look into the mind of a Member when he asks unanimous consent to address the House for 1 minute and see what he intends to talk about.

The other points of order having also been overruled, the motion to rerefer was considered by the House.

Speaker's Explanation of Rereferal

§ 28.3 The House having under consideration a [nondebatable] motion to rerefer a bill from one standing committee to another, the Speaker declined to respond to a parliamentary inquiry requesting an explanation of his re-

states, in pertinent part, that "correction in case of error of reference may be made by the House, *without debate*, in accordance with Rule X [which sets out committee jurisdiction], on any day after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred [emphasis supplied]

1. 88 CONG. REC. 3570, 3571, 77th Cong. 2d Sess.

2. See Rule XXII clause 4, *House Rules and Manual* §854 (1979) which

ferral where objection was heard and unanimous consent to respond unconditionally was not forthcoming.

On Jan. 13, 1941,⁽³⁾ Speaker Sam Rayburn, of Texas, recognized Andrew J. May, of Kentucky, Chairman of the Committee on Military Affairs [now the Committee on Armed Services], who subsequently⁽⁴⁾ moved that the Chair rerefer H.R. 1776, the so-called "LendLease" or "Aid to Britain" bill from the Committee on Foreign Affairs to the Committee on Military Affairs. Immediately thereafter, Mr. May obtained unanimous consent to have the Clerk read a resolution passed by his committee with respect to his motion.

Mr. John W. McCormack, of Massachusetts, then raised a parliamentary inquiry to which the Chair responded, leading to the following discussion:

MR. MCCORMACK: Pursuing my parliamentary inquiry further, may I ask the Chair if the Chair will state to the House the compelling reasons which prompted him to refer this bill to the Committee on Foreign Affairs?

THE SPEAKER: The Chair will be very glad to make a statement as to why this bill was referred as it was.

MR. [ALBERT J.] ENGEL [of Michigan]: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman from Massachusetts has propounded a parliamentary inquiry.

MR. ENGEL: The point of order, Mr. Speaker, is that what the gentleman has propounded is not a parliamentary inquiry. If we are going to debate⁽⁵⁾ one side of this question, I want both sides debated. I do not know what I am going to do on this bill.

THE SPEAKER: The Chair holds that that relates to the proceedings of the House. The Chair thought that a unanimous-consent request might be granted or a parliamentary inquiry made of him, so the Chair has prepared a statement he will make with reference to this matter.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, will the Chair permit an inquiry?

THE SPEAKER: Yes.

MR. MICHENER: If the Speaker pursues that course, then in effect he has opened this matter up to debate and the Speaker himself has made a speech against the motion. That can be done by unanimous consent, but it does seem to me we should do these things according to the rules. If we are going to have debate, let us have debate; if we are not, let us not have one side only.

THE SPEAKER: Does the gentleman maintain that it is not the business of the Chair to answer a parliamentary inquiry?

MR. MICHENER: My point is that it was not a proper parliamentary inquiry. It was a unanimous-consent re-

3. 87 CONG. REC. 126, 77th Cong. 1st Sess.

4. *Id.* at pp. 127, 128.

5. Motions to rerefer are not debatable except by unanimous consent; see §28.1, *supra*.

quest that the Speaker be permitted to state his reasons for doing a certain thing.

THE SPEAKER: Under the rules of the House; yes.

MR. [EDWARD E.] Cox [of Georgia]: Mr. Speaker, I think unquestionably the Chair has the right to state reasons for action taken; but in order to avoid even the suspicion of undertaking to influence the judgment of the Members on the subject, I hope the Chair will forego the exercise of this right which he clearly has.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, I concur with the gentleman from Georgia. Although I am in sympathy with the viewpoint of the Speaker—and he is well within his rights in saying anything he wants to the House—I hope he will forego those rights in the interest of harmony and justice at the present time.

MR. MAY: Mr. Speaker, may I make the additional statement that I have no complaint against the Speaker for anything he has done about this matter? I am just trying to pursue what I regard as the proper course. This motion not being subject to debate, it is a question in my mind whether or not in ruling on it the Speaker is confined to the mere position of saying that it is overruled and not sustained; but, in order to be perfectly fair about it, I ask unanimous consent that the Speaker may be permitted to make his statement.

MR. [JOHN D.] DINGELL [of Michigan]: I object to that, Mr. Speaker. Either the Speaker has the right or he has not. I contend that he has the right. I object.

MR. MAY: It will not hurt to have unanimous consent.

THE SPEAKER: The Chair believes that the questions raised here are very fundamental and certainly go to the rights and the prerogatives of the Speaker of the House of Representatives. Therefore, the Chair had hoped that a time would come in these proceedings when he might be able to say to the House what the compelling reasons were for referring this bill to the Committee on Foreign Affairs. However, the Chair is not going to do that unless by unanimous consent. The Chair will make a statement if unanimous consent is granted. Is there objection?

MR. ENGEL: Reserving the right to object, Mr. Speaker, I ask that unanimous consent be granted to discuss the matter 20 minutes.

THE SPEAKER: The Chair will accept no time from the House on any conditions; therefore, as the Chair interprets it, objection is heard.

Authorization for Motion to Rerefer

§ 28.4 The motion for rereference of a bill by direction of a committee claiming jurisdiction is a privileged matter, in order after approval of the Journal, and the Chair may inquire if the appropriate committee has authorized the motion. A motion to rerefer a bill is not in order if the committee of original reference has reported, and the Chair may examine the Journal to de-

termine if the bill has been reported.

On May 4, 1939,⁽⁶⁾ following the reading of the Journal and several unanimous-consent requests, Speaker William B. Bankhead, of Alabama, recognized Mr. William T. Schulte, of Indiana, who, by direction of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), submitted a motion to the House that a bill (H.R. 5138), to make unlawful attempts to overthrow the Government of the United States; to require licensing of civilian military organizations, to make unlawful attempts to interfere with the discipline of the Army and Navy, to require registration and fingerprinting of aliens, to enlarge the jurisdiction of the U.S. Circuit Court of Appeals in certain cases, and for other purposes, be referred from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

Shortly thereafter, the Speaker put the question on the motion whereupon Mr. Howard W. Smith, of Virginia, rose to a point of order, stating, in part:

Mr. Speaker, under the rules of the House a motion of this kind must have been authorized by formal action of the

committee from which the motion comes. As I understand this motion, it is a motion of the Immigration Committee to take from the Judiciary Committee a bill which has previously been referred to the Judiciary Committee by the Speaker. It does not appear from the motion that there was any formal action taken by the Committee on Immigration. . . .

I make the further point of order, Mr. Speaker, that nothing appears in this motion to show what is the present status of that bill as far as the Committee on the Judiciary is concerned. Under the precedents of the House—and the Chair had occasion to rule on this point just a couple of days ago—when a bill has been reported from a committee it is too late to make that point. For aught that appears to the Speaker or to the House this morning, the Committee on the Judiciary may have already acted upon the bill, in which event this motion would come too late. . . . At this late hour the gentleman without any reason being assigned for a reference of this bill makes this motion to refer the matter to another committee which has never had and which it does not appear from the motion could possibly have any jurisdiction of the subject matter.

Mr. Schulte, in response, noted:

. . . [W]e are within our rights and we are within our bounds when we protest the reference of the bill now in question in view of the fact that this bill has not been reported to the House. The so-called Smith bill is strictly an immigration bill and is so interpreted by every one who has read it. Titles I and II pertain to citizens and aliens alike. Titles III, IV, and V

6. 84 CONG. REC. 5119, 76th Cong. 1st Sess.

of the bill are immigration matters absolutely 100 percent.

Shortly thereafter, the Chair announced he was ready to rule, and the following exchange took place:⁽⁷⁾

THE SPEAKER: . . . In reference to the first point of order, made by the gentleman from Virginia [Mr. Smith], challenging the fact that the motion made by the gentleman from Indiana [Mr. Schulte] was made by authority of the Committee on Immigration and Naturalization, the Chair asks the gentleman from Indiana if such was the case?

MR. SCHULTE: It was, Mr. Speaker. I was instructed by the Committee on Immigration and Naturalization to move that this bill be rereferred.

THE SPEAKER: By a vote of the committee?

MR. SCHULTE: By a unanimous vote of the Committee on Immigration and Naturalization.

THE SPEAKER: The Chair accepts that statement and overrules the first point of order made by the gentleman from Virginia.

On the second point of order the Chair thinks it might be proper to have read into the Record the rule governing propositions of this character. Clause 3 of rule XXII⁽⁸⁾ provides as follows:

All other bills, memorials, and resolutions may, in like manner, be delivered, endorsed with the names of Members introducing them, to the

Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule XI, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred.

Under any fair construction of that rule, the Chair is compelled to hold that the gentleman from Indiana is clearly within his rights and the rights of the committee for which he is acting in making this motion to rerefer this bill from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

In reference to the suggestion made by the gentleman from Virginia that for aught appearing the committee had made a report on this bill, of course, the Journal of the House itself shows that no such report has been made to the House by the Committee on the Judiciary.

The Chair, therefore overrules the points of order made by the gentleman from Virginia.

Tabling Motion to Rerefer

§ 28.5 A motion to rerefer a bill to a committee claiming jurisdiction may be laid on the table (and does not carry the bill to the table).

7. *Id.* at pp. 5119, 5120.

8. See Rule XXII clause 4, *House Rules and Manual* § 854 (1979).

On Apr. 21, 1942,⁽⁹⁾ Speaker Sam Rayburn, of Texas, recognized Samuel Dickstein, of New York, Chairman of the Committee on Immigration and Naturalization (since incorporated into the Committee on the Judiciary), who, by direction of that committee, moved that a bill (H.R. 6915), pertaining to the detention of certain aliens be rereferred from the Committee on the Judiciary to the Committee on Immigration and Naturalization.

The Chair then dealt with several points of order⁽¹⁰⁾ after which the following exchange took place:

MR. [JOHN E.] RANKIN of Mississippi: Then, Mr. Speaker, I move to lay on the table the motion of the gentleman from New York.

THE SPEAKER: The question is on the motion offered by the gentleman from Mississippi.

The question was taken; and on a division (demanded by Mr. Dickstein) there were—ayes 79, noes 25.

MR. DICKSTEIN: Mr. Speaker, I object to the vote on the ground that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

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

The question was taken; and there were—yeas 238, nays 83, answered “present” 2, not voting 108. . . .

9. 88 CONG. REC. 3571, 3572, 77th Cong. 2d Sess.

10. See §28.2, supra

So the motion to table the motion to rerefer was agreed to.⁽¹¹⁾

§ 29. Overlapping Jurisdiction; Proposals Involving More Than One Subject

Note: This section pertains to some of the general methods by which problems of overlapping jurisdiction were dealt with prior to the 94th Congress when the Committee Reform Amendments permitting joint, split, and sequential referral became effective.

Informal Committee Agreements

§ 29.1 Where a legislative proposal contains two subjects which are intricately related but which fall within the jurisdiction of different committees, the legislative initiative is sometimes assumed by

11. For a comparable instance, see 84 CONG. REC. 5120, 76th Cong. 1st Sess., May 4, 1939, where the House, by division vote, rejected a motion to rerefer a bill (H.R. 5138), from the Committee on the Judiciary to the Committee on Immigration and Naturalization. As in the instant case, the Committee on Immigration and Naturalization sought the rereference.