

MR. [MAURY] MAVERICK [of Texas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MAVERICK: After a bill has been passed on, can it be brought up again the same day? What about the Puerto Rico bill, which failed? If we can again bring up the bill made in order by this resolution, we can do it with the Puerto Rico bill, or with any other bill that has been defeated once during the day. This bill was defeated a few hours ago.

THE SPEAKER: The Chair will answer the gentleman's parliamentary inquiry. This is an effort on the part of the gentleman from New York, Chairman of the Rules Committee, to bring this bill up under a special rule.

The question is up to the House as to whether or not that can be done.

MR. MAVERICK: I did not hear the Chair.

THE SPEAKER: This is a special rule which is under consideration and is in order.

*Parliamentarian's Note:* Under Rule XI clause 4, the two Houses having agreed to a sine die adjournment resolution and the last three days of the session being in effect, the requirement of a two-thirds vote to consider the rule the same day reported was inapplicable.

## F. COMMITTEE REPORTS

### § 58. In General

This division takes up the subject of committee reports as used in the reporting of bills and resolutions to the House for floor consideration.<sup>(4)</sup>

The House rules provide that “. . . [A]ll bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing. . . .”<sup>(5)</sup> It is the duty of each committee chairman to promptly report approved

measures to the House.<sup>(6)</sup> Moreover, by virtue of a change brought about by the 1970 Legislative Reorganization Act,<sup>(7)</sup> if the report is not filed by the chairman of the committee, the report may be filed by special direction of the committee. The rules provide that a majority of the members of a committee may sign a written request for the filing of a report on a measure it has approved. This request is filed with the committee clerk, who then imme-

4. Commentary and editing by John T. Fee, J.D.

5. Rule XVIII clause 2, *House Rules and Manual* §821 (1979).

6. Rule XI clause 2(l)(1)(A), *House Rules and Manual* §713a (1979).

7. Pub. L. No. 91-510, 84 Stat. 1140 (Oct. 26, 1970).

diately notifies the committee chairman of the request. Within seven calendar days (exclusive of days on which the House is not in session) after the filing of the request, the committee report itself is to be filed.<sup>(8)</sup>

Where a record vote is taken in committee on a motion to report a public bill or resolution, the total number of votes cast for and against the reporting of such bill or resolution is to be included in the committee report.<sup>(9)</sup>

A change brought about by the 1970 Legislative Reorganization Act is the requirement that reports accompanying a public bill or joint resolution contain an estimate, made by the committee, of the costs anticipated in carrying out the measure, over a specified time, and a comparison of this estimate with that submitted by a

government agency.<sup>(10)</sup> However, a bill may be reported without specific recommendations on the part of the reporting committee as to the passage or defeat of the proposed bill.

The 1970 Legislative Reorganization Act also added the requirement that the committee report include supplemental, additional or minority views of any committee member who gives notice, at the time of the committee approval of the report, of his intent to file such views within three days.<sup>(11)</sup> Previously, such views were published either through informal agreements within the committee or by obtaining the unanimous consent of the House to have them included after the report was filed.<sup>(12)</sup>

A further requirement for committee reports is that they comply with the Ramseyer rule, which provides that changes in existing law that would be brought about by the proposed measure are to be printed or shown in the report in distinctive typography.<sup>(13)</sup>

8. Rule XI clause 2(l)(1)(B), *House Rules and Manual* §713a (1979). The rule also provides that it does not apply to a report of the Committee on Rules, whose reports are to be presented to the House within three legislative days after being ordered reported by the committee, under Rule XI clause 4(c), *House Rules and Manual* §730 (1979).

9. This requirement was added by the 1970 Legislative Reorganization Act, Pub. L. No. 91-510, 84 Stat. 1140 (Oct. 26, 1970). It is incorporated in Rule XI clause 2(l)(2)(B), *House Rules and Manual* §713d (1979).

10. Rule XIII clause 7(a), *House Rules and Manual* §748(b) (1979). See §61, *infra*.

11. Rule XI clause 2(l)(5), *House Rules and Manual* §714 (1979). This provision does not apply to the Committee on Rules.

12. See §§64.1-64.4, *infra*.

13. See §60, *infra*.

Unless a report is privileged for immediate consideration,<sup>(14)</sup> it is delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker. Privileged reports are filed from the floor while the House is in session (unless filed by unanimous consent while the House is not in session), and referred to the appropriate calendar and ordered printed by the Speaker.<sup>(15)</sup> Assuming that the report is apparently valid and shows nothing on its face to impeach its authenticity,<sup>(16)</sup> the Speaker assigns the report, with its accompanying bill, to one of three calendars, for consideration in the future.<sup>(17)</sup>

The Chair does not rule on the sufficiency, insufficiency, or legal effect of reports.<sup>(18)</sup> However, the

14. Privileged reports are discussed in §63, *infra*.
15. Rule XIII clause 2, *House Rules and Manual* §743 (1979).
16. See 111 CONG. REC. 27407, 27481, 89th Cong. 1st Sess., Oct. 19, 1965, where a report on a bill (S. 1698), was referred to the Union Calendar, although the Chairman of the Committee on Banking and Currency, Wright Patman (Tex.), later expressed reservations about irregularities in the manner in which the committee had considered and filed a report on the bill.
17. Rule XIII clause 1, *House Rules and Manual* §742 (1979). See Ch. 22 (calendars), *infra*.
18. §§ 58.3, 58.4, *infra*.

Chair does rule on points of order against consideration of a measure based on an alleged failure of a committee report to comply with the Ramseyer rule, the cost estimate requirement, or raising some question as to the alleged privileged status of the report. Even if it appears that a point of order would lie, defects in the reporting of a bill by a standing committee may be remedied in a proper case by adoption of a special rule from the Committee on Rules waiving that point of order.<sup>(19)</sup> Alternatively, the House may grant unanimous consent for the consideration of a bill and thereby waive all points of order against consideration of the bill and its

The Committee Reform Amendments of 1974 imposed, effective Jan. 3, 1975, several new requirements for inclusion of matter in committee reports [Rule XI clause 2(l)(3), *House Rules and Manual* §713(e) (1975); Rule XI clause 2(l)(4), *House Rules and Manual* §713(f) (1975)]:<sup>(20)</sup>

(3) The report of any committee on a measure which has been approved by the committee (A) shall include the oversight findings and recommenda-

19. §58.6, *infra*. report or consider the bill under suspension of the rules.
20. H. Res. 988, 120 CONG. REC. 34447-70, 93d Cong. 2d Sess., Oct. 8, 1974, effective Jan. 3, 1975.

tions required pursuant to clause 2(b)(1) of Rule X separately set out and clearly identified; (B) the statement required by section 308(a) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

Furthermore, Rule XI clause 2(l)(5) [*House Rules and Manual* §714 (1979)], as amended by the Committee Reform Amendments requires that a report bear upon its cover a recital that any supple-

mental, minority, or additional views, and any material submitted pursuant to Rule XI clause 2(l)(3)(C) from the Congressional Budget Office and (D) from the Committee on Government Operations, are included as part of the report.

### ***Form and Content of Report***

**§ 58.1 The form and content of a committee report is governed by the rules of the House and not by a law requiring the submission of certain reports by executive agencies. Thus, a point of order will not lie against a committee report on the ground that an executive agency has failed to report to Congress in accordance with law.**

On July 12, 1967,<sup>(1)</sup> following a motion by Mr. Harold T. Johnson, of California, that the House resolve itself into the Committee of the Whole for the consideration of a bill establishing a commission, Mr. H. R. Gross, of Iowa, made a point of order against consideration of the bill. Mr. Gross con-

1. 113 CONG. REC. 18558, 18559, 90th Cong. 1st Sess. Under consideration was S. 20, to establish a National Water Commission.

tended that an executive communication found in the report failed to comply with executive agency reporting requirements with respect to the legislation. Thereupon Mr. Wayne N. Aspinall, of Colorado, sought recognition to be heard on the point of order:

Mr. Speaker, I would like to be heard on the point of order made by the gentleman from Iowa.

The point of order, if it is a point of order at all, should have come at the time the Executive communication was received. It should not be made against the report which is now before the Congress. The bill which we are considering is a bill from the other body, received by this body in due course, and referred to the committee which has jurisdiction over these matters, and it was properly before the committee. It is now here in conformity with the rules of the House.

MR. GROSS: Mr. Speaker, may I be heard further on the point of order?

THE SPEAKER: (2) The Chair will hear the gentleman.

MR. GROSS: Mr. Speaker, it seems to me that the issue is plain.

That is the issue in the point of order. No report accompanying the bill conforms to the requirement of Public Law 801.

Mr. Speaker, I do not know how, as suggested by the gentleman from Colorado, a point of order could be made against a committee.

THE SPEAKER: The Chair is prepared to rule.

The law referred to by the gentleman from Iowa places the obligation

upon the executive departments or agencies or independent offices to prepare their recommendations with respect to the information contained in the law referred to. However, this does not change any rule of the House of Representatives, and this matter is before the House in accordance with the Rules of the House of Representatives.

Therefore, the Chair overrules the point of order.

### *Filing of Multiple Reports*

#### **§ 58.2 Two reports may not be filed from the Committee on Rules on the same resolution.**

On Jan. 17, 1950,<sup>(3)</sup> Mr. Edward E. Cox, of Georgia, attempted to report a resolution proposing an amendment to Rule XI to repeal the 21-day rule, which resolution had just been filed by the Chairman of the Committee on Rules, Adolph J. Sabath, of Illinois. However, Speaker Sam Rayburn, of Texas, indicated that the second report was not necessary, and said that two reports could not be filed on the same resolution at the same time.

#### AMENDMENT OF PARAGRAPH (2)(c) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

Mr. Sabath, from the Committee on Rules, reported the following privileged resolution (H. Res. 133, Rept. No. 1477), which was referred to the House Calendar and ordered to be printed:

3. 96 CONG. REC. 499-501, 81st Cong. 2d Sess.

2. John W. McCormack (Mass.).

*Resolved*, That paragraph (2)(c) of Rule XI of the Rules of the House of Representatives is hereby amended to read as follows:

“(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules shall make an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House any such adverse report, and it shall be in order to move the adoption by the House of said resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.”

MR. COX: Mr. Speaker, this is a resolution concerning which instructions were given by the Rules Committee this morning to the effect that I should file it. I am stepping aside with the understanding that the chairman file it and that he will ask the Speaker to recognize him on Thursday to call it up, and in the event he the gentleman from Illinois [Mr. Sabath] is not present that I may call it up or some

member of the committee favorable to the resolution shall call it up. Is that correct, Mr. Chairman?

MR. SABATH: To be candid, I did not hear the statement. I did not hear the gentleman's statement.

MR. COX: I said that the understanding between the chairman and the committee is that I am stepping aside as the member designated to file the report, leaving it to the chairman to file it and he files it with the understanding that he will ask the Speaker to recognize him on Thursday to call it up; and in the event the chairman is not present, the understanding is that I shall call it up or some other member of the committee favorable to the resolution.

MR. SABATH: Mr. Speaker, the Committee on Rules has considered the rule on the fair employment practices bill today. The committee ordered reported the resolution, House Resolution 133, introduced by the gentleman from Georgia [Mr. Cox], on Friday, January 13, which would eliminate the procedure under the rule which we adopted on the first day of this Congress giving the committees the right, when the Committee on Rules fails to act within 21 days, to file a resolution to discharge the Committee on Rules.

Today we were considering a rule for the FEPC bill, this being the third day of its deliberations on this measure. The rule on the Cox resolution was granted, over my protest, of course, last Friday. Under the rules of the House, the chairman of the Committee on Rules has 3 days within which to file a report on a rule. I intended to file the report within this time because I have never violated the rules of the

House in my 44 years of service and 20 years as a member of the Committee on Rules.

But today some members of the Committee on Rules thought the report on the Cox resolution should be filed immediately and that the right to file should be taken away from the chairman, and that the rule should be called up by the gentleman who introduced it, the gentleman from Georgia [Mr. Cox]. I felt that that was a violation of the rules of the House, because the Rules of the House plainly state as follows:

It shall be the duty of the chairman of each such committee to report or cause to be reported promptly to the Senate or House of Representatives, as the case may be, any measure approved by such committee—

The word “promptly” means within the rules—within 3 days—which I did intend to do. I thought originally that the motion of the gentleman from Georgia was out of order and so ruled, but it being 12 o'clock we adjourned, but nevertheless some of the members remained and wanted to act upon it.

In order to avoid any controversy that might develop I agreed to file it today instead of tomorrow, and I am filing the report today on the resolution.

The gentleman from Mississippi [Mr. Colmer] approached me on the floor and wanted to know if I was not present Thursday, whether the gentleman from Georgia [Mr. Cox] could call up the resolution. I said if I were not here Thursday, I would have no objection to Mr. Cox calling it up.

MR. COX: Mr. Speaker, will the gentleman yield?

MR. SABATH: I yield.

MR. COX: I have no desire to air publicly what took place in the Rules Committee this morning. It is the understanding that the gentleman will file the rule today and will ask the Speaker to recognize him on Thursday to call it up, and, in the event he is not here, it is agreeable that some other member of the committee do so.

MR. SABATH: That was an afterthought. I do not know. I know that the committee agreed and the House agreed to take up another bill in which I and the House are very much interested. I have filed my report. As to the other procedure, I do not know whether it would be in order for me to agree to call it up Thursday, because I do not know whether that will give time enough for Members to be here on this important question.

MR. COX: Mr. Speaker, that is not in accord with the agreement. . . .

Mr. Speaker, if the gentleman will yield to me, by direction of the Committee on Rules I file a privileged resolution; and permit me to make this statement; these differences may be ironed out later.

THE SPEAKER: The Chair will ask the gentleman from Georgia if it is the same resolution that has already been reported to the House.

MR. COX: I presume it is the same resolution.

THE SPEAKER: The Chair doubts very seriously whether two reports on the same resolution can be filed at the same time.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make a point of order against the filing of this rule at this time.

THE SPEAKER: Permit the Chair to handle this matter.

MR. MARCANTONIO: But I am making a point of order.

THE SPEAKER: The Chair was clarifying the situation. The Chair is of opinion that two reports cannot be filed on the same resolution at the same time. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EBERHARTER: Mr. Speaker, I do not think the Members are fully informed as to the rule governing the calling up of resolutions reported by the Rules Committee. Am I correct in my understanding that the gentleman from the Rules Committee who files a rule is the only one permitted to call up the resolution for a period of seven legislative days?

THE SPEAKER: That is true unless the committee directs otherwise.

MR. EBERHARTER: Mr. Speaker, do not the rules of the House provide that the gentleman who files a resolution with the Speaker is the only one permitted to call up the resolution and does the Speaker mean that the Committee on Rules can by a majority vote override what is provided in the rules of the House?

THE SPEAKER: Of course, the chairman could request another member of the committee to call up a resolution in his absence. That certainly could be done. Otherwise, if the chairman of the Rules Committee were out of town continuously the Committee on Rules could not offer a resolution and, as a matter of fact, the House could not function either.

MR. EBERHARTER: I beg the Chair's pardon?

THE SPEAKER: If it were otherwise, and if the chairman of the committee were out of town the whole session, the Committee on Rules could not operate, neither could the House.

MR. EBERHARTER: Mr. Speaker, my point is that the gentleman who files a petition has the privilege for seven legislative days to call up the resolution and failing to call it up within that time, after the 7 days any member of the Rules Committee can call it up; is that correct?

THE SPEAKER: That is what the rule says but that is not what we have been talking about for the last half hour. The Chair trusts no more parliamentary inquiries will be addressed to the Chair for the simple reason that he would like to see these misunderstandings composed.

*Parliamentarian's Note:* In this case, Mr. Cox was authorized to file the report because it was evidently feared that the Chairman of the Rules Committee, Mr. Sabath, would not immediately do so, and, if he did file it, would not call it up within the seven days allowed him under the rule. Mr. Cox stepped aside to permit Mr. Sabath to file the rule under an alleged understanding that the chairman would call it up on a specified day. During discussion of the matter, Mr. Cox attempted to file a report on the same resolution and the Speaker expressed serious doubt whether two reports

on the same resolution could be filed at the same time and declined to recognize Mr. Cox. The question then arose as to whether the resolution could be called up in the seven-day period in the absence of the chairman by any other member of the committee. The Speaker stated that in this event the chairman could designate another member of the committee to call it up or the Committee on Rules could otherwise provide.

### *Sufficiency of Report*

#### **§ 58.3 The sufficiency of a report of the Committee on Un-American Activities relating the contempt of a witness was for the House and not the Speaker to decide.**

On June 26, 1946,<sup>(4)</sup> after Mr. John S. Wood, of Georgia, by direction of the Committee on Un-American Activities, presented a privileged report declaring that a witness, Corliss G. Lamont, was in contempt of the House of Representatives. Mr. Vito Marcantonio, of New York, made a point of order against the report on the ground that it did not contain all of the transcript of what transpired before the committee with

respect to the witness, but only what the committee determined to be material. Speaker Sam Rayburn, of Texas, ruled that it was for the House to determine the sufficiency, not the Speaker, and overruled the point of order.

MR. MARCANTONIO: Mr. Speaker, a point of order.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I make the point of order against the report on the ground that it does not contain all of the transcript of what transpired before the committee with respect to this witness. On page 2 of the report, at the end of the first paragraph, the committee concedes that this is not a full transcript. It states: "The material parts of his testimony follow." In other words, the House has before it only that portion of the testimony which the committee conceives to be material. This deprives the House of having the full proceedings before it; consequently, the House will be asked to vote on whether or not this witness is to be cited for contempt and whether or not the House is to recommend prosecution of this witness, without having the full story before it, without having all of the testimony before it. All that is given is part of the testimony which the committee describes as material.

I respectfully submit in support of my point of order, Mr. Speaker, that what is material and what is not material should be determined by the House, because the House has to pass on this question and the majority of the Members of this House must vote in the affirmative in order to rec-

4. 92 CONG. REC. 7589-91, 79th Cong. 2d Sess.

commend these contempt proceedings. To do so it must have the entire transcript before it. Consequently I submit that the report is defective and that the report should be referred back to the committee by the Speaker, directing it to produce the full transcript of what transpired so that the House may have the entire proceedings before it before the House Members cast their votes.

THE SPEAKER: The Chair thinks that the gentleman from New York [Mr. Marcantonio] has stated the point exactly, and that is that this is not a matter for the Chair to pass upon but is a matter for the House to pass upon. The Chair overrules the point of order.

### ***Construing Restrictions in Report***

#### **§ 58.4 The Chair does not pass on the legal effect of restrictions set forth in a report on an appropriations bill, but not spelled out in the bill itself. This is a matter for the Committee of the Whole to decide in its considerations of the bill.**

On Apr. 14, 1955,<sup>(5)</sup> Mr. Robert C. Wilson, of California, ques-

5. 101 CONG. REC. 4463, 4464, 84th Cong. 1st Sess. Under consideration was H.R. 5502, an appropriations bill for the Department of State and certain other agencies for fiscal 1956. The committee report contained recommendations as to maximum amounts to be available to the U.S. Information Agency for certain speci-

tioned certain limitations on spending for various programs, which limitations were contained in the report on an appropriation bill but not in the bill itself. Mr. Wilson questioned whether such limitations would be legally effective.

After Mr. John J. Rooney, of New York, replied that the omission of the limitations from the bill was unimportant because the limitations were expected to become law, Mr. Wilson inquired of Chairman Jere Cooper, of Tennessee, whether the limitations were binding. As the following exchange shows, Chairman Cooper was of the opinion that the question was one to be resolved by the Committee of the Whole.

MR. WILSON of California: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. WILSON of California: Are limitations written in a committee report such as this, but not written into the wording of the legislation, binding?

THE CHAIRMAN: That is not a parliamentary inquiry. That is a matter to be settled by the members of the Committee of the Whole.

MR. WILSON of California: I merely wanted it for my own understanding and information, for I am fairly new here. It seems to me rather unusual to

fied functions, as, for example, not to exceed \$200,000 for exhibits for which \$334,000 was requested.

consider matter written into a report of the same finding effect on an administrator as though written into the law itself.

THE CHAIRMAN: It is not the prerogative of the Chair to pass upon the sufficiency or insufficiency of a committee report.

### ***Separate Committee Approval of Report***

**§ 58.5 A point of order that a committee did not vote to approve a report accompanying a bill as required by its rules is properly made in the committee and not in the House, since no rule of the House requires committees to separately approve legislative reports, and because such reports are in the nature of argument and are not directly acted upon by the House.**

On Oct. 12, 1971,<sup>(6)</sup> after Mr. Chet Holifield, of California, moved that the House resolve itself into the Committee of the Whole for the consideration of a bill to establish an office of consumer affairs, Mr. Benjamin S. Rosenthal, of New York, made a point of order against the consideration of the bill. Speaker pro tempore Hale Boggs, of Louisiana,

6. 117 CONG. REC. 35820-24, 92d Cong. 1st Sess. Under consideration was H.R. 10835, the Consumer Protection Act of 1971.

heard the point of order, which Mr. Rosenthal stated was based on a rule of the Committee on Government Operations providing that every committee report be approved by majority vote of the committee at a meeting at which a quorum is present. Mr. Rosenthal stated that the accompanying report was not approved by a majority vote of the committee.

MR. ROSENTHAL: . . . Mr. Speaker, it is my humble view that implicit in that House rule is the requirement that the report accompanying the legislation be a valid report and if that report is in violation of the rules of the committee and, thus, invalid, the report being deficient, the entire legislative package is deficient and thus cannot be considered by the House. . . .

Mr. Speaker, to restate my point as concisely and clearly as I can, the Committee on Government Operations has a specific rule requiring specific approval of every report. This legislative package is deficient by virtue of the powers of that rule, and I raise a point of order against the consideration of this legislation.

THE SPEAKER PRO TEMPORE: Does the gentleman from California desire to be heard?

MR. HOLIFIELD: Yes, Mr. Speaker, I desire to be heard on the point of order.

THE SPEAKER PRO TEMPORE: The gentleman is recognized.

MR. HOLIFIELD: Mr. Speaker, I believe the gentleman from New York (Mr. Rosenthal) has no valid basis for his argument. I shall make my points briefly:

First. The gentleman from New York does not validly interpret the committee rule in question. . . .

Second. The action of the committee in approving H.R. 10835 and directing the chairman to bring it to the floor governs in the present situation. The motion to approve and report H.R. 10835 occurred as follows:

MR. HORTON: Mr. Chairman, I move that the bill H.R. 10835, as amended, be reported to the House and that the Chairman take the necessary steps to bring it to the floor.

CHAIRMAN HOLIFIELD: Is there a second?

MR. ERLNBORN: Second.

THE CHAIRMAN: It has been moved and seconded that the bill be approved and that the Chairman take the usual steps to bring it up for consideration on the floor. We will have a roll call vote on this.

The motion was made and voted upon without objection and thereafter arrangements were made to allow Members 3 calendar days to file additional views, again without objection.

The motion and the other arrangements reflect the committee's long-standing understanding that House Rule XI, 27(d)(1) governs the reporting of legislation rather than Committee Rule 4.

In any event, the motion was accepted and voted upon without any objection having been made and with a quorum present and voting. Every provision of the House rules was complied with. The chairman is bound by the terms of the motion adopted by the committee. Even if a timely point of order on the failure to vote on the report under the committee rule would have been in order, it was not raised until 3 days after the committee ac-

cepted and adopted the motion without objection.

The precedents of the House hold that where a motion not in order under the rules is made without objection and agreed to by the House by majority vote, the action is binding on the House and the Speaker and is no longer subject to a point of order. In fact, it is the duty of the Speaker to proceed to the business as indicated by the House—IV Hinds' sec. 3177; V Hinds' sec. 6917.

These precedents are applicable to the committee action on H.R. 10835.

Third. Where a committee action violates certain rules of the House, for example-voting to report a measure without a quorum being present, Rule XI, 27(e)—a point of order may be made at an appropriate time on the House floor. In some situations such as violation of a House rule governing the conduct of hearings, the rules specifically require that the point of order be first made in the committee (House Rule XI, 27(f)(5)).

In the present instance, if any rule was violated—and we believe this did not occur—it was a committee rule and not a House rule. Under these circumstances the point of order should have been made before and decided upon by the committee. All House rules having been met, the forum for deciding the issue is the committee, not the House.

The Speaker has repeatedly ruled against points of order based upon alleged irregularities in Committee procedures which did not violate a rule of the House. See IV Hinds' Precedents sections 4592, 4593, and 4594.

Fourth. Finally, I would not want it to be thought that the desires of the

committee members are ignored in the preparation of the chairman's report. The suggestions of at least four Members, including the gentleman from New York, were taken into account and included in the report. Very often points to be included in the report are discussed at the subcommittee and full committee meetings and almost always the suggestions are adopted. I note that other committees of the House have various types of procedures to allow members to make similar suggestions. In no case, however, have I found that the committees actually vote on the reports themselves. As the precedents point out—IV Hinds' sec. 4674—the report of a committee is in the nature of an argument or explanation and does not come before the House for amendment or other action. There is wisdom behind the rule and precedents here, because if the committee had to come to agreement on every word in the legislative report, very little business would get done.

THE SPEAKER PRO TEMPORE: Does the gentleman from New York (Mr. Rosenthal) care to be heard further?

MR. ROSENTHAL: Yes, Mr. Speaker, I would like to be heard further on this, briefly.

Mr. Speaker, I just want to say that as I interpret the rules, there is no burden on me, on this Member or any other Member, to see to it that the rules are appropriately enforced. It would seem to me that that burden rightfully is placed on the chairman of the respective committee and it is his obligation to abide by the rules.

Second, my distinguished chairman said that this rule has been in exist-

ence since 1953 and we have been violating it since 1953—we have never complied with it since 1953. So far as I am concerned that is most regrettable.

The chairman went on to say that what the committee rule means is that only investigative reports should be voted on by the committee. . . .

Mr. Speaker, I again assert the position I have stated that the rule is precise and clear and that no Member of the Congress has the right to waive that rule.

If the rule needs to be changed, then the change ought to have been made at the appropriate time and place.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from New York has raised a point of order against the consideration of H.R. 10835 on the ground that the Committee on Government Operations did not meet to approve the report on that bill, House Report No. 92-542, as allegedly required by rule 4 of that committee.

The Chair has listened carefully to the arguments on this point of order and has referred to the committee rule cited by the gentleman from New York. The Chair has also reexamined the provisions of rule XI of the rules of the House with respect to the procedures for reporting bills to the House. He has also examined the precedents cited in the argument. The ruling of the Chair is in three parts:

First, the right of members of the Committee on Government Operations to file minority views, as guaranteed by clause 27(d)(4) of rule XI, was protected in this instance. The bill was ordered reported on Monday, September

27. The chairman did not file the report until late on Thursday, September 30. Those members wishing to file minority views were afforded the opportunity to do so.

Second, the gentleman from California has stated that in the more than 18 years since this rule was first adopted in the Committee on Government Operations, the consistent interpretation of the committee has been that while investigative reports require committee approval, legislative reports on bills or resolutions do not. This interpretation conforms with that of the House, where the report accompanying a bill or resolutions is in the nature of an argument or explanation of the reported measure, the committee report itself is not brought before the House for action or amendment.

The Chair might also add that even if the committee wishes to put a different interpretation of its rule, it is a matter which should be decided in the committee. The record seems clear that the point was not raised at the time this bill was ordered reported. Finally, the Chair would like to point out that even if the committee rule were to be construed as applicable to reports on legislative matters, the motion directing the chairman of the committee to report the bill to the House was a later expression of the committee's will. The chairman of the Committee on Government Operations before submitting the motion to the committee, stated the question as follows:

It has been moved and seconded that the bill be approved and that the Chairman *take the usual steps* to bring it up for consideration on the floor.

This motion carried in the committee by a vote of 24 to 4. Subsequently, the

Chair did, in fact, take the usual steps to bring the matter to the floor. His actions were in accord with the established practices of the committee and were taken in compliance with the rules of this House.

The Chair, therefore, overrules the point of order.

### ***Remedying Defects in Reporting of Bill***

#### **§ 58.6 Defects in reporting a bill by a standing committee may be remedied by adoption of a special rule from the Committee on Rules making in order consideration of such bill and waiving appropriate points of order.**

On May 2, 1939,<sup>(7)</sup> Mr. Samuel Dickstein, of New York, made a point of order against House Resolution 175, which provided that the House resolve itself into the Committee of the Whole House for consideration of H.R. 5643 (a bill giving federal circuit courts jurisdiction over orders of deportation of aliens). Mr. Dickstein contended that the bill did not have a hearing before the appropriate legislative committee, and that there was no proper report from the committee authorized to conduct the hearings. Mr. Dickstein argued that although the bill was

7. 84 CONG. REC. 5052-55, 76th Cong. 1st Sess

“100 percent immigration,” it was referred to the Committee on the Judiciary instead of the Committee on Immigration.

Following debate on the point of order, Speaker William B. Bankhead, of Alabama, overruled the point of order on the ground that Mr. Dickstein had “slept upon his rights” and should have provoked a motion to rerefer the bill from the Committee on the Judiciary to the Committee on Immigration before it was reported. An additional basis for overruling the point of order was then suggested by Mr. Carl E. Mapes, of Michigan, who stated:

Mr. Speaker, in order to protect the rights of the Committee on Rules, will the Chair permit this observation? The gentleman from New York slept on his rights further until the Committee on Rules reported a rule making the consideration of this measure in order. Even though the reference had been erroneous and the point of order had been otherwise made in time, the Committee on Rules has the right to change the rules and report a rule making the legislation in order. This point also might be taken into consideration by the Speaker, if necessary.

THE SPEAKER: The Chair is of the opinion that the statement made by the gentleman from Michigan, although not necessary to a decision of the instant question, is sustained by a particular and special decision rendered by Mr. Speaker Garner on a similar question. The decision may be

found in the Record of February 28, 1933. In that decision it is held, in effect, that despite certain defects in the consideration or the reporting of a bill by a standing committee, such defects may be remedied by a special rule from the Committee on Rules making in order a motion to consider such bill. The Chair thinks that that decision by Mr. Speaker Garner clearly sustains the contention made by the gentleman from Michigan.<sup>(8)</sup>

### *Waivers of Points of Order*

**§ 58.7 Where the House grants unanimous consent for consideration of a bill and provides that all points of order against the bill shall be considered as waived, such waiver applies also to the committee report on the bill.**

On July 19, 1947,<sup>(9)</sup> after Mr. Clare E. Hoffman, of Michigan, moved that the House resolve itself into the Committee of the Whole for the consideration of H.R. 4214, providing for a Secretary of Defense and other national defense measures, Mr. W. Sterling Cole, of New York, made a point of order against consideration of the bill on the ground that at least 24 hours had not intervened between the time the bill

<sup>8.</sup> For a full discussion of special rules, see Ch. 21, *infra*.

<sup>9.</sup> 93 CONG. REC. 9396, 80th Cong. 1st Sess.

was available and the time the bill was called up.

Speaker Joseph W. Martin, Jr., of Massachusetts, overruled the point of order, noting that all points of order against the bill had been waived by a unanimous-consent agreement by the House.<sup>(10)</sup> Mr. Cole then raised several parliamentary inquiries as to whether a point of order would lie against the committee report:

Mr. Speaker, a further parliamentary inquiry. I am further advised that although the bill is available this morning, the report accompanying the bill is not. Would it be in order to raise a point of order against the motion of the gentleman from Michigan [Mr. Hoffman] upon the ground that the report is not now available?

THE SPEAKER: It would not be in order because the same ruling would apply. All points of order were waived under the unanimous-consent agreement.

MR. COLE of New York: Mr. Speaker a further parliamentary inquiry. I am informed that the report does not comply with the rules of the House in that it does not set forth alterations pro-

posed by the bill to existing law. My inquiry is whether the request of the gentleman from Indiana, the majority leader, that points of order against the bill be waived also carried with it the waiving of points of order against the report which is supposed to accompany the bill.

THE SPEAKER: The Chair is compelled to make the same ruling in this instance also. All points of order were waived under the unanimous-consent agreement and, therefore, the raising of that point of order at this time would not be in order.

MR. COLE of New York: Mr. Speaker without undertaking to dispute the decision, I call your attention to the fact that the request for waiving points of order was directed to the bill itself. Does the Speaker rule that the waiving of points of order against the bill carried with it the waiving of points of order against the report?

THE SPEAKER: Yes.

### ***Improper Action in Committee as Affecting Reporting***

**§ 58.8 The Chair has overruled, on the ground that the Chair had no information as to what occurred in a committee, a point of order alleging that a bill was not properly before the House because it had not been read for amendment in committee prior to reporting.**

On Apr. 23, 1934,<sup>(11)</sup> the Committee on Banking and Currency

10. See 93 CONG. REC. 9095, 80th Cong. 1st Sess., July 16, 1947, where Mr. Charles A. Halleck (Ind.), asked unanimous consent, in pertinent part, as follows: "Mr. Speaker, I ask unanimous consent that it may be in order on Friday next and thereafter to consider the bill H.R. 4214, that all points of order against the said bill be considered as waived."

11. 78 CONG. REC. 7151-61, 73d Cong. 2d Sess.

reported a bill, H.R. 7908,<sup>(12)</sup> which was on the Calendar of Motions to Discharge Committees. Despite the reporting of the measure by the Committee on Banking and Currency, Mr. Clarence J. McLeod, of Michigan, attempted to call up the motion to discharge the committee of H.R. 7908. It developed in the debate that Mr. McLeod and Mr. Jesse P. Wolcott, of Michigan, viewed the reporting of the bill by the committee as void ab initio on the grounds that the committee ordered the reporting of the measure at a time when it sat during a session of the House without the permission of the House and also because the measure reported was not read before the committee. In fact, argued the proponents of the discharge motion, the bill that was reported by the committee was a committee substitute, the former H.R. 9175, which the committee had inserted after striking all but the enacting clause of the original bill that had been the subject of the discharge petition signed by the requisite number of Members.<sup>(13)</sup> After Speaker Henry T.

12. The bill concerned payments of assets in closed banks.

13. At that time, only 145 signatures were required on a discharge petition. Rule XXVII clause 4, *House Rules and Manual* (1934). See also Ch. 18, *infra*.

Rainey, of Illinois, sustained a point of order against the calling up of the motion to discharge the committee, on the basis that "inasmuch as the Committee on Banking and Currency has reported the bill, that the effect of that action nullifies the motion to discharge and makes it inoperative,<sup>(14)</sup> Mr. Carroll L. Beedy, of Maine, then raised a point of order against the bill as reported by the committee because it had never been read for amendment in the committee and was, he argued, not regularly before the House. Mr. Beedy stated:

Mr. Speaker, I make the point of order that the amendment to the McLeod bill, so called, was not introduced in the House until the 17th of April subsequent to the time when any bill of the kind was ever read for amendment in the committee. This fact is undenied.

The bill that was reported never was read for amendment in the committee. It is not legally or validly upon the calendar of the House. While the decision of the Chair well presents the fact, assuming that the bill were legally before the House, the Chair has not touched upon the question as to whether it may be in order to call up the discharge rule if the bill attempted to be reported by the committee concerned was not regularly before the House, not having been considered according to the rules of the House.

14. 78 CONG. REC. 7161, 73d Cong. 2d Sess., Apr. 23, 1934.

Mr. Speaker, I make the point of order, therefore, that the bill alleged to have been reported is not legally reported, is in violation of the rules of the House and of the committees of the House and has no valid standing in the House.<sup>(15)</sup>

In overruling the point of order, the Speaker advised that he had no knowledge as to what had occurred in committee, stating:

The House passed on that question a few moments ago in a resolution raising the question of the privileges of the House, and passed upon the question adversely to the position taken by the gentleman from Maine.

The Chair has no information as to what occurred in the committee. The only thing the Chair knows is that the McLeod bill, bearing the number it has always borne and with the same title, and with some amendments in which the Chair is not interested, has been reported out, is on the calendar, and can be taken up under the general rules of the House when an opportunity presents itself.

The Chair overrules the point of order.<sup>(16)</sup>

An appeal from the Speaker's ruling was laid on the table.

*Parliamentarian's Note:* Mr. Beedy's contention that the bill was not properly before the House, since it had not been read for amendment in committee prior to reporting, had been raised on

15. *Id.*

16. *Id.*

the resolution referred to by the Speaker (see H. Res. 349, 73d Cong. 2d Sess., Apr. 23, 1934, H. Jour. 429). The contention was based on the requirement of Jefferson's Manual (see *House Rules and Manual* §412 [1979]) that, in the case of bills originating with or referred to committees, "in every case the whole paper is read . . . by paragraphs, pausing at the end of each paragraph, and putting questions for amending, if proposed."

A point of order based on this requirement, however, lies only in committee, not in the House, in accordance with the general principle that a point of order does not ordinarily lie in the House against consideration of a bill by reason of defective committee procedures occurring prior to the time the bill was ordered reported to the House. Determinations as to proper committee procedure are for the committee to make, except where the House rules specifically permit such objections to consideration.

## § 59. Form; Printing

The rules of the House require that measures reported to the House by committees be accompanied by reports in writing and that such reports be printed. This