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D. TYPES OF SPECIAL ORDERS

§ 20. Varying Order of Business; Providing for Consideration

Pursuant to the jurisdiction of the Committee on Rules over the rules and order of business,[18] the committee has broad power to report and the House to adopt resolutions changing the regular order of business for the consideration of a proposition, and directing how the proposition will be considered.

The measure whose consideration is made in order by a special rule may include, but is not limited to, a House or Senate bill or resolution, a House bill or resolution not reported from committee, or a measure which has not yet even been introduced.[19] The authority of the Committee on Rules to recommend to the House the specific procedures whereby a measure may be considered on the floor of the House is also broad. The only restrictions on that power are those provisions relating to the motions to recommit and to dispense with Calendar Wednesday, contained in Rule XI clause 23.[20]

Even while a bill is pending before and open to amendment in Committee of the Whole, the Committee on Rules may report and the House may adopt a resolution changing the method of consideration, such as making in order an amendment not otherwise in order under the rules of the House.[1]

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18. Rule XI clause 17(a), *House Rules and Manual* § 715 (1973) [now Rule X clause 1(q)(1), *House Rules and Manual* § 786(a) (1979)].

19. See §§ 20.5–20.15, infra. A special order may similarly make in order the consideration of a conference report not yet reported (see § 27, infra). For the principle that the power extends to providing for the consideration of a bill not yet introduced, see 8 Cannon's Precedents § 3388.

20. *House Rules and Manual* § 729 (1973) [now Rule XI clause 4(b), *House Rules and Manual* § 729(a) (1979)].

Where the purpose of a special order is to bring before the Committee of the Whole a bill not yet reported from a standing committee, the usual form of the resolution is to provide that upon the adoption of the resolution the House shall immediately resolve itself into the Committee of the Whole for consideration of the bill, rather than to provide that it shall be in order to so move. See, for example, § 20.13, infra.

For further discussion of the authority of the Committee on Rules and the applicable restrictions, including the extent to which its reports are privileged, see §§ 16, 17, supra. For specific precedents on the motion to recommit as it relates to special orders, see § 26, infra.

1. See §§ 20.32, 20.33, infra. For an earlier precedent, wherein it was held

Furthermore, a special order may waive any rule or point of order insofar as it relates to a proposition to be considered.

In providing a method of consideration, the Committee on Rules may recommend that a Union Calendar bill be considered in the House, that a simple resolution on the House Calendar be considered in Committee of the Whole and read for amendment, or that a Senate bill or amendment normally subject to consideration in Committee of the Whole be considered and amended in the House.[2]

In the following sections, some attempt is made to distinguish between "open" and "closed" rules, which dictate the degree to which amendments may be offered to a measure under consideration. But, for the most part, the possible forms and variations of resolutions on the order of business are so numerous, and depend so much on the evolution of the rules and practices of the House of Representatives, that a complete catalogue would be of doubtful utility. Thus, whenever possible in ensuing sections, general principles are stressed over specific. It is also emphasized that it is the function of the Committee on Rules, and not of the individual Member, to conceptualize and draft resolutions affecting the order of business, since the committee initiates special rules and reports them to the House as original propositions. Such resolutions are not generally introduced by Members, except when brought to the House floor by a motion to discharge.

The reader may expect to find in this and the following sections brief discussions of procedural matters which are extensively discussed in other chapters of this work, since order of business resolutions reported from the Committee on Rules may cover every aspect of parliamentary procedure in the House of Representatives. An understanding of the precedents and practices governing any given area of procedure may aid in appreciating the form and purpose of such resolutions.

Cross References

As to the order of business generally, see § 1, supra.

As to suspension of the rules to vary the order of business, see § 9, supra.

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that a resolution, authorizing the offering of an amendment otherwise not in order during the further consideration of a bill pending in Committee of the Whole, was privileged when reported from the Committee on Rules, see 8 Cannon's Precedents § 2258.

2. See, for example, §§ 20.16–20.23, 27.3, 27.6, infra.

As to the regular order of business and consideration in Committee of the Whole, see Ch. 19, supra.

As to bills, resolutions, and procedures for their consideration and passage, see Ch. 24, infra.

As to consideration in the House and in the Committee of the Whole generally, see Ch. 29, infra.

Making in Order Motion That House Resolve Into Committee of Whole for Consideration of Bill

§ 20.1 Form of resolution providing that the Speaker shall recognize a designated Member to move that the House resolve itself into Committee of the Whole for consideration of a bill.

The following resolution was under consideration on Mar. 10, 1960: [3]

> *Resolved,* That upon the adoption of this resolution, the Speaker shall recognize the chairman of the Committee on the Judiciary, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8601) to enforce constitutional rights, and for other purposes. All points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed two days to be equally divided and controlled by the chairman of the Committee on the Judiciary and the ranking minority member thereof, the bill shall be considered as having been read and open at any point for amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as shall have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

As a further example, the following resolution was considered on Sept. 27, 1965:

> *Resolved,* That upon the adoption of this resolution the Speaker shall recognize Representative Abraham J. Multer, or Representative Carlton R. Sickles, or Representative Charles McC. Mathias, Junior, or Representative Frank J. Horton to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and continue not to exceed five hours, to be equally divided and controlled by one of the aforementioned Members and a

3. H. Res. 359, 106 CONG. REC. 5192, 5193, 86th Cong. 2d Sess.

Member who is opposed to said bill to be designated by the Speaker, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions. After the passage of H.R. 4644, the Committee on the District of Columbia shall be discharged from the further consideration of the bill S. 1118, and it shall then be in order in the House to move to strike out all after the enacting clause of said Senate bill and insert in lieu thereof the provisions contained in H.R. 4644 as passed. This special order shall be a continuing order until the bill is finally disposed of.[4]

Parliamentarian's Note: Section 23, infra, discusses raising points of order against bills when the special order makes in order motion to resolve into the Committee of the Whole for consideration thereof.

§ 20.2 The Speaker held that the effect of a special rule providing for the consideration of a bill was to give to the bill the privileged status for consideration that a revenue or appropriation bill has under Rule XVI clause 9, and that such privilege could be granted notwithstanding the fact that the bill was not on a calendar of the House.

On June 28, 1930,[5] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules, House Resolution 264, providing that upon the adoption of the resolution it would be in order to move that the House resolve itself into the Committee of the Whole for the consideration of a particular bill, and providing for that bill's consideration. Speaker Nicholas Longworth, of Ohio, overruled a point of order against the resolution and characterized the effect of such a resolution from the Committee on Rules:

MR. [CARL R.] CHINDBLOM [of Illinois]: Mr. Speaker, if pressed, I will make the point of order that the resolution from the Committee on Rules is not in order because it relates to a bill which is not now upon the calendar of the House under the conditions and in the status which existed when this resolution was adopted by the Committee on Rules.

The calendar shows that H.R. 12549 was reported to the House on June 24, 1930, Report No. 2016, and was placed on the House Calendar. The resolution or rule now called up for consideration

4. Brought up by motion to discharge, H. Res. 515, 111 CONG. REC. 25185, 89th Cong. 1st Sess.

5. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

by the Committee on Rules was presented to the House June 20, 1930, and therefore before the bill on the calendar had been reported to the House.

Of course, we all know that this bill is now upon the calendar for the third time. A previous rule was adopted for its consideration on June 12, 1930, and at that time a point of order was made, when it was sought to take up the bill in Committee of the Whole House on the state of the Union, on the ground that the report did not comply with the Ramseyer rule. Subsequently, after the present rule was presented in the House on June 20, 1930, I think it is well known that another irregularity in the adoption of the report became known, so, on June 23, if my recollection is correct, the chairman of the Committee on Patents obtained unanimous consent to withdraw the bill and the report, and the bill was thereupon again reported the following day and placed upon the House Calendar.

The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House, to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

MR. [JOHN Q.] TILSON [of Connecticut]: Mr. Speaker, will the gentleman yield?

MR. CHINDBLOM: Yes.

MR. TILSON: Does not the effect of this resolution date from the time it is adopted by the House, and not from the time it was reported by the Committee on Rules? And if we to-day in the House adopt the rule, is not the effect of the rule to be applied as of to-day, and not three or four days ago, when the rule was reported?

THE SPEAKER: The Chair is prepared to rule. It is not necessary to pass upon the question of whether the original rule for the consideration of this bill is still alive or not. The Chair, when the matter was originally submitted to him, informally expressed a grave doubt as to whether it would be considered alive. But this rule is an entirely different rule. It appears now for the first time for consideration. The Chair is aware that this bill has had a rather stormy passage. It has been twice rereferred to the committee, but as the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

§ 20.3 The adoption of a resolution making in order the consideration of a bill does not necessarily make such bill the unfinished business the next day, and such bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,[6] the House had adopted a special order providing that upon the adoption thereof "it shall be in order to move that the House resolve itself into the Committee of the Whole" for the consideration of a bill. Speaker William B. Bankhead, of Alabama, answered an inquiry on the effect of the resolution:

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I may state to the House that it has been decided we will not proceed further with the bill under consideration than the adoption of the rule this afternoon.

MR. [KENT E.] KELLER [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. KELLER: Mr. Speaker, what will be the parliamentary situation tomorrow?

THE SPEAKER: The Chair is not in position to answer the parliamentary inquiry of the gentleman from Illinois. The Chair cannot anticipate what measure may be called up tomorrow.

MR. [CLAUDE V.] PARSONS [of Illinois]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. PARSONS: Mr. Speaker, the House having adopted the rule, is not this bill the unfinished business of the House on tomorrow?

THE SPEAKER: Not necessarily. The rule adopted by the House makes the bill in order for consideration, but it is not necessarily the unfinished business. It can only come up, after the adoption of the rule, by being called up by the gentleman in charge of the bill.

Filing Supplemental Report on Measure on Which Special Order Has Been Reported

§ 20.4 The reporting of a special rule for the consideration of a bill does not preclude the committee from which the bill is reported from obtaining unanimous

6. 84 CONG. REC. 9541, 76th Cong. 1st Sess.

consent to file a supplemental report advocating an amendment to the bill.

On Feb. 29, 1940,[7] there was pending before the House a special order from the Committee on Rules providing for the consideration of a bill. A parliamentary inquiry was propounded relative to the fact that following the report from the Committee on Rules, the legislative committee reporting the bill reported a supplemental report recommending an amendment to the bill on the House floor:

> MR. [EARL C.] MICHENER [of Michigan]: The Speaker was not in the Chair when I raised my original point. The point was this, that a legislative committee asked for a rule to consider a specific piece of legislation dealing with a specific matter in a particular way. I was not then a member of the committee. After consideration the Rules Committee felt it wise to recommend a rule providing for the consideration of this particular thing in this particular way. Shortly after that the legislative committee secured unanimous consent to file a supplemental report on this original bill, and in their report the legislative committee adopted another bill dealing with the same matter but in an entirely different way and in a way that possibly—and probably—would not have been authorized when the rule was asked for.
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> A confidential copy is floating around here of the bill which the committee intends to bring up. My inquiry is whether that can be done under the rules of the House. If that can be done, it is a simple matter for any committee to ask for a rule on a perfectly harmless bill which everyone might be for, and then, after they get the rule, bring in another bill in fact, under the same number. This rule was granted on July 10 last year. Then in January, 7 months later, they introduce a new bill in a supplemental report and are attempting to bring this new bill dealing with the same subject matter in an entirely different manner before the House under the old rule. Can that be done?

Speaker William B. Bankhead, of Alabama, answered the inquiry as follows:

> The gentleman from Michigan [Mr. Michener], who raises this question by parliamentary inquiry, of course, is familiar with the general principle that all proposed action touching the rules, joint rules, and orders of business shall be referred to the Committee on Rules. Under a broad, uniform construction of that jurisdiction, the Rules Committee, as the Chair understands it, has practically plenary power, unreserved and unrestricted power, to submit for the consideration of the House any order of business it sees fit to submit, subject, of course, to the approval of the House.
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> The Chair, of course, knows nothing about what was in the minds of the committee in reference to this legislation. The Chair can only look at the face of the record as it is presented from a parliamentary standpoint. As

7. 86 CONG. REC. 2184, 2185, 76th Cong. 3d Sess.

the Chair construes the resolution now pending, it is very broad in its terms. It provides for the consideration of a Senate bill pending on the Union Calendar and the Chair assumes that the Committee on Rules was requested to give a rule for the consideration of that bill, which was the original basis for any legislation that may be passed touching this subject of stream pollution.

In conformance with the general power and jurisdiction of the Rules Committee, it did report a resolution providing that in the consideration of the Senate bill any germane amendments may be offered; and, of course, it is not the province of the Chair, presiding over the House, to determine the relevancy or germaneness of any amendment that may be submtted in the Committee of the Whole, whether by way of a substitute or by way of amendment.

The Chair is clearly of the opinion that the Rules Committee had a perfect right under the general authority conferred upon it to report this resolution providing for this method of consideration of the bill.

Immediate Consideration of Bills Not Reported From Committee

§ 20.5 Form of resolution making in order the immediate consideration of a joint resolution not yet reported by the committee to which referred.

The following resolution was under consideration on June 24, 1965:[8]

Resolved, That, upon the adoption of this resolution, the House shall immediately resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the House joint resolution (H.J. Res. 541) to extend the Area Redevelopment Act for a period of two months. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 20.6 Where the House adopts a resolution providing for the "immediate consideration" in Committee of the Whole of a bill not reported from committee, the Speaker directs that the House resolve itself into Committee of the Whole without recognizing for a motion to that effect

8. H. Res. 433, 111 CONG. REC. 14705, 89th Cong. 1st Sess.

On June 24, 1965, the House adopted House Resolution 433, providing that upon the adoption of the resolution the House "shall immediately resolve itself into the Committee of the Whole House on the state of the Union for the consideration" of a bill not yet reported from committee. The House proceeded as follows upon the adoption of the resolution (Speaker John W. McCormack, of Massachusetts, presiding):

MR. [RAY J.] MADDEN [of Indiana]: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

The resolution was agreed to.

THE SPEAKER: Pursuant to House Resolution 433, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541).

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 541), to extend the Area Redevelopment Act for a period of 2 months, with Mr. Boland in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I yield myself 5 minutes.[9]

Similarly on Mar. 17, 1970, the House proceeded as follows (Speaker McCormack presiding):

MR. [B. F.] SISK [of California]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 874 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 874

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

MR. SISK: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered. The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole

9. 111 CONG. REC. 14705, 14706, 89th Cong. 1st Sess.

House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill S. 858, with Mr. Flynt in the chair.[10]

§ 20.7 The Committee on Rules, pursuant to its authority under Rule XI clause 23 [Rule XI clause 4(b) in the 1979 House Rules and Manual] to call up privileged resolutions relating to the order of business, may provide for the discharge of a standing committee from consideration of a measure pending before that committee.

On Feb. 9, 1972,[11] Mr. Thomas P. O'Neill, Jr., of Massachusetts, called up by direction of the Committee on Rules, and the House adopted, House Resolution 796, providing that upon its adoption the House should immediately resolve itself into the Committee of the Whole for the consideration of House Joint Resolution 1025 (to provide a procedure for the settlement of a dispute on the Pacific Coast and Hawaii among certain shippers and employees), to be managed by the Committee on Education and Labor.

The effect of the resolution was to discharge the Committee on Education and Labor from the further consideration of the joint resolution, as it had not yet been reported to the House by that committee.

Parliamentarian's Note: The Committee on Education and Labor had ordered reported another joint resolution on the same subject, but was unable to file its report because certain Members had, pursuant to Rule XI clause 27(d)(3) [now Rule XI clause 2(l)(5), House Rules and Manual § 714 (1979)] requested three calendar days to file supplemental, minority, or additional views.

§ 20.8 Where the House adopts a resolution providing for discharging a legislative committee from the further consideration of the bill pending before that committee, a point of order against the consideration of the bill on the ground that the "Ramseyer Rule" has not been complied with does not lie, since that rule (Rule XIII clause 3) pertains only to bills reported by the committees and not to bills brought before the House by other means.

10. 116 CONG. REC. 7690, 7691, 91st Cong. 2d Sess.

11. 118 CONG. REC. 3437, 92d Cong. 2d Sess.

On Aug. 19, 1964, the House adopted a special order from the Committee on Rules, House Resolution 845, with a committee amendment, providing for the immediate consideration of a bill pending before and not yet reported by a standing committee:[12]

THE SPEAKER:[13] The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER: The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

THE SPEAKER: Without objection, the committee amendments are agreed to.

There was no objection.

Following the adoption of the resolution, Speaker McCormack overruled a point of order against the consideration of the bill on the grounds that it had not been "properly reported":[14]

MR. [JAMES G.] O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of the bill H.R. 11926.

THE SPEAKER: The gentleman will state his point of order.

MR. O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of H.R. 11926 on the ground that the bill has not been properly reported in that it purports to amend title 28 of the United States Code, that is, the act of June 25, 1948, chapter 646, but it fails to show in its report or in an accompanying document a comparative print of that part of the bill making and amending the statute or part thereof proposed to be amended as required by part 3, rule XIII, of the House of Representatives.

THE SPEAKER: The Chair is prepared to rule.

Rule XIII, clause 3, provides, "whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document the text of the stat-

12. 110 CONG. REC. 20213–21, 88th Cong. 2d Sess.

13. John W. McCormack (Mass.).

14. 110 CONG. REC. 20221, 20222, 88th Cong. 2d Sess.

ute or part thereof which is proposed to be repealed;". It will be noted that the rule only applies when a committee reports a bill. In this case the Committee on the Judiciary did not file a report on H.R. 11926. Therefore, that rule does not apply to the present situation.

In addition, the resolution before the House provides for the House immediately to resolve itself into the Committee of the Whole House on the State of the Union for the consideration of this particular bill.

The Chair overrules the point of order.

§ 20.9 A point of order that the Committee on Rules has reported a special rule providing for the consideration of a bill prior to the time the bill to be considered was reported and referred to the Union Calendar does not lie.

On June 28, 1930,[15] Mr. Fred S. Purnell, of Indiana, called up by direction of the Committee on Rules House Resolution 264, making in order the consideration of a bill. Mr. Carl R. Chindblom, of Illinois, made a point of order against the report of the Committee on Rules, on the ground that the committee had reported the resolution to the House on June 20, 1930, whereas the bill was first reported to the House on a later date, on June 24, 1930 (and was recommitted twice to the committee of jurisdiction in order to correct errors in the report). Mr. Chindblom asserted that the effect of the resolution was to make it in order to resolve into the Committee of the Whole for the consideration of the bill, but not to waive the "rule which requires bills to be upon the calendar of the House before they can have consideration."

Speaker Nicholas Longworth, of Ohio, overruled the point of order and stated in part as follows:

. . . The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

> At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

15. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

§ 20.10 The Committee on Rules may consider any matter that is properly before them, including a provision for the consideration of a bill on which a majority report has not yet been made.

On July 30, 1959,[16] Speaker Sam Rayburn, of Texas, answered parliamentary inquiries on the procedures of the Committee on Rules:

MR. [CLARK E.] HOFFMAN of Michigan: I ask the question, under the rules of the House, can the Committee on Rules report out a bill before they get a majority report from the committee?

THE SPEAKER: The gentleman from North Carolina [Mr. Barden] asked unanimous consent, which was obtained, to have until midnight tonight to file a report of the Committee on Education and Labor on the so-called labor bill.

MR. HOFFMAN of Michigan: My question is until a majority of the committee sign the report, can the Committee on Rules consider the bill?

THE SPEAKER: The Committee on Rules has the authority to consider any matter which is properly before them. The Chair would certainly hold that this is properly before the Committee on Rules.

MR. HOFFMAN of Michigan: Still, there is that word "properly." I was asking a simple question.

THE SPEAKER: The Chair has answered the question.

16. 105 CONG. REC. 14743, 86th Cong. 1st Sess.

§ 20.11 The Committee on Rules may report a resolution providing for the consideration of a bill, even though the effect be to discharge a committee and bring before the House a bill not yet reported.

On Aug. 19, 1964,[17] Speaker John W. McCormack, of Massachusetts, overruled a point of order against a special order from the Committee on Rules providing for the consideration of a bill not yet reported from the committee:

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I call up House Resolution 845 and ask for its immediate consideration.

MR. [JAMES G.] O'HARA of Michigan: Mr. Speaker, I make a point of order.

THE SPEAKER: The gentleman will state it.

MR. O'HARA of Michigan: Mr. Speaker, I make a point of order against the consideration of House Resolution 845 on the grounds that the Committee on Rules is without jurisdiction to bring such resolution to the floor of the House under the provisions of rule 16 of the Rules of the House of Representatives, and I ask permission to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. O'HARA of Michigan: Mr. Speaker, a review of the precedents of this House reveals occasions on which the

17. 110 CONG. REC. 20212, 20213, 88th Cong. 2d Sess.

House has permitted the Committee on Rules to bring before it resolutions making in order the consideration of bills that have been improperly referred to legislative committees, bills that had not yet been referred to the Committee on Rules, and possibly even a bill not yet introduced. In addition, a decision of the Speaker of the House permitted the consideration of resolution of the Committee on Rules of a bill that had not been placed on the calendar at the time the resolution was reported by the Committee on Rules. However, Mr. Speaker, I can find no occasions on which the Hose has clearly permitted the Committee on Rules to report to it a resolution making in order the consideration of a bill that had been introduced in the House of Representatives and referred by it—properly referred by it—to one of its legislative committees and not yet reported out or acted upon by that legislative committee to which the bill had been referred.

Mr. Speaker, I move to make this point of order after noting the gentleman from Virginia, the chairman of the Committee on Rules, which reported out House Resolution 845, is on record strongly opposing such action by the Committee on Rules as unprecedented and unwarranted. . . .

The only comparable incident I can find which might provide a precedent for this, Mr. Speaker, was the action taken by this Congress on the price control legislation in the 79th Congress, 2d session, found at page 8059 of the *Congressional Record*. This, however, it might be pointed out, was emergency legislation and a similar version had earlier been reported by a legislative committee, acted upon by the House and vetoed by the President. . . .

THE SPEAKER: Does the gentleman from Virginia [Mr. Smith] desire to be heard on the point of order?

MR. SMITH: of Virginia: Just briefly, Mr. Speaker. The rules are perfectly clear. The Committee on Rules, under the rules of the House, may report a rule on any pending bill. This is a pending bill before the Rules Committee and the precedents for that are well established. The rule itself is very plain.

THE SPEAKER: The Chair is prepared to rule.

The Chair finds a precedent in volume 5 of "Hinds' Precedents of the House of Representatives" at section 6771. On February 4, 1895, a similar point of order was raised against an action taken by the Rules Committee. The Speaker at that time, Speaker Crisp, of Georgia, ruled on a point of order made by Mr. Thaddeus M. Mahon, of Pennsylvania. The point of order was the same as that made by the gentleman from Michigan [Mr. O'Hara], that the bill had not been reported from the Committee on War Claims and therefore it was not in order for the Committee on Rules to report a resolution for its consideration in the House.

Speaker Crisp overruled the point of order, holding that the Committee on Rules had jurisdiction to report a resolution fixing the order of business and the manner of considering a measure, even though the effect of its adoption would be to discharge a committee from a matter pending before it, thereby changing the existing rule relative to the consideration of business.

Speaker Crisp further said that it was for the House to determine whether the change in the mode of consideration should be made, as recommended by the committee.

The rules of the House provide that—

> The following-named committees shall have leave to report at any time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business.

The Chair also desires to state that in 1929 a similar point of order was raised. In 1946 and again in 1953 the Committee on Rules reported similar resolutions and on each occasion the precedent established by Speaker Crisp was followed and adhered to.

Therefore, the Chair overrules the point of order.

§ 20.12 The Committee on Rules may report resolutions providing for the immediate consideration of bills not yet reported by the committees to which referred.

On Aug. 19, 1964,[18] the House adopted House Resolution 845, reported by the Committee on Rules, providing for the immediate consideration of H.R. 11926 (limiting the jurisdiction of federal courts in apportionment cases) which was pending before, and not yet reported by, the Committee on the Judiciary.

Following the adoption of the resolution, Speaker John W. McCormack, of Massachusetts, held that a point of order against consideration of the bill did not lie on the ground that the Committee on the Judiciary had not complied with the "Ramseyer" rule (requiring comparative prints in committee report), since that rule only applies where a committee has reported a bill, and not where it has been discharged from consideration of the bill.

Similarly on Mar. 29, 1961, the House agreed to a special order from the Committee on Rules which provided for the immediate consideration of S. 153; the Senate bill had been referred to the Committee on Government Operations and had not yet been reported.[19]

§ 20.13 A privileged resolution, reported by the Committee on Rules, was amended to provide that immediately upon its adoption the House would resolve into the Committee of the Whole to consider a bill pending before, and not yet reported by, the Committee on the Judiciary.

On Aug. 19, 1964,[20] the House passed, as amended by committee amendment, a special order from

18. 110 CONG. REC. 20212, 20213, 88th Cong. 2d Sess.

19. 19. H. Res. 238, 107 CONG. REC. 5267, 5268, 87th Cong. 1st Sess.

20. H. Res. 845, 110 CONG. REC. 20213, 88th Cong. 2d Sess.

the Committee on Rules providing for the consideration of a bill pending before but not yet reported by a committee.

THE SPEAKER:[1] The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11926) to limit jurisdiction of Federal courts in reapportionment cases. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER: The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Lines 1 and 2, page 1, strike the words "it shall be in order to move that," and line 2, page 1, after the word "House" insert "shall immediately".

THE SPEAKER: Without objection, the committee amendments are agreed to.

There was no objection

1. John W. Mc(Cormack (Mass.).

§ 20.14 The Committee on Rules reported and the House adopted a resolution making in order the immediate consideration of a joint resolution which had not been reported the committee to which it had been referred.

On June 24, 1965,[2] the House adopted a resolution providing for the consideration of a measure not reported from committee:

Resolved, That, upon the adoption of this resolution, the House shall immediately resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the House joint resolution (H.J. Res. 541) to extend the Area Redevelopment Act for a period of two months. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

2. H. Res. 433, 111 CONG. REC. 14705, 89th Cong. 1st Sess.

Parliamentarian's Note: The Committee on Banking and Currency was in thorough agreement with the procedure and had requested the special order from the Committee on Rules.

§ 20.15 The Committee on Rules reported out a resolution, providing for the consideration of a bill, with a committee amendment to the resolution substituting for consideration another designated bill on the same subject, which bill had not been reported by the committee to which referred.

On Aug. 8, 1949, Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on Rules a special order for the consideration of a bill, with a committee amendment:

MR. MADDEN: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 183 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3190) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute committee amendment recommended by the Committee on Education and Labor now in the bill, and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

With the following committee amendments:

Page 1, line 4, strike out "(H.R. 3190) " and insert "(H.R. 5856)."

Page 2, line 1, strike out the remainder of the line after the period and all of lines 2 through 6, inclusive.[3]

In debate on the resolution, Mr. James W. Wadsworth, Jr., of New York, of the Committee on Rules explained the provisions of the resolution in part as follows:

MR. WADSWORTH: . . . This new bill, H.R. 5856, has never been reported by

3. 95 CONG. REC. 10988, 81st Cong. 1st Sess.

the Committee on Education and Labor. Just what would be its fate if it had come to a vote before that committee I am not prepared to say. But, there appeared before the Committee on Rules the supporters of the so-called second Lesinski bill, H.R. 5856, with the plea that instead of our granting a rule on H.R. 3190, the original bill, which otherwise would have come up today under the 21-day rule, we report a rule on the new bill, H.R. 5856, a bill not yet considered officially by the Committee on Education and Labor.[4]

The House agreed to the resolution as amended.

Consideration of Union Calendar Bill in House

§ 20.16 Form of special rule providing for the consideration of a Union Calendar bill in the House, waiving all points of order, fixing time for debate, and ordering the previous question at the conclusion of such debate.

The following resolution was under consideration on Mar. 11, 1933:[5]

HOUSE RESOLUTION 32

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of H.R. 2820, a bill to maintain the credit of the United States Government, and all points of order against said bill shall be considered as waived; that, after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Economy, the previous question shall be considered as ordered on the bill to final passage.

Consideration of Union Calendar Bills in the House as in Committee of the Whole.

§ 20.17 Form of resolution authorizing a standing committee to call up a list of enumerated bills and providing for their consideration in the House as in the Committee of the Whole.

The following resolution was under consideration on June 2, 1936[6]

Resolved, That upon the adoption of this resolution it shall be in order for the Committee on the Judiciary to call up for consideration, without the intervention of any point of order the following bills:

S. 3389. An act to provide for the appointment of two additional judges for the southern district of New York.

S. 2075. An act to provide for the appointment of additional district judges for the eastern and western districts of Missouri.

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4. *Id.* at p. 10991.

5. 77 CONG. REC. 198, 73d Cong. 1st Sess.

6. H. Res. 528, 80 CONG. REC. 8746, 74th Cong. 2d Sess. See also 80 CONG. REC. 9966, 74th Cong. 2d Sess., June 18 1936.

S. 2137. An act to provide for the appointment of one additional district judge for the eastern, northern, and western districts of Oklahoma.

S. 2456. An act to provide for the appointment of an additional district judge for the northern and southern districts of West Virginia.

H.R. 11072. A bill authorizing the appointment of an additional district judge for the eastern district of Pennsylvania.

H.R. 3043. A bill to provide for the appointment of an additional district judge for the northern district of Georgia.

Each such bill when called up shall be considered in the House as in the Committee of the Whole. After general debate on each such bill, which shall continue not to exceed 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule.

Parliamentarian's Note: Some of the bills dealt with by this special order were on the Union Calendar, and others had not been reported by the Committee on the Judiciary.

Consideration of House Resolution in Committee of the Whole

§ 20.18 The Committee on Rules reported a resolution providing for consideration of a privileged resolution, amending the rules of the House, under a procedure permitting amendments under the five-minute rule.

On Mar. 7, 1973, the House adopted a resolution from the Committee on Rules providing for the consideration of a privileged resolution reported by that committee:[7]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 259) to amend the Rules of the House of Representatives to strengthen the requirement that committee proceedings be held in open session. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Parliamentarian's Note: The resolution provided for in the special order was privileged for con-

7. H. Res. 272, 119 CONG. REC. 6700–05, 93d Cong. 1st Sess.

sideration, since amending the rules of the House, and therefore did not require a special order from the Committee on Rules. Since the resolution would only have been debatable under the hour rule in the House, however, a special order was reported in order to allow more extensive debate in Committee of the Whole and to allow germane amendments to be offered.

§ 20.19 Form of special order providing for consideration in Committee of the Whole, without the opportunity of amendment, of a House resolution referred to the House Calendar (confirming the nomination of the Vice President under the 25th amendment to the U.S. Constitution).

The following resolution was under consideration on Dec. 6, 1973: [8]

H. RES. 738

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 27(d) (4) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 735) confirming the nomination of Gerald R. Ford, of the State of Michigan, to be Vice President of the United States. After general debate, which shall be confined to the resolution and shall continue not to exceed six hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the Committee shall rise and report the resolution to the House, and the previous question shall be considered as ordered on the resolution to final passage.

§ 20.20 Form of special rule making in order the consideration of a simple resolution in Committee of the Whole.

The following resolution was under consideration on Aug. 23, 1935: [9]

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of House Resolution 350, a resolution requesting that the Commissioner of Immigration and Naturalization be requested to continue to stay the deportation in the cases of aliens of good character in which deportations would result in unusual hardship until Congress had had adequate time to consider proposed legislation. That after general debate. which shall be confined to the resolution and shall continue not to exceed 1 hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Immigration and Naturalization, the resolution shall be read for amendment

8. 119 CONG. REC. 39807, 93d Cong. 1st Sess.

9. H. Res. 362, 79 CONG. REC. 14371, 74th Cong. 1st Sess.

under the 5-minute rule. At the conclusion of the reading of the resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendment thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

§ 20.21 Form of resolution providing "open" rule for consideration in Committee of the Whole of a resolution reported from the Committee on House Administration, and referred to the House Calendar, making office space and certain emoluments available to the retiring Speaker.

The following resolution was under consideration on Dec. 22, 1970: (10)

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1238) relating to the Speaker of the House of Representatives in the Ninety-first Congress. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

§ 20.22 The House considered a House resolution, reported from the Committee on House Administration and referred to the House Calendar, in Committee of the Whole under an "open" rule.

On Dec. 3, 1970, the House considered in the Committee of the Whole a simple resolution reported from the Committee on House Administration, pursuant to a special rule, where the resolution had been referred to the House Calendar: (11)

Resolved, That upon the adoption of the resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1147) relating to certain allowances of Members, officers, and standing committees of the House of Representatives, and for other purposes. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided

10. H. Res. 1309, 116 CONG. REC. 43313, 91st Cong. 2d Sess.

11. H. Res. 1272, 116 CONG. REC. 39846, 91st Cong. 2d Sess.

and controlled by the chairman and ranking minority member of the Committee on House Administration, the resolution shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration as an original resolution for the purpose of amendment under the five-minute rule, and all points of order against sections 2(a) and 3(a) of said substitute are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the resolution or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

§ 20.23 A resolution amending the rules of the House was, pursuant to the provisions of a resolution reported from the Committee on Rules, considered in the Committee of the Whole under an "open" rule.

On May 26, 1970, the House considered a House resolution which had been referred to the House Calendar in the Committee of the Whole pursuant to a special order:[12]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 796) amending the Rules of the House of Representatives relating to financial disclosure. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Standards of Official Conduct, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the resolution and amendment thereto to final passage without intervening motion except one motion to recommit.

Consideration of Resolution in House Under Special Rule

§ 20.24 Where the House adopts a resolution providing for the immediate consideration of another resolution in the House, the Speaker directs the Clerk to report that resolution without its being called up by the Member in charge.

12. H. Res. 971, 116 CONG. REC. 17012, 17013, 91st Cong. 2d Sess.

On Jan. 31, 1973, the House adopted the following resolution, reported from the Committee on Rules, providing for the consideration in the House of another resolution reported from the Committee on Rules (creating a select committee to study the operations of Rule X and Rule XI, relating to committees of the House and their procedures):[13]

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Following the adoption of the special order, the House proceeded as follows to consider the resolution creating the select committee:[14]

THE SPEAKER:[15] The Clerk will report House Resolution 132.

The Clerk read the resolution, as follows:

H. RES. 132

Resolved, That there is hereby created a select committee to be composed of ten Members of the House of Representatives to be appointed by the Speaker, five from the majority party and five from the minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

The select committee is authorized and directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution.

For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence.

To assist the select committee in the conduct of its study under this resolution, the committee may employ investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assistants; and all ex-

13. H. Res. 176, 119 CONG. REC. 2804, 93d Cong. 1st Sess.

14. *Id.* at p. 2812.

15. Carl Albert (Okla.).

penses of the select committee, not to exceed $1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the select committee and approved by the Speaker.

THE SPEAKER: The gentleman from Missouri (Mr. Bolling) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. Martin) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri (Mr. Bolling).

Parliamentarian's Note: House Resolution 132, creating the select committee, was not privileged because of the funding mechanism in the final paragraph.

Consideration of Private Bills

§ 20.25 The House considered a private bill under a special rule.

On Aug. 13, 1940, the House agreed to a resolution, called up by Mr. Edward E. Cox, of Georgia, at the direction of the Committee on Rules, providing for the consideration in the Committee of the Whole of a private bill: (16)

HOUSE RESOLUTION 407

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H. R. 7230, a bill to provide for an appeal to the Supreme Court of the United States from the decision of the Court of Claims in a suit instituted by George A. Carden and Anderson T. Herd. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

The bill failed of final passage in the House after consideration in Committee of the Whole.

§ 20.26 Form of resolution authorizing the chairman of a standing committee to call up private claim bills and providing for their consideration in the House as in the Committee of the Whole.

The following resolution was under consideration on June 5, 1934: (17)

Resolved, That upon the adoption of this resolution it shall be in order for

16. 86 CONG. REC. 10258–67, 76th Cong. 3d Sess.

17. H. Res. 421, 78 CONG. REC. 10548, 73d Cong. 2d Sess.

the Speaker on any day during the remainder of this session of Congress, after the reading of the Journal and the disposition of matters on the Speaker's table, to recognize the Chairman of the Committee on Claims to call up bills favorably reported from the Committee on Claims and heretofore objected to. Said bills shall be considered in the House as in the Committee of the Whole House: *Provided, however,* That general debate on any bill called up shall be limited to 20 minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Claims. At the conclusion of the general debate the bill shall be read for amendment under the 5-minute rule, and at the conclusion of such reading the previous question shall be considered as ordered without intervening motion except one motion to recommit.

Rescinding Previous Resolution

§ 20.27 By resolution, considered by unanimous consent, the House rescinded a previously adopted resolution whereby a bill had been referred to the Court of Claims for a report, and the court was directed to return the bill.

On Apr. 30, 1957, the House adopted a resolution rescinding the adoption by the House of a previous resolution which had referred a private bill to the Court of Claims for a report:[18]

MR. [THOMAS J.] LANE [of Massachusetts]: Mr. Speaker, I offer a resolution (H. Res. 241) and ask for its immediate consideration.

The Clerk read the resolution as follows:

> *Resolved*, That the adoption by the House of Representatives of House Resolution 174, 85th Congress, is hereby rescinded. The United States Court of Claims is hereby directed to return to the House of Representatives the bill (H.R. 2648) entitled "A bill for the relief of the MacArthur Mining Co., Inc., in receivership," together with all accompanying papers, referred to said court by said House Resolution 174.

THE SPEAKER:[19] Is there objection to the request of the gentleman from Massachusetts?

MR. [FRANK T.] BOW [of Ohio]: Mr. Speaker, reserving the right to object, has this matter been cleared with the leadership on this side?

THE SPEAKER: It has been cleared with everybody, so the Chair has been informed.

MR. BOW: I withdraw my reservation of objection.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Consideration of Motion to Suspend Rules

§ 20.28 Form of resolution providing that the time for de-

18. 103 CONG. REC. 6159, 85th Cong. 1st Sess.

19. Sam Rayburn (Tex.).

bate on a motion to suspend the rules and pass a concurrent resolution shall be extended to four hours, such time to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Foreign Affairs and such motion shall be the continuing order of business of the House until finally disposed of.

The following resolution was under consideration on Sept. 20, 1943:[20]

> *Resolved,* That the time for debate on a motion to suspend the rules and pass House Concurrent Resolution 25 shall be extended to 4 hours, such time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; and said motion to suspend the rules shall be the continuing order of business of the House until finally disposed of.

Parliamentarian's Note: This resolution was itself passed under a motion to suspend the rules. Following its adoption Speaker Sam Rayburn, of Texas, ruled that a demand for a second, to gain control of time in opposition to the motion provided for, was not necessary, the House already having fixed control of debate on the motion.

20. H. Res. 302, 89 CONG. REC. 7646, 78th Cong. 1st Sess.

Consideration of Nonprivileged Rules Committee Reports

§ 20.29 Although the Committee on Rules has authority under clause 23 to report as privileged a resolution creating a select House committee, the inclusion therein of a subject coming within the jurisdiction of another standing committee destroys its privilege, and it is therefore necessary for the committee to report a privileged resolution making in order the consideration of the nonprivileged matter reported by it.

On Jan. 31, 973,[1] Mr. Ray J. Madden, of Indiana, called up by direction of the Committee on Rules House Resolution 176, a privileged order of business making in order the consideration of House Resolution 132, another resolution reported from the Committee on Rules creating a select committee. The first resolution was necessary because House Resolution 132 was not a privileged resolution under Rule XI clause 23 [now Rule XI clause 4(b) in the 1979 House Rules and Manual], since paying money from the con-

1. 119 CONG. REC. 2804, 93d Cong. 1st Sess.

tingent fund on vouchers approved by the Speaker (a matter within the jurisdiction of the Committee on House Administration).

House Resolution 176, which was adopted by the House, read as follows:

H. RES. 176

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the resolution (H. Res. 132) to create a select committee to study the operation and implementation of rules X and XI of the Rules of the House of Representatives. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the previous question shall be considered as ordered on the resolution to its adoption or rejection.

Similarly on June 8, 1937, the House adopted a resolution from the Committee on Rules making in order the consideration of a bill from the Committee on Rules creating a joint committee, where the bill was not privileged for consideration: (2)

HOUSE RESOLUTION 226

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Joint Resolution 155, a joint resolution to create a Joint Congressional Committee on Tax Evasion and Avoidance, and all points of order against said joint resolution are hereby waived. That after general debate, which shall be confined to the joint resolution and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Making in Order Motion to Recommit Proposition Reported by Rules Committee

§ 20.30 A motion to recommit a proposition reported by the Committee on Rules may be made in order by a special rule to that effect.

On May 25, 1970, the House adopted the following resolution reported from the Committee on Rules providing for the consideration of (and allowing a motion to recommit) a joint resolution also reported from that committee:

2. 81 CONG. REC. 5442, 75th Cong. 1st Sess.

H. RES. 1021

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1117) to establish a Joint Committee on Environment and Technology. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.[3]

Parliamentarian's Note: Rule XI clause 4(b) [*House Rules and Manual* (1979)], relating to privileged Rules Committee reports, has been interpreted to bar the motion to recommit as applied to reports called up as privileged under that rule. (See, for example, 5 Hinds' Precedents § 5594.) But where a special rule provides for the consideration of another matter reported from the Rules Committee, the special rule may provide for a motion to recommit whether or not the matter could have been called up as privileged. (The motion to recommit no: privileged matter from the Committee on Rules—such as the joint resolution described above, which contained nonprivileged matter—may be permitted on the same basis as other motions to recommit, under Rule XVII clause 1 [*House Rules and Manual* (1979)]. The motion to recommit under that rule has also been interpreted as applying to simple House resolutions as well as bills; see 8 Cannon's Precedents § 2742.)

Making in Order Motion to Recess

§ 20.31 Where a special rule gives a highly privileged status to a motion for a recess, such motion takes precedence over a motion to adjourn.

On June 4, 1934,[4] Speaker Henry T. Rainey, of Illinois, ruled that a motion to recess, given privilege by a special rule, took precedence over a motion to adjourn:

MR. [JOSEPH W.] BYRNS [of Tennessee]: Mr. Speaker, under the rules

3. 116 CONG. REC. 16973, 91st Cong. 2d Sess.

4. 78 CONG. REC. 10470, 10471, 73d Cong. 2d Sess.

it is in order today to call up bills under suspension of the rules and to call the Consent Calendar. We have been here since 11 o'clock. The entire day has been taken up in suspensions. There are quite a number of bills on the Unanimous Consent Calendar. A number of Members have come to me and said they were very anxious to have those bills called. Perhaps this will be the last time the Consent Calendar can be called during this session. I think it is only fair that this legislative day shall go over until tomorrow.

Mr. Speaker, I move that the House stand in recess until 11 o'clock tomorrow.

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, I offer a preferential motion.

Mr. Speaker, I move that the House do now adjourn.

MR. BYRNS: Mr. Speaker, under the rule adopted last week my motion is highly privileged.

THE SPEAKER: The gentleman from Wisconsin cannot be recognized.

The special rule referred to was reported from the Committee on Rules and adopted on June 1, 1934:

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, I call up a privileged report (Rept. No. 1856) from the Committee on Rules (H. Res. 410) and ask for its immediate consideration.

The Clerk read as follows:

HOUSE RESOLUTION 410

Resolved, That during the remainder of the second session of the Seventy-third Congress it shall be in order for the Speaker at any time to entertain motions to suspend the rules, notwithstanding the provisions of clause 1, rule XXVII; it shall also be in order at any time during the second session of the Seventy-third Congress for the majority leader to move that the House take a recess, and said motion is hereby made of the highest privilege; and it shall also be in order at any time during the second session of the Seventy-third Congress to consider reports from the Committee on Rules, as provided in clause 45, rule XI, except that the provision requiring a two-thirds vote to consider said reports is hereby suspended during the remainder of this session of Congress.[5]

Adopting Special Order Relating to Bill Already Under Consideration in Committee of the Whole

§ 20.32 Where a section in a bill pending before the Committee of the Whole was struck out on a point of order (as constituting an appropriation on a legislative bill), the Committee rose, the House took a recess, and the Committee on Rules met and reported to the House a resolution which the House adopted, making in order an amendment to such bill in Committee of the Whole to reinsert the section which had been stricken out.

5. *Id.* at p. 10239.

On Mar. 29, 1933, the Committee of the Whole was considering S. 598 (reforestation and unemployment relief) pursuant to a unanimous-consent request that the Senate bill be in order for consideration, instead of a similar House bill (H.R. 3905) which had previously been made a special order of business for that day (also by unanimous consent).

Chairman Ralph F. Lozier, of Missouri, sustained a point of order against section 4 of the Senate bill, on the grounds that it constituted an appropriation on a legislative bill in violation of Rule XXI clause 4 [see § 846 *House Rules and Manual* (1979)], and section 4 was thus stricken from the bill. Immediately following the Chair's ruling, the Committee rose and a motion for a recess was adopted (at 5:42 p.m.).[6]

The recess having expired at 5:52 p.m., Speaker Henry T. Rainey, of Illinois, called the House to order and Mr. William B. Bankhead, of Alabama, reported and called up by direction of the Committee on Rules (which had met during the recess) a special order making in order an amendment to the Senate bill pending before the Committee of the Whole:[7]

The recess having expired (at 5 o'clock and 52 minutes p.m.), the House was called to order by the Speaker.

MR. BANKHEAD: Mr. Speaker, by direction of the Committee on Rules, I report a privileged resolution, which I send to the desk and ask for its immediate consideration.

MR. [JOSEPH B.] SHANNON [of Missouri]: Mr. Speaker, does not the rule have to lie over for a day?

THE SPEAKER: It does not.

The Clerk will report the resolution.

The Clerk read as follows:

HOUSE RESOLUTION 85

Resolved, That upon the adoption of this resolution it shall be in order to offer as an amendment in Committee of the Whole House on the state of the Union to the bill S. 598 the following language:

"Sec. 4. For the purpose of carrying out the provisions of this act, there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

All points of order against said amendment shall be considered as waived in the House and in the Committee of the Whole House on the state of the Union. . . .

THE SPEAKER: It requires a two-thirds vote to consider it. The question

6. 77 CONG. REC. 988–990, 73d Cong. 1st Sess.

7. *Id.* at p. 990.

is, Shall the House consider the resolution?

The question was taken; and on a division (demanded by Mr. Snell) there were—ayes 189, noes 71.

So (two-thirds having voted in favor thereof) the House determined to consider the resolution.

MR. BANKHEAD: Mr. Speaker, I move the previous question on the adoption of the resolution.

The previous question was ordered.

THE SPEAKER: The question is on agreeing to the resolution.

The resolution was agreed to.

The Committee of the Whole resumed its sitting and proceeded to consider the amendment:[8]

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 598) for the relief of unemployment through the performance of useful public work, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 593, with Mr. Lozier in the Chair.

The Clerk read the title of the bill.

MR. RAMSPECK: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ramspeck: Page 3, after line 21, insert the following:

"Sec. 4. For the purposes of carrying out the provisions of this act there is hereby authorized to be expended, under the direction of the President, out of any unobligated moneys heretofore appropriated for public works (except for projects on which actual construction has been commenced or may be commenced within 90 days, and except maintenance funds for river and harbor improvements already allocated), such sums as may be necessary; and an amount equal to the amount so expended is hereby authorized to be appropriated for the same purposes for which such moneys were originally appropriated."

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I offer an amendment to the amendment.

MR. RAMSPECK: Mr. Chairman, this simply puts back in the bill section 4 exactly, which was ruled out on the point of order.

I move that all debate on this section do now close.

§ 20.33 A resolution waiving points of order against a certain provision in a general appropriation bill was considered and agreed to by the House after the general debate on the bill had been concluded and reading for amendment had begun in Committee of the Whole.

On May 21, 1969, general debate had been concluded in Committee of the Whole on H.R. 11400, the supplemental appropriations bill, and the first section of the bill had been read for amendment when the Committee rose.

8. *Id.*

The House then adopted a special order from the Committee on Rules which waived points of order against one section of the bill:[9]

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 414 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 414

Resolved, That during the consideration of the bill (H.R. 11400) making supplemental appropriations for the fiscal year ending June 30, 1969, and for other purposes, all points of order against title IV of said bill are hereby waived.

MR. COLMER: Mr. Speaker, I yield the customary 30 minutes to the minority, to the very able and distinguished gentleman from California (Mr. Smith). Pending that I yield myself such time as I may consume.

Mr. Speaker, I shall not use all the time on this resolution. This is a rather unusual situation that we find ourselves in, parliamentarily speaking. We have debated the supplemental appropriation bill at some length under the privileged status of the Appropriations Committee. Now we come in with a resolution from the Rules Committee for one purpose and one purpose alone; that is, to waive points of order against a particular section of the bill.

9. 115 CONG. REC. 13246–51, 91st Cong. 1st Sess.

§ 21. "Open" Rules Allowing Amendments and Making in Order Certain Amendments

The term "open rule" is often used to refer to a resolution reported from the Committee on Rules which provides for the consideration of a bill or resolution in the Committee of the Whole, and provides for the bill to be read for amendment under the five-minute rule, without restricting the offering of germane amendments. (A "closed" or "modified closed" rule typically provides that no amendments may be offered except by the direction of the reporting committee or except certain amendments, such amendments not to be subject to amendment.)

Under an open rule, any amendments may be offered which are otherwise in order under the rules of the House.[10]

A resolution allowing amendments may contain detailed provi-

10. See § 21.1, infra.

The procedure whereby a measure is considered in the "House as in the Committee of the Whole" presents another context in which a measure is usually "open" to amendment. Such procedure, however, in which a measure is read for amendment under the five-minute rule, is usually followed pursuant to a unanimous-consent request and not by a special order. But see § 20.17, supra.