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present in the Committee on House Administration when the resolution was ordered reported. Mr. Friedel thereupon withdrew the resolution from consideration.[16]

Modification of Privileged Resolutions

§ 29.36 After a motion or resolution is formally pending, all modifications thereof must be approved by the House. An exception to this general principle attaches to a resolution which is offered as a question of privilege.

With respect to most resolutions, the right of withdrawal and resubmission in a modified form does not exist; the resolution, although a privileged report, may not be modified except by direction of the reporting committee by way of amendment, or otherwise with the concurrence of the House. (See Ch. 23, Motions, § 1, infra.)

Special considerations attach to a resolution which raises a question of privilege, however. Such a resolution may be withdrawn at will prior to action thereon, and may be modified and resubmitted if still raising a question of privilege. As a corollary to this principle, a precedent (5 Hinds' Precedents § 5358) indicates that the offeror of such resolution may similarly accept certain "friendly amendments" or modifications of his resolution without the concurrence of the House.

§ 30. Privileged Motions as to the Order of Business

Several motions directly relating to the order of business are given precedence under the rules of the House. An example is the motion that the House resolve itself into the Committee of the Whole House on the state of the Union to consider general appropriation bills, a motion privileged under Rule XVI clause 9.[17] The motion only applies to general appropriation bills, and appropriation bills which do not qualify are usually made in order for consideration by unanimous consent.[18]

Prior to the amendment to Rule XI clause 4(a) [*House Rules and Manual* § 726 (1979)] effective Jan. 3, 1975, (H. Res. 988, 93d Cong. 2d Sess., 120 CONG. REC. 34469, 34470), to eliminate the authority of the Committee on

16. 114 CONG. REC. 4449, 90th Cong. 2d Sess.

17. *House Rules and Manual* § 802 (1979).

18. See, for example, § 29.9, supra.

Ways and Means to report as privileged bills raising revenue, a motion to resolve into the Committee of the Whole to consider a revenue bill was of equal privilege to the similar motion to consider a general appropriation bill (4 Hinds' Precedents §§ 3075, 3076). However, the privileged nature of the motion under Rule XVI clause 9 with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI clause 4(a) to report revenue measures to the House at any time (4 Hinds' Precedents § 3076).

At present, other than as applied to general appropriation bills, the motion to resolve into the Committee of the Whole House on the state of the Union has no particular precedence under the rules. Under the prescribed order of business in Rule XXIV clause 1,[19] the motion to resolve into Committee of the Whole is in order, if the House follows that strict order of business, after the morning hour for consideration of bills reported by committees and before orders of the day.[20]

But an order of business resolution reported from the Committee on Rules, making in order the motion to resolve into the Committee of the Whole to consider a particular bill, gives precedence to the motion (equal to the precedence of the motion to resolve into Committee of the Whole for consideration of an appropriation bill).[1] Where the order of business resolution discharges a committee from further consideration of a bill, the resolution may provide that upon the adoption of the resolution the House shall immediately resolve itself into the Committee of the Whole for the consideration of the bill. In that situation, no motion is required and the Speaker directs the House to resolve into the Committee.[2]

The motion to resolve into the Committee of the Whole may also be made privileged by the provisions of a statute. Where a statute gives privilege to a motion to consider a certain type of resolution (disapproving proposed executive action) and the resolution must be considered in Committee of the

19. *House Rules and Manual* § 878 (1979).

20. The House considers most of its business under other provisions of the rules than Rule XXIV clause 1. Thus under current practice the morning hour call of committees and the motion to go into Committee of the Whole under that clause are not used.

1. See § 30.3, infra.

2. See § 30.5, infra.

Whole, the motion to resolve into the Committee is considered privileged.[3]

If a motion to discharge under Rule XXVII clause 4,[4] called up as privileged on eligible days, is agreed to, the motion to proceed to the immediate consideration of the discharged bill or resolution is privileged. If the discharged matter is properly considered in the House, the privileged and nondebatable motion that the House proceed to the consideration thereof is in order. If the discharged matter must be considered in the Committee of the Whole (under Rule XXIII clause 3),[5] the privileged and nondebatable motion that the House resolve itself into the Committee of the Whole for the consideration of the matter is in order. If the motion prevails to discharge the Committee on Rules from the further consideration of a resolution (providing a special rule or special order), no motion for consideration is required, as the House immediately votes on the adoption of the resolution.[6]

Motions to discharge committees from the consideration of particular proposals may be made privileged under the rules or pursuant to statute. Statutes which allow a resolution disapproving an executive action to be called up as privileged also contain provisions allowing a privileged motion to discharge the committee after a certain period of time.[7] That specialized motion to discharge is analogous to the motion to discharge a committee from the further consideration of a resolution of inquiry, which motion is, under the precedents, privileged where the committee has failed to report the resolution within seven legislative days.[8]

Other privileged motions relating to the order of business are the motion to suspend the rules, which is in order on certain days and may be used to create or change an order of business as well as to adopt bills and resolutions, and the motion to dispense with Calendar Wednesday business (although Calendar Wednesday is usually dispensed with by unanimous consent prior to Wednesday).[9]

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3. See §§ 30.8–30.10, infra. See *House Rules and Manual* § 1013 (1979) for a compilation of such statutory provisions.

4. *House Rules and Manual* § 908 (1979).

5. *House Rules and Manual* § 865 (1979).

6. For motions to discharge and subsequent motions to consider, see §§ 30.11–30.14, infra.

7. See § 29.11, supra.

8. See § 29.15, supra.

9. See § 9, supra, for the motion to suspend the rules and § 30.15, infra, for the motion to dispense with Calendar Wednesday business.

The question of consideration,[10] a method whereby the House may refuse to consider a proposition, privileged or otherwise, is akin to a motion. The question may be raised by any Member but must be raised before debate begins on the proposition brought before the House. By a negative vote on the question, the House may change, temporarily, the order of business.

The question of consideration may not be raised, however, against a class of business (such as all District of Columbia business on District Day), against a motion to resolve into the Committee of the Whole or another motion relating to the order of business, against a report from the Committee on Rules (since under Rule XI clause 23 [clause 4(b) in the 1979 *House Rules and Manual*] intervening motions are not in order), and against a motion to discharge.[11]

The question of consideration may not be raised against the motion to resolve into the Committee of the Whole because the House, by voting on that motion determines the question of consideration. Of course, an automatic question of consideration is raised when the Committee on Rules calls up a report on the same day reported; the Chair puts sua sponte the question of consideration, which requires a two-thirds affirmative vote.[12]

Two other privileged motions which, if decided in the affirmative, prevent the consideration of business are the motion to table (final adverse disposition) and the motion to postpone (to a day certain or indefinitely).[13]

Motions relating to the order of business are generally not debatable, as provided by Rule XXV, except the motions to postpone specifically made debatable in Rule XVI clause 4.

Cross References

As to the motion to discharge and its precedence, see Ch. 18, supra.

As to the motion to resolve into the Committee of the Whole generally, see Ch. 19, supra.

As to motions, their use and precedence generally, see Ch. 23, infra.

As to the motion to resolve into the Committee of the Whole to consider general appropriation bills, see Ch. 25, infra.

As to the question of consideration generally, see Ch. 29, infra.

As to motions to suspend the rules, see § 10, supra.

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10. See Rule XVI clause 3, *House Rules and Manual* § 778 (1979).

11. See § 30.16, infra, for the question of consideration.

12. Consideration of reports from the Committee on Rules is discussed in § 18, supra.

13. Motions, their use and precedence are analyzed in Ch. 23, infra.

As to motions to consider bills under special rules, see § 20, supra.

Motion to Resolve into Committee of the Whole

§ 30.1 When a motion has been made that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of a bill, a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential and not in order.

On Apr. 2, 1938, Mr. John J. Cochran, of Missouri, moved that the House resolve itself into the Committee of the Whole for the further consideration of a bill (S. 3331) dealing with governmental reorganization. Mr. John J. O'Connor, of New York, sought recognition to offer a motion:

> MR. O'CONNOR of New York: Mr. Speaker——
>
> THE SPEAKER:[14] For what purpose does the gentleman from New York rise?
>
> MR. O'CONNOR of New York: To offer a preferential motion.
>
> THE SPEAKER: The Clerk will report the motion.
>
> The Clerk read as follows:
>
> Mr. O'Connor of New York moves that the Committee of the Whole House on the state of the Union be discharged from further consideration of the bill S. 3331, and that said bill be laid on the table.

Mr. Lindsay C. Warren, of North Carolina, made a point of order against the motion and Mr. O'Connor argued that the motion was preferential under Rule XVI clause 4. Speaker Bankhead sustained the point of order:

> THE SPEAKER: The Chair is ready to rule.
>
> The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Committee of the Whole House on the state of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.
>
> The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now pending is a simple motion 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, and under the precedents a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill is not a privileged motion.
>
> The Chair sustains the point of order.[15]

Parliamentarian's Note: Mr. O'Connor's motion was not privileged as a motion to table under

14. William B. Bankhead (Ala.).

15. 83 CONG. REC. 4621, 75th Cong. 3d Sess.

Rule XVI clause 4 since the bill was not then under debate. The proper point at which to raise points of order against the consideration of a Union Calendar bill, such as defects in reporting the bill, is pending the vote on the motion that the House resolve itself into the Committee of the Whole for the consideration of the bill.[16]

§ 30.2 The motion to lay on the table is not in order when there is pending a privileged motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan.

On June 8, 1961, Mr. H. R. Gross, of Iowa, was recognized by Speaker pro tempore Oren Harris, of Arkansas, to make the privileged motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution, reported from the Committee on Government Operations, disapproving a reorganization plan submitted under the Reorganization Act of 1949. The Speaker pro tempore stated, in response to a parliamentary inquiry by Mr. Byron G. Rogers, of Colorado, that a motion to table would not be in order.[17]

Parliamentarian's Note: The motion to table is not applicable to any motion to resolve into the Committee of the Whole (see 6 Cannon's Precedents § 726).

Effect of Special Rule on Moving Consideration of Bill

§ 30.3 The Speaker held that the effect of a special rule making in order a motion to resolve into the Committee of the Whole for the consideration of a bill was to give to the bill the privileged status for consideration that a general appropriation bill has (since the motion to resolve into the Committee of the Whole for the consideration of an appropriation bill is privileged under Rule XVI clause 9).

On June 28, 1930,[18] 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 be in order to

16. See 72 CONG. REC. 10593–96, 71st Cong. 2d Sess., June 12, 1930; and 114 CONG. REC. 30751, 90th Cong. 2d Sess., Oct. 11, 1968.

17. 107 CONG. REC. 9777, 87th Cong. 1st Sess.

18. 72 CONG. REC. 11994, 11995, 71st Cong. 2d Sess.

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:

> 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 referred 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 rules 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.

§ 30.4 The adoption of a resolution making in order the motion that the House resolve itself into the Committee of the Whole for the consideration of a bill does not necessarily make the bill the unfinished business, and the bill can only be called up by a Member designated by the committee to do so.

On July 19, 1939,[19] 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.

19. 84 CONG. REC. 9541, 76th Cong. 1st Sess.

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.

§ 30.5 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.

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): [20]

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.

20. 111 CONG. REC. 14705, 14706, 89th Cong. 1st Sess.

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

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):[1]

> *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:[2]

> THE SPEAKER:[3] 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 re-

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

2. *Id.* at p. 2812.

3. Carl Albert (Okla.).

cessed 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 expenses 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).

§ 30.7 Notwithstanding the adoption by the House of a resolution making in order the consideration of conference reports on the day reported (on that day), the Speaker indicated, in response to a parliamentary inquiry, that the legislative-history which prompted the Committee on Rules to meet and report that resolution restricted his authority to recognize Members to call up three designated reports.

On Oct. 18, 1972,[4] Mr. William M. Colmer, of Mississippi, called up by direction of the Committee on Rules House Resolution 1168, providing for the consideration, on a certain day, of any reports from the Committee on Rules and any conference reports reported on that day. Mr. Colmer explained that the resolution was a product of an informal leadership agreement of the preceding day.

Speaker Carl Albert, of Oklahoma, then answered parliamentary inquiries on his exercise of the power of recognition under the resolution:

MR. [PETER W.] RODINO [Jr., of New Jersey]: Mr. Speaker, under the resolution just agreed to, would it be in order for the House to consider the conference report when it is ready on S. 2087, Omnibus Crime Control and Safe Streets Act of 1968, benefits to survivors of police officers killed in line of duty, which was agreed upon and which was filed yesterday?

THE SPEAKER: The Chair must answer the gentleman in accordance with the language which the Chair used when this matter was before the House on yesterday. At that time the Chair stated, and no specific reference was made to any bill because it had been informally mentioned to the Members who were seeking the rule, that this rule would not be used for any other bill except those dealing with three

4. 118 CONG. REC. 37063, 37064, 92d Cong. 2d Sess.

items. Under that interpretation it would be in order to bring those conference reports up on the day on which they were filed. As the Chair understands his own language and his own informal agreement, which was a part of the history, the Chair would very much like to recognize the gentleman, but the Chair feels constrained to hold that the legislative history restricts all action under House Resolution 1168 to three measures, the highway bill, the debt ceiling bill, and the continuing resolution.

MR. RODINO: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. RODINO: Mr. Speaker, referring again to the rule adopted, was not the language strictly stated, and this is the language that I heard stated, the language referred to in the course of debate notwithstanding legislative history of yesterday, to consider conference reports the same day reported, notwithstanding the provisions of clause 2, rule XXVIII?

THE SPEAKER: The gentleman is referring to three conference reports which precipitated the action which brought into existence this resolution.

The Chair would like to recognize the gentleman, but the Chair feels that its own promise is at stake here.

The Chair will try to find some other method of recognizing the gentleman.

The Chair does not feel that in good faith or in good conscience it can recognize the gentleman under the circumstances. . . .

The Chair feels constrained to say—and the Chair hates to make a statement from the chair on issues like this—it was suggested these three bills which the Chair has mentioned be listed in the resolution. The Chair said that was not necessary; that was the understanding, and it would simply complicate the resolution by naming the three bills. That is what happened.

The Chair recognizes that had it not been for that understanding and legislative history, which is in the Record, this would have been eligible under the clear language of the resolution.

The Chair would gladly recognize the gentleman for a unanimous-consent request to bring it up now.

Motion to Consider Resolution Privileged by Statute

§ 30.8 A motion to consider a resolution, disapproving a plan formulated by the executive branch, may be made privileged by a statute so providing.

A motion that the House resolve itself into the Committee of the Whole to consider a resolution disapproving a reorganization plan is privileged (under the Legislative Reorganization Act of 1949).

On July 6, 1959, Speaker Sam Rayburn, of Texas, recognized for a privileged motion to consider a disapproval resolution:[5]

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, I move that the House resolve itself into the Committee of the

5. 105 CONG. REC. 12740, 86th Cong. 1st Sess.

Whole House on the State of the Union for the consideration of the resolution (H. Res. 295) to disapprove Reorganization Plan No. 1 of 1959.

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 consideration of House Resolution 295, to disapprove Reorganization Plan No. 1 of 1959, with Mr. Udall in the chair.

The Clerk read the title of the resolution.

Parliamentarian's Note: The Reorganization Act of 1949, 63 Stat. 203 (5 USC §§ 905–913), provided in section 205(a) that following the report of the committee on a resolution with respect to a reorganization plan, it would be in order at any time thereafter "to move to proceed to the consideration of such resolution."

The act also provided, in section 204, for a privileged motion to discharge the committee from further consideration of such a resolution not reported in 10 calendar days. In the event the motion to discharge were agreed to, the privileged motion for consideration in section 205 would apply.

§ 30.9 After a committee has reported a resolution disapproving a reorganization plan (privileged under the Reorganization Act of 1949), any Member may move that the House proceed to the consideration thereof.

On July 19, 1961, Mr. Dante B. Fascell, of Florida, moved that the House resolve itself into the Committee of the Whole for the consideration of House Resolution 328, disapproving a reorganization plan transmitted to Congress under the Reorganization Act of 1949 and reported by the Committee on Government Operations. Speaker Sam Rayburn, of Texas, answered a parliamentary inquiry on recognition for the privileged motion: (6)

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. GROSS: Mr. Speaker, under title 2, section 204 of the public law, paragraph (b) provides that such a motion may be made only by a person favoring the resolution. Is the gentleman from Florida in favor of the resolution, or does he disfavor the resolution?

THE SPEAKER: Under the rules, the gentleman does not have to qualify in that respect on this particular motion.

Parliamentarian's Note: Section 204(b) of the act (81 Stat. 203, 207) required a person favoring the resolution to make a motion to discharge. A Member did not have to qualify to make the motion for consideration under section 205(a) of the act.

6. 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess.

§ 30.10 A subsequent motion that the House resolve itself into the Committee of the Whole for the consideration of a resolution disapproving a reorganization plan (privileged under the Reorganization Act of 1949) would not be precluded by deciding the instant motion in the negative.

On June 8, 1961, Mr. H. R. Gross, of Iowa, inquired of Speaker pro tempore Oren Harris, of Arkansas, whether it would be in order, as a privileged matter, to submit a motion that the House resolve itself into Committee of the Whole for the consideration of a resolution disapproving a reorganization plan, reported by the Committee on Government Operations. The Speaker pro tempore replied that the motion was privileged for consideration and could be made by any Member. The Speaker pro tempore then responded to a parliamentary inquiry regarding the effect of a negative vote on the motion:(7)

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: If the pending motion is voted down, would it still be in order at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. The committee has reported adversely in respect to plan No. 2. I am going to vote against that plan and in support of the resolution of the committee. But under my responsibility as the minority leader and under my agreement with the majority leader, I do not see how I could vote today unless, under the situation as it exists, that vote today would be conclusive as to plan No. 2.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, will the gentleman yield?

MR. HALLECK: I yield.

MR. BOGGS: If we were to vote today, there is no Member of this body who would have been on notice that this plan was to have been called up and we would actually not be keeping the agreement with either side of the aisle.

MR. HALLECK: Mr. Speaker, I would like to get an answer to the parliamentary inquiry.

THE SPEAKER PRO TEMPORE: In the opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.

MR. HALLECK: In other words, the action that would be taken today would not be final?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

MR. HALLECK: In view of the fact that there was no notice to the membership of the House of Representatives on either side that this matter would come on for action today, if plan No. 2 is not voted on today it would subsequently be voted on?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

7. 107 CONG. REC. 9776, 87th Cong. 1st Sess.

Motion to Discharge and Subsequent Motion to Consider

§ 30.11 The Speaker indicated in response to a parliamentary inquiry that on the second and fourth Mondays of the month, motions to discharge committees which have been on the Discharge Calendar seven legislative days are privileged and come up immediately after the reading of the Journal, and that a special order providing for the consideration of another matter on a discharge day would not affect the precedence of motions to discharge.

On Mar. 10, 1932, Speaker John N. Garner, of Texas, answered a parliamentary inquiry on the precedence of a motion to discharge on an eligible day, where there was pending a unanimous-consent request making a special order of business on such a day:[8]

MR. [JOHN J.] O'CONNOR [of New York]: Under the unanimous-consent request of the gentleman from Georgia, he states that if general debate is not concluded on Saturday, it would be continued on Monday. If that were so, would this unanimous-consent request take precedence over privileged matters; for instance, the matter of a motion to discharge committees?

MR. [CHARLES R.] CRISP [of Georgia]: I suggest this to the Speaker: The rule provides particularly, that after the approval of the Journal it shall be in order to call up such a motion.

THE SPEAKER: There is no discretion in the hands of the House and the Chair so far as that rule is concerned. It is made for the purpose of forcing consideration of a measure when the motion to discharge the committee has 145 signatures.

MR. CRISP: As the author of the rule, I state to the Chair that that was the purpose and intention.

Parliamentarian's Note: Rule XXVII clause 4 provides for a motion to discharge any committee from a public bill or resolution and the Committee on Rules from certain kinds of resolutions. There are also special motions to discharge given privileged status: under Rule XXII clause 5, a motion is privileged to discharge a committee from consideration of a resolution of inquiry not reported within seven legislative days; under the provisions of some statutes, certain resolutions of disapproval (preventing the implementation of plans by the executive) may be brought up as privileged by a motion to discharge; and under a prior rule of the House, in effect in the 89th Congress, a motion could be made to discharge the Committee on Rules from the consideration of certain proposals.[9]

8. 75 CONG. REC. 5689, 72d Cong. 1st Sess.

9. For discussion of the privilege of resolutions of inquiry and resolutions of

§ 30.12 Following agreement to a motion to discharge a standing committee from the consideration of a public bill or resolution, the motion to proceed to the immediate consideration of the legislation is privileged if made by a Member who signed the discharge petition, and is decided without debate.

On Aug. 10, 1970, Mrs. Martha W. Griffiths, of Michigan, moved to discharge the Committee on the Judiciary from the further consideration of a joint resolution proposing an amendment to the United States Constitution, under Rule XXVII clause 4.

Following agreement to the motion to discharge, Mrs. Griffiths made the privileged motion for the consideration of the joint resolution:[10]

MRS. GRIFFITHS: Mr. Speaker, pursuant to the provisions of clause 4, rule XXVII, I move that the House proceed to the immediate consideration of House Joint Resolution 264.

THE SPEAKER:[11] The question is on the motion offered by the gentlewoman from Michigan (Mrs. Griffiths).

The motion was agreed to.

THE SPEAKER: The Clerk will report the joint resolution.

The Clerk read as follows:

H.J. RES. 264

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. Congress and the several States shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.

"Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States.

"Sec. 3. This amendment shall take effect one year after the date of ratification."

THE SPEAKER: The gentlewoman from Michigan is recognized for 1 hour.

§ 30.13 Motions to discharge committees do not lose their privileged status by reason of the fact that they are not called up on the first eligible Monday.

On Dec. 18, 1937, Speaker William B. Bankhead, of Alabama,

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disapproval under statutes, see § 29, supra. For discussion of the former 21-day discharge rule in relation to the Committee on Rules, see § 18, supra.

10. 116 CONG. REC. 28004, 91st Cong. 2d Sess.

11. John W. McCormack (Mass.).

answered a parliamentary inquiry on the privilege of motions to discharge committees pending on the Discharge Calendar:[12]

MR. [SAMUEL B.] PETTENGILL [of Indiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. PETTENGILL: Directing the Chair's attention to the Ludlow petition which now may be called up on the second Monday of next month, if it fails to be called up on that day, would it retain its privileged status on a subsequent second or fourth Monday?

THE SPEAKER: The status of the matter is that it is on the calendar of motions to discharge committees. If not called up on the first date on which it would be entitled to be called up, it remains on the calendar subject to further call on the second or fourth Mondays of a month.

§ 30.14 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business on which the previous question has been ordered, may be varied by unanimous consent.

On May 8, 1936,[13] Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business (relative precedence of motions to discharge and unfinished business with the previous question ordered) and the power of the House to change such order by unanimous consent:

MR. [WILLIAM B.] BANKHEAD [of Alabama]: Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, reserving the right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

As I understand it, it will be in order before we complete this bill to take up the question of the discharge of the Rules Committee from further consideration of the Frazier-Lemke bill. I would like to ask the Speaker if my understanding is correct, if consideration of the discharge petition would come up before the vote on this bill?

THE SPEAKER: The Chair thinks it would unless there is a previous understanding. The matter of which shall take precedence can be fixed by consent.

MR. BOILEAU: I appreciate that, Mr. Speaker. Many Members interested in the Frazier-Lemke bill are anxious to know just what the situation is going to be.

MR. [BERTRAND H.] SNELL [of New York]: It would seem to me, if the Speaker will permit, that the vote on the pending bill would be the unfinished business before the House on Monday.

THE SPEAKER: The Chair will state to the gentleman from Wisconsin that,

12. 82 CONG. REC. 1847, 75th Cong. 2d Sess.

13. 80 CONG. REC. 7010, 74th Cong. 2d Sess.

by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first and then to take up the motion to discharge the committee.

Motion to Dispense With Calendar Wednesday Business

§ 30.15 The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further Calendar Wednesday business on that day and a two-thirds vote is required to adopt the motion.

On June 5, 1946,[14] the following discussion and ruling by Speaker Sam Rayburn, of Texas, took place in relation to the motion to dispense with Calendar Wednesday business, made on Calendar Wednesday:

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: That was my inquiry, Mr. Speaker.

Mr. Speaker, I therefore move that the House dispense with further proceedings under Calendar Wednesday.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, a point of order. That can only be done by unanimous consent.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

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

MR. MARCANTONIO: Mr. Speaker, that motion is not in order. To dispense with Calendar Wednesday requires the unanimous consent of the House.

MR. WHITTINGTON: Mr. Speaker, with your indulgence, may I say that I agree that to dispense with Calendar Wednesday entirely can only be done by unanimous consent, but when there has been a call, and the Committee on Banking and Currency has been called, I respectfully submit that dispensing with the remainder of the proceedings under Calendar Wednesday is in order and that the point of order does not lie.

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, will the gentleman yield?

MR. MARCANTONIO: I yield to the gentleman from Michigan.

MR. MICHENER: Without reference to the current controversy, may I call the Speaker's attention to the fact that Calendar Wednesday is presumed to be the people's day; that is, all committees are called in order, and whether a bill comes up for consideration rests entirely within the control of the committee having the call, the majority leadership and the Rules Committee to the contrary notwithstanding.

Calendar Wednesday is usually dispensed with only by unanimous consent. There would be very little use for such a day if this were not the case. General legislation on other days is programed by the leadership; not so on Calendar Wednesday. It would, therefore, seem fundamental if the purposes of the rule are to be carried out, that the committees should be called in

14. 92 CONG. REC. 6357, 79th Cong. 2d Sess.

order. Were it otherwise, the majority which controls other programs could control proceedings on Calendar Wednesday.

It would seem fair to proceed with the call of committees, and that no motion to dispense with further proceedings under the Calendar Wednesday rule should be in order.

MR. MARCANTONIO: Mr. Speaker, may I say further that the motion is not in order because the call of the calendar is mandatory. That motion cannot have preference over the call of the Calendar. The only motion that can be considered, as I understand, would be a motion to adjourn, upon which the House has just voted.

MR. WHITTINGTON: Mr. Speaker, with your indulgence, I have no disposition to delay proceedings, but permit me to say it has been the general and practically universal practice with respect to dispensing with further proceedings under Calendar Wednesday, that that motion has frequently been made when one committee of this House has been called. I submit that to the recollection and to the judgment not only of the Speaker but to the Members of the House.

I respectfully maintain, Mr. Speaker, that the point of order does not lie.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, will the gentleman yield?

MR. WHITTINGTON: If I have the floor.

MR. RANKIN: If you will go back and search the Record of Calendar Wednesday proceedings, you will find that time and time again when one committee has been called, then a motion has been made to dispense with further proceedings under Calendar Wednesday, and that motion carried.

MR. WHITTINGTON: If further proceedings are dispensed with, then the House can proceed to transact other business for the remainder of the day, including the unfinished river and harbor bill that is pending.

THE SPEAKER: The Chair will state that the following was held by Speaker Gillett, who has been quoted today, as follows:

> The Speaker is constrained to recognize on Wednesdays any Member proposing a motion to dispense with further proceedings in order on that day.

The motion is in order, but it takes a two-thirds vote to pass it.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, does that motion require a two-thirds vote?

THE SPEAKER: It does.

MR. WHITTINGTON: I did not understand the Speaker's answer.

THE SPEAKER: The answer was that to suspend the call of the calendar on Wednesday requires a two-thirds vote.

MR. WHITTINGTON: Is a mere motion now to dispense with further proceedings the same as a motion to suspend the rules altogether? My motion is to simply suspend further proceedings under the call of Calendar Wednesday. I maintain there is a distinction between dispensing with the call altogether and dispensing with further proceedings under the call.

THE SPEAKER: The Chair will read the rule so that there will be no misunderstanding:

> On Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule

unless the House, by a two-thirds vote on motion to suspend therewith, shall otherwise determine.

The question is on the motion to dispense with further proceedings under Calendar Wednesday.

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

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Does that motion not have to be made at the very beginning of the day?

THE SPEAKER: The Chair holds otherwise.

Parliamentarian's Note: The motion to dispense with Calendar Wednesday business and its privilege are discussed in section 4, supra, dealing with the Calendar Wednesday procedure. Calendar Wednesday business is customarily dispensed with not by motion but by unanimous consent.

Question of Consideration and Preventing Consideration

§ 30.16 The question of consideration may not be raised against a motion that the House resolve itself into the Committee of the Whole.

On May 21, 1958,[15] Mr. Wayne N. Aspinall, of Colorado, by direction of the Committee on Interior and Insular Affairs, offered the motion that the House resolve itself into the Committee of the Whole for the consideration of a privileged bill (H.R. 7999, to provide for the admission of the State of Alaska into the Union). The bill was called up as privileged under the provisions of then Rule XI clause 20, allowing that committee to report at any time on the admission of new states. Speaker Sam Rayburn, of Texas, ruled that the question of consideration could not be demanded against the motion to resolve into Committee of the Whole:

The question is on the motion offered by the gentleman from Colorado that the House resolve itself into the Committee of the Whole.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I raise the question of consideration and demand a vote on the question of consideration.

THE SPEAKER: The question of consideration, the Chair is informed, cannot be raised against the motion. That is decided on the motion itself. The Members will vote on whether or not they are going to consider this bill, if they ask for a rollcall. The question now is on the motion offered by the gentleman from Colorado.

MR. SMITH of Virginia: May I submit a parliamentary inquiry, Mr. Speaker?

THE SPEAKER: The gentleman may.

MR. SMITH of Virginia: Under what circumstances can the question of consideration be raised?

THE SPEAKER: The Chair tried to say a moment ago that it cannot be raised against the motion to go into the Com-

15. 104 CONG. REC. 9216, 9217, 85th Cong. 2d Sess.

mittee of the Whole, because that is tantamount to consideration, and the House will have an opportunity to vote on that motion.

MR. SMITH of Virginia: In other words, if we demand a vote on that question, then that will be tantamount to raising the question of consideration?

THE SPEAKER: That is correct.

The question is on the motion offered by a gentleman from Colorado.

MR. [CRAIG] HOSMER [of California]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 217, nays 172, not voting 40, as follows: . . .

Parliamentarian's Note: The question of consideration, although a privileged demand before debate has begun on a proposition which has been called up for consideration, may not be raised against motions relating to the order of business, against a class of business, against reports from the Committee on Rules, against a vetoed bill, against a motion to discharge committees, or against taking from the Speaker's table Senate bills similar to reported House Calendar bills.[16]

Other preferential motions which may prevent the consideration of certain business and motions, such as the motion to table and the motion to postpone, are discussed in Ch. 23, infra.

§ 30.17 The question as to when the House will consider a bill unfinished on a previous day is always within the control of a majority of the House.

On Apr. 26, 1948,[17] Speaker Joseph W. Martin, Jr., of Massachusetts, answered a parliamentary inquiry as to when a bill, brought up in the House by a motion to discharge, could be considered if not finished on the day on which brought up. The Speaker heard Mr. Earl C. Michener, of Michigan, on the inquiry and then stated as follows:

THE SPEAKER: The Chair is interested in the valued comments of the distinguished gentleman from Michigan. Of course, the Chair is unaware of the intent or purpose back of the rule when it was first formulated. All he has to guide him is the rule itself as it appears before him in print. The Chair agrees with the gentleman from Michigan that the House can immediately consider the legislation after the motion to discharge the committee is agreed to, but the rule states "and if

16. See *House Rules and Manual* §§ 778–781 (1979).

For consideration of reports from the Committee on Rules, and the two-thirds vote required for consideration on the same day reported, see § 18, supra.

17. 94 CONG. REC. 4877, 4878, 80th Cong. 2d Sess.

unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of."

That provision does not state definitely that the bill must come up on the following day, but that it shall remain the unfinished business. The gentleman's point that the bill could be postponed indefinitely of course is correct, in a sense, but after all the rules are based on common sense, and no one would anticipate that the side that procured enough signatures to a discharge petition to bring a bill before the House would filibuster their own bill.

While the rule perhaps is not quite as definite as it might be, it is the opinion of the Chair that the consideration of the bill could go over until Wednesday if the proponents of the bill do not call it up on tomorrow, and that it would be in order on Wednesday as the unfinished business.

The Chair believes that unless the gentleman from South Carolina [Mr. Rivers] or someone on his side of the issue, calls it up on tomorrow, it can be called up on Wednesday and will be the unfinished business on that day. The Chair also wishes to state that he will not recognize anyone on the affirmative side of this matter unless the gentleman from South Carolina is absent. It is not necessary to call it up on tomorrow and it can be called up on Wednesday, at which time it will be the unfinished business.

The Chair will also remind Members that it is always within the control of the majority of the House to determine what should be done.

§ 30.18 The question as to when the Committee of the Whole will resume the consideration of a bill unfinished when the Committee rises is for the Speaker and the House to determine, and not for the Chairman of the Committee of the Whole.

On Apr. 26, 1948,[18] Chairman Leslie C. Arends, of Illinois, answered a parliamentary inquiry as follows in the Committee of the Whole:

> MR. AUGUST H. ANDRESEN [of Minnesota]: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. AUGUST H. ANDRESEN: Mr. Chairman, I understand that the Committee will rise at 4 o'clock. It is also my understanding of the rules that this Committee should meet tomorrow in order to have continuous consideration of the pending legislation.
>
> I would like to have a ruling of the Chair as to whether or not the rules provide that a day may intervene so that this legislation may be taken up on Wednesday.
>
> THE CHAIRMAN: The Chair may say that is a matter for the Speaker of the House and the House itself to determine. It is not something within the jurisdiction of the Chair to decide.

§ 30.19 Where the House had agreed that certain legislation take priority over all

18. 94 CONG. REC. 4873, 4874, 80th Cong. 2d Sess.

other business except conference reports, the Speaker held that the agreement gave a higher priority to that business than the consideration of a resolution disapproving a reorganization plan, but that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole.

On May 9, 1950, Speaker pro tempore John W. McCormack, of Massachusetts, overruled a point of order against a motion that the House resolve itself into Committee of the Whole for the consideration of a general appropriation bill given precedence by a unanimous-consent agreement:[19]

GENERAL APPROPRIATION BILL, 1951

MR. [GEORGE H.] MAHON [of Texas]: 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 (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of house Resolution 516.

The gentleman from Michigan being on his feet to present this highly privileged motion, the regular order is that he be recognized for that purpose that the motion be entertained and the question put before the House, and my motion is that the House proceed to the consideration of House Resolution 516. . . .

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

The gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so. . . .

. . . The Chair will state that the House always has a constitutional right and power to refuse to go into the Committee of the Whole on any motion made by any Member, so that the House is capable of carrying out its will, whatever may be the will of the majority of the House.

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if

19. 96 CONG. REC. 6720–24, 81st Cong. 2d Sess.

any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will.

§ 31. Relative Precedence Among Privileged Matters

Following the precedents in this section there appears a table summarizing decisions of the Chair with respect to the relative precedence among privileged questions. The information given in the table is intended merely as a guide, since the principles of relative precedence stated herein are subject to the right of the House to change its order of business at any time. The priority of matters of equal or near-equal privilege may be determined by the Chair within his power of recognition. And the decisions cited should be consulted to determine whether they reflect the current practices of the House and whether they are precisely applicable to the parliamentary situation in question.[20]

Chair's Power of Recognition (Matters of Equal Privilege)

§ 31.1 In response to a parliamentary inquiry, the Speaker stated that where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's recognition.

On Sept. 22, 1966,[1] Speaker John W. McCormack, of Massachusetts, made the following statement on recognition, in response to a parliamentary inquiry related to the order of business:

> THE SPEAKER: . . . Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.
>
> If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

§ 31.2 If a resolution providing a special order of business and reported by the Committee on Rules is not called up for consideration by the Member reporting the resolu-

20. See also, for the relative precedence of privileged questions, Cannon's Procedure in the House of Representatives 252, H. Doc. No. 86–122 (1959); *House Rules and Manual* § 880 [note] (1979).

1. 112 CONG. REC. 23691, 89th Cong. 2d Sess.