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come the King and Queen of Great Britain and appointing a joint committee to make necessary arrangements.

On May 23, 1939,[6] the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 17):

Resolved by the Senate (the House of Representatives concurring). That the two Houses of Congress shall assemble in their respective Houses on Friday, June 9, 1939, at 10:30 o'clock antemeridian, and thereafter, in recess, the Members of each House shall proceed informally to the rotunda of the Capitol at 11 o'clock antemeridian, for the purpose of welcoming Their Majesties the King and Queen of Great Britain, and the members of their party, on the occasion of their visit to the Capitol, and at the conclusion of such ceremonies the two Houses shall reassemble in their respective Chambers.

That a joint committee consisting of three Members of the Senate, to be appointed by the President of the Senate, and three Members of the House of Representatives, to be appointed by the Speaker of the House, is hereby authorized to make the necessary arrangements for carrying out the purpose of this concurrent resolution.[7]

6. 84 CONG. REC. 6032, 76th Cong. 1st Sess.

7. See also S. Con. Res. 20, 84 CONG. REC. 7151, 76th Cong. 1st Sess., June 19, 1939, authorizing expenses from the contingent funds of the two Houses for the reception of the King and Queen of Great Britain in the rotunda of the Capitol.

§ 6. Simple Resolutions

Cross References

Simple Resolutions as related to House-Senate Conferences, Ch. 33, infra.

Simple Resolutions as related to privileges of the House or a Member, Ch. 11, supra.

Simple resolutions and special orders, Ch. 21, supra.

Use of Simple Resolution

§ 6.1 Simple resolutions are used in dealing with nonlegislative matters such as expressing opinions or facts, creating and appointing committees, calling on departments for information, reports, and the like. Except as specifically provided by law, they have no legal effect, and require no action by the other House. Containing no legislative provisions, they are not presented to the President of the United States for his approval, as in the case of bills and joint resolution.

On Oct. 29, 1943,[8] during consideration in the Senate of a Senate resolution (S. Res. 192) declar-

8. 89 CONG. REC. 8901, 8902, 78th Cong. 1st Sess.

ing certain aims of the United States abroad, the following discussion took place:

MR. [JOHN A.] DANAHER [of Connecticut]: Under the precedents of the Senate, does a Senate resolution have legislative effect?

THE PRESIDING OFFICER:[9] The Chair understands the question to be, Under the precedents of the Senate, does a resolution of the kind now pending before the Senate have legislative effect?

MR. DANAHER: That is correct.

THE PRESIDING OFFICER: In the opinion of the present occupant of the chair, the answer is "No."

MR. DANAHER: Mr. President, a further parliamentary inquiry.

THE PRESIDING OFFICER: The Senator will state it.

MR. DANAHER: Is such a resolution, if adopted, binding upon a succeeding Senate?

THE PRESIDING OFFICER: In the opinion of the present occupant of the chair, the answer is the same as the answer to the previous question—"Absolutely no."

MR. DANAHER: Mr. President, a further parliamentary inquiry.

THE PRESIDING OFFICER: THE SENATOR WILL STATE IT.

MR. DANAHER: Does a Senate resolution, if adopted, have a greater effect than to reflect the views of the largest number of Senators agreeing thereto, who are present and voting for it?

MR. [JOEL BENNETT] CLARK OF Missouri: Mr. President, I make the point of order that that is not a parliamentary inquiry; neither were the two preceding questions parliamentary inquiries. They both involve legal questions, and are not properly parliamentary questions to be decided by the Chair.

THE PRESIDING OFFICER: The Senator from Missouri is certainly late with the point of order so far as the first two questions are concerned. With respect to the last question, the Chair will overrule the point of order and permit the Senator from Connecticut again to state his parliamentary inquiry. Mr. Danaher: Mr. President, does a Senate resolution, if adopted, have greater effect than to reflect the views of the largest number of Senators agreeing thereto, who are present and voting for it?

THE PRESIDING OFFICER: The Chair will state that under the universal practice a resolution of this kind is not binding on anyone. It is merely a statement of the opinion of the Senate.

MR. DANAHER: Mr. President, in response to the comment of the Senator from Montana, let me say that with very considerable diligence I made inquiry into the Senate precedents with reference to the status and effect of a Senate resolution of this character. I have taken the matter up with the parliamentarian of the Senate and with others in a position to give me the benefit of their advice and experience. I have been informed—and I think reliably—by the parliamentarian himself that he has made a search of the precedents at my request. I respectfully ask unanimous consent to have inserted in the Record at this point as a part of my remarks a definition of the effect of a Senate resolution, as prepared for me by the Senate parliamentarian.

9. Scott W. Lucas (Ill.).

MR. [CARL A.] HATCH [of New Mexico]: Mr. President, will the Senator yield?

MR. DANAHER: I yield.

MR. HATCH: Does not the Senator intend to read it, or have it read?

MR. DANAHER: Yes. I ask that the memorandum be read at the desk.

THE PRESIDING OFFICER: Without objection, the clerk will read the memorandum.

The legislative clerk read as follows:

> Under the uniform practice of this body, Senate (or simple) resolutions are used in dealing with nonlegislative matters exclusively within the jurisdiction of the Senate, such as expressing opinions or facts, creating and appointing committees of the body, calling on departments for information, reports, etc. They have no legal effect, their passage being attested only by the Secretary of the Senate, and require no action by the House of Representatives. Containing no legislative provisions, they are not presented to the President of the United States for his approval, as in the case of bills and joint resolutions.

Parliamentarian's Note: As in the case of concurrent resolutions, Congress has in recent years enacted legislation permitting either House by simple resolution to approve or disapprove certain proposed executive actions. See Sec. 7, infra. [*See also House Rules and Manual § 1013 (1981).*]

Adoption of Rules

§ 6.2 A simple resolution is used to adopt the rules of the House for each Congress.

On Jan. 3, 1935,[10] the House considered and agreed to the following House resolution (H. Res. 17):

> *Resolved,* That the rules of the Seventy-third Congress be, and they are hereby, adopted as the rules of the Seventy-fourth Congress, including therein the following amendment, to wit:
>
> That the last sentence of the first paragraph of section 4 of rule XXVII be amended to read as follows:
>
> "When a majority of the total Membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees."

Waiver of Rules

§ 6.3 The Committee on Rules may report and call up as privileged resolutions temporarily waiving any rule of the House, including statutory provisions enacted as an exercise in the House's rulemaking authority which would otherwise prohibit the consideration of a bill being made in order by the resolution.

The following proceedings took place on Mar. 20, 1975:[11]

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10. 79 CONG. REC. 13, 74th Cong. 1st Sess.

11. 121 CONG. REC. 7676, 7677, 94th Cong. 1st Sess.

MR. [CLAUDE D.] PEPPER [of Florida]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 337

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(l)(6) of rule XI and section 401 of Public Law 93–344 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 bill (H.R. 4485) to provide for greater homeownership opportunities for middle-income families and to encourage more efficient use of land and energy resources. . . .

MR. [JOHN B.] ANDERSON of Illinois: Mr. Speaker, I raise a point of order against House Resolution 337 on the grounds that the Budget Act by direct inference forbids any waiver of the section 401 ban on new backdoor spending in the House of Representatives.

Mr. Speaker, my point of order is grounded on two basic facts: First, there is no specific provision in section 401 for an emergency waiver of its provisions; and yet, in section 402, which generally prohibits consideration of bills authorizing new budget authority after May 15, there is specific provision for an "Emergency Waiver in the House" if the Rules Committee determines that emergency conditions require such a waiver. It is my contention that if the authors of section 401 had intended to permit a waiver of its provisions, they would have specifically written into law as they did with section 402. Section 402 makes a similar provision for waiving its provisions in the Senate.

Second, section 904 of the Budget Act, in subsections (b) and (c) states that any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, thus extending a waiver procedure in the Senate to section 401 as well as 402. But section 904 contains no similar waiver provision for the House of Representatives.

It should be clear from these two facts that the House was intentionally excluded from waiving the provisions of section 401 of the Budget Act.

Mr. Speaker, the point may be made that the Budget Act's provisions are part of the rules of the House, and, as such, are subject to change at any time under the constitutional right of the House to determine the rules of its proceedings. But I think a fine distinction should be drawn here. This resolution is presented for the purpose of making a bill in order for consideration, and is not before us for the purpose of amending or changing the Budget Act. Since section 401 of the Budget Act deals concurrently with the House and the Senate and their integrated procedures for prohibiting new backdoor spending, any attempt to alter this would have to be dealt with in a concurrent resolution at the very minimum, if not a joint resolution or amendment to the Budget Act. It is one thing for the House to amend its rules; it is quite another for it to attempt, by simple resolution, to waive a provision of law relating to the joint rules of procedures of both Houses. . . . It is my contention that the authors of the Budget Act never in-

tended for side-door spending in the Rules Committee and for that reason specifically excluded any provision for emergency waivers in section 401 in the House. I therefore urge that my point of order be sustained.

MR. [RICHARD] BOLLING (of Missouri): . . . Mr. Speaker, there are a variety of grounds on which it would be possible to address this point of order. It could be dismissed very quickly on the grounds that the rules of the House provide that it shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule or the order of business, and then it proceeds to give the very limited number of exceptions. The one that the gentleman from Illinois makes as his points of order, and all the different ones he makes as his points of order, are not included in those specific exceptions.

So, the rules of the House specifically make it clear that the Rules Committee is in order when it reports a rule dealing with the order of business, and it does not qualify that authority except in a very limited degree.

Furthermore, it is an established fact that the House can always change its rules. It is protected by so doing. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: Does not the Budget Control Act, section 401(a) prohibit backdoor spending?

MR. BOLLING: It also is possible for that provision to be waived. What I tried to do in my discussion in opposition to the validity of the point of order made by the gentleman from Illinois was to point out the very broad basis on which such a matter could be waived, a constitutional basis and a specific provision of clause 4 of rule XI granting the Committee on Rules a very broad authority to report matters that relate to order of business. It is a well-known fact that the Committee on Rules often reports waivers of points of order, and this is, in effect, a waiver of a point of order.

THE SPEAKER:[12] The Chair is ready to rule.

The gentleman from Illinois makes the point of order against the consideration of House Resolution 337 reported from the Committee on Rules, on the grounds that that Committee has no authority to report as privileged a resolution waiving the provisions of section 401 of the Congressional Budget Act of 1974. Section 401 prohibits the consideration in the House of any bill which provides new spending authority unless that bill also provides that such new spending authority is to be available only to the extent provided in appropriations acts.

The Chair would point out that while section 401 has the force and effect of law, section 904 of the Congressional Budget Act clearly recites that all of the provisions of title IV, including section 401, were enacted as an exercise of the rulemaking power of the House, to be considered as part of the rules of the House, with full recognition of the constitutional right of each House to change such rules at any time to the same extent as in the case of any other rule of the House. House Resolution 5, 94th Congress, adopted all these provisions of the Budget Act as part of the rules of the House for this Congress. . . .

12. Carl Albert (Okla.).

The Chair, therefore, overrules the point of order.

Amending Rules

§ 6.4 The House agreed to a resolution amending the rules of the House to permit the Delegate from Alaska to serve on an additional committee.

On Aug. 2, 1949,[13] the House, by unanimous consent, considered and agreed to the following resolution (H. Res. 294):

Resolved, That rule XII of the Standing Rules of the House of Representatives is hereby amended to read as follows:

RULE XII

DELEGATES AND RESIDENT COMMISSIONERS

1. The Delegate from Hawaii and the Resident Commissioner of the United States from Puerto Rico shall be elected to serve as additional members on the Committees on Agriculture, Armed Services, and Public Lands, and the Delegate from Alaska shall be elected to serve as an additional member on the Committees on Agriculture, Armed Services, Merchant Marine and Fisheries, and Public Lands; and they shall possess in such committees the same powers and privileges as in the House, and may make any motion except to reconsider.

13. 95 CONG. REC. 10618, 81st Cong. 1st Sess.

Committee Investigations

§ 6.5 The Senate considered a resolution providing for the investigation by a Senate committee of charges made in the press concerning the bribery of candidates for public office.

On Mar. 8, 1960,[14] there was considered in the Senate the following resolution (S. Res. 285):

Resolved, That the Committee on Rules and Administration, or any duly authorized subcommittee thereof, is authorized and directed under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of the charges, with a view to determine the truth or falsity thereof, which have recently appeared in the public press that certain persons have sought, through corruptly offering various favors, privileges, and other inducements (including large sums of money), to induce certain individuals to lend their political support to one political party rather than to another, or to become candidates of one political party rather than of another, and that the offers made by such persons have in fact corruptly induced certain of such individuals to change their political affiliations or to lend their political support to one political party rather than to another.

14. 106 CONG. REC. 4899, 86th Cong. 2d Sess.

Sec. 2. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1961.

Sec. 3. For the purpose of this resolution, the committee, from the date on which this resolution is agreed to, to January 31, 1961, inclusive, is authorized (1) to make such expenditures as it deems advisable, and (2) to employ on a temporary basis technical, clerical, and other assistants and consultants.

§ 6.6 The House agreed to a resolution directing a committee to investigate whether a subpena issued by a court or grand jury purporting to command a Member to appear and testify invades the rights and privileges of the House.

On Nov. 10, 1941,[15] Mr. Hamilton Fish, of New York, rose to a question of personal privilege, and sent to the desk a subpena which had been served on him, asking that it be read by the Clerk. When the subpena had been read, Mr. Fish submitted, as a matter of privilege of the House, the issue of compliance with the subpena.

MR. FISH: Mr. Speaker,[16] I have been summoned to appear before the District grand jury to give testimony next Wednesday morning. The subpena has just been read by the Clerk. Under the precedents of the House, I find that I am unable to comply with this summons without the consent of the House, the privilege of the House being involved. I therefore submit the matter for the consideration of this body.

Mr. John W. McCormack, of Massachusetts, addressed the House concerning the significance of the matter Mr. Fish had brought to the attention of the House, and following his remarks, included below, introduced, as a question of the privilege of the House, House Resolution 335, which the House then considered and agreed to:

MR. MCCORMACK: Mr. Speaker, the gentleman from New York raises a fundamental question, which is very important to the House to have correct information and advice upon before proceeding. The matter concerns the integrity of the House itself whether or not an individual Member can be summoned under the circumstances disclosed in the case of the gentleman from New York [Mr. Fish] and if he cannot, if he can waive his constitutional privileges as a Member.

This resolution does not pass upon the merits or the demerits of the grand jury proceedings. In offering the resolution I am about to offer, it is not a question of reflection on the grand jury or the Department of Justice or the judicial branch of the Government, but it involves a question of the integrity of the House.

15. 87 CONG. REC. 8734, 77th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

I offer the following resolution and ask for its immediate consideration.

The Clerk read as follows (H. Res. 335):

Whereas Hamilton Fish, a Member of this House from the State of New York, has been summoned to appear as a witness before the grand jury of a United States Court for the District of Columbia to testify; and

Whereas the service of such a process upon a Member of this House during his attendance while the Congress is in session might deprive the district which he represents of this voice and vote; and

Whereas Article I, section 6, of the Constitution of the United States provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same . . . and for any speech or debate in either House, they (the Senators and Representatives) shall not be questioned in any other place"; and

Whereas it appears by reason of the action taken by the said grand jury that the rights and privileges of the House of Representatives may be infringed:

Resolved, That the Committee on the Judiciary of the House of Representatives is authorized and directed to investigate and consider whether the service of a subpena or any other process by a court or a grand jury purporting to command a Member of this House to appear and testify invades the rights and privileges of the House of Representatives. The committee shall report at any time on the matters herein committed to it, and that until the committee shall report Representative Hamilton Fish shall refrain from responding to the summons served upon him.[17]

§ 6.7 The House considered as a question of privilege, a resolution referring to the Committee on the Judiciary the question of whether subpenas served upon certain Members, former Members, and House employees in a civil suit invaded the rights and privileges of the House.

On Mar. 26, 1953,[18] the House considered and agreed to the following resolution (H. Res. 190):

Whereas Harold H. Velde, of Illinois; Donald L. Jackson, of California; Francis E. Walter, of Pennsylvania; Morgan M. Moulder, of Missouri; Clyde Doyle, of California; and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell and William Wheeler, employees of the House of Representatives, have been by subpenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953, in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson et al.* v. *Loew's Incorporated et al.*,

17. On Nov. 17, 1941, the Committee on the Judiciary, in relation to the above matter, filed a privileged report (H. Rept. 1415) which was referred to the House Calendar. 87 CONG. REC. 8933, 77th Cong. 1st Sess.

18. 99 CONG. REC. 2356–58, 83d Cong. 1st Sess.

an action pending in the Superior Court of the State of California in and for the County of Los Angeles; and

Whereas the complaint in the aforesaid case of *Michael Wilson et al.* v. *Loew's Incorporated et al.*, lists among the parties defendant therein John S. Wood, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Harold E. Velde, Barnard W. Kearney, Donald L. Jackson, Charles E. Potter, Louis J. Russell, and William Wheeler; and . . .

Whereas part V of said complaint contains an allegation that "on and prior to March 1951 and continuously thereafter defendants herein and each of them conspired together and agreed with each other to blacklist and to refuse employment to and exclude from employment in the motion-picture industry all employees and persons seeking employment in the motion-picture industry who had been or thereafter were subpenaed as witnesses before the Committee on Un-American Activities of the House of Representatives . . ."; and

Whereas article I, section 6, of the Constitution of the United States provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; . . . and for any speech or debate in either House, they (the Senators and Representatives) shall not be questioned in any other place"; and

Whereas the service of such process upon Members of this House during their attendance while the Congress is in session might deprive the district which each respectively represents of his voice and vote; and

Whereas the service of such subpenas and summons upon Members of the House of Representatives who are members of the duly constituted committee of the House of Representatives, and the service of such subpenas and summons upon employees of the House of Representatives serving on the staff of a duly constituted committee of the House of Representatives, will hamper and delay if not completely obstruct the work of such committee, its members, and its staff employees in their official capacities; and

Whereas it appears by reason of allegations made in the compliant in the said case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.*, and by reason of the said processes hereinbefore mentioned the rights and privileges of the House of Representatives may be infringed:

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized and directed to investigate and consider whether the service of the processes aforementioned purporting to command Members, former Members, and employees of this House to appear and testify invades the rights and privileges of the House of Representatives; and whether in the complaint of the aforementioned case of *Michael Wilson, et al.* v. *Loew's Incorporated et al.*, the allegations that Members, former Members, and employees of the House of Representatives acting in their official capacities as members of a committee of the said House conspired against the plaintiffs in such action to the detriment of such plaintiffs, and

any and all other allegations in the said complaint reflecting upon Members, former Members, and employees of this House and their actions in their representative and official capacities, invade the rights and privileges of the House of Representatives. The committee may report at any time on the matters herein committed to it, and until the committee shall report and the House shall grant its consent in the premises the aforementioned Members, former Members, and employees shall refrain from reponding to the subpenas or summons served upon them. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I think probably a few words in explanation of the resolution and the reason for its being here are in order at this time, in spite of the fact that the resolution for the most part speaks for itself.

By way of explanation, as most of us know, certain members of the House Committee on Un-American Activities and employees of that committee are presently in the State of California conducting certain investigations as a part of their operation as a standing committee of the House of Representatives. They are there in their official capacity as members of the committee and employees of the committee, and as Members of the House of Representatives and employees of the House of Representatives. They are there, furthermore, by direction of the House of Representatives, and they are there on official business as evidenced by the action taken in the House yesterday excusing them from attendance here by reason of their performance of official duties in California at this time.

The suit that has been filed in the State courts of California arises out of certain alleged conduct, or activities, or operations, of the House Committee on Un-American Activities of the 82d Congress. Enough has been included in the resolution, I think, to indicate the nature of the suit which is, as I understand, one for damages asserted against certain corporations and private individuals, and likewise against Members of the House of Representatives and employees of the House of Representatives, admittedly by the provisions of the complaint itself involving them in the conduct of their official duty.

If you noted the reading of the resolution it is clear that the privileges of the House are infringed by this action. The purpose of this resolution is to avoid the immediate effect of the action sought to be taken in California and at the same time to direct the Judiciary Committee of the House of Representatives to make a thorough study and investigation of the whole matter and report to the House of Representatives with respect to it and other matters of like character that may arise in the future.

I have spoken of the fact that the complaint recognizes the official character of the conduct and actions of Members of the House of Representatives and the employees of the committee. The Constitution provides that, as recited in the resolution:

> They—

Referring to the Senators and Representatives—

> shall in all cases except treason, felony, and breach of the peace be privileged from arrest during their attendance on the session of their respective Houses, and in going to and returning from the same.

It is further provided:

> That for any speech or debate in either House they—

Referring to the Senators and Representatives—

> shall not be questioned in any other place.

Through the years that language has been construed to mean more than the speech or statement made here within the four walls of the House of Representatives; it has been construed to include the conduct of Members and their statements in connection with their activities as Members of the House of Representatives. As a result, it seems clear to me that under the provisions of the Constitution itself the adoption of the resolution which was presented is certainly in order.

Let us assume that any regular standing committee of the House of Representatives should conduct a hearing and any one of us were there as a Member of the House in his official capacity. Let us further assume that this Member saw fit to elicit certain information from a witness by questions and as a result of that questioning the witness, employed by someone, subsequently lost his job. Is the Member of the House of Representatives to be held accountable and haled into court on a suit for damages for his participation in the operations of that committee as a member of the committee and as Members of the House of Representatives? To me it seems clear that no such action can be taken under the Constitution.

Furthermore, this committee that is presently in California is there on official business for the House of Representatives and as a part of the House of Representatives of the Congress of the United States. Everyone recognizes the investigatory process as a part of the legislative process. So, under the rules creating the committee and under long established precedents, the members of that committee and their employees are there operating and acting as an arm of the House of Representatives.

To me it seems very clear that if a civil suit for damages can be filed and summonses served on Members of the House of Representatives who are there present, followed by subpenas requiring them to attend and give testimony as witnesses on deposition, as is pointed out in this resolution, then the work of the committee could be completely obstructed, since conceivably the questioning of the Members of the House of Representatives who are presently there would be carried on interminably, and the work of the committee stopped.

Consideration of Concurrent Resolutions

§ 6.8 The consideration of a House concurrent resolution which is not otherwise privileged may be provided for by a resolution from the Committee on Rules.

On Oct. 5, 1962,[19] the House considered the following resolution (H. Res. 827) from the Committee on Rules providing for the

19. 108 CONG. REC. 22618, 87th Cong. 2d Sess.

consideration of House Concurrent Resolution 570:

SENSE OF CONGRESS WITH RESPECT TO BERLIN

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 827 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 the consideration of the concurrent resolution (H. Con. Res. 570) expressing the sense of the Congress with respect to the situation in Berlin. After general debate, which shall be confined to the concurrent resolution, 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 Foreign Affairs, the concurrent resolution shall be considered as having been read for amendment. No amendment shall be in order to said concurrent resolution except amendments offered by the direction of the Committee on Foreign Affairs and such amendments shall not be subject to amendment. At the conclusion of the consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the concurrent resolution and amendments thereto, to final passage without intervening motion except one motion to recommit with or without instructions.

Rescinding Resolution Previously Adopted

§ 6.9 By resolution, the House rescinded a previously adopted resolution whereby a bill had been referred to the Court of Claims for report.

On Apr. 30, 1957,[20] the House considered by unanimous consent and passed the following resolution (H. Res. 241):

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.

Requesting Conference

§ 6.10 The House considered a resolution taking a House joint resolution with Senate amendments thereto from the Speaker's table, disagreeing to the Senate amendments, and requesting a conference.

On Oct. 31, 1939,[21] the House considered the following resolu-

20. 103 CONG. REC. 6159, 85th Cong. 1st Sess.

21. 85 CONG. REC. 1092, 76th Cong. 2d Sess.

tion (H. Res. 320) reported from the Committee on Rules:

> *Resolved,* That immediately upon the adoption of this resolution, the joint resolution (H.J. Res. 306), the Neutrality Act of 1939, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table to the end that the amendments of the Senate be, and the same are hereby, disagreed to and a conference is requested with the Senate on the disagreeing votes of the two Houses.

Providing a Standing Order of Business

§ 6.11 The Senate agreed to a resolution providing that the Presiding Officer shall temporarily suspend business at 12 noon, on days when the Senate has remained in session from the preceding calendar day, to allow the Chaplain to give the customary daily prayer.

On Feb. 29, 1960[22] the Senate considered and agreed to the following resolution (S. Res. 283):

> *Resolved,* That during the sessions of the Senate when that body is in continuous session, the Presiding Officer shall temporarily suspend the business of the Senate at noon each day for the purpose of having the customary daily prayer by the Chaplain of the Senate.

22. 106 CONG. REC. 3709, 86th Cong. 2d Sess.

Distribution of Senate Film Report

§ 6.12 The Senate agreed to a resolution providing for the designation and distribution of a documentary film prepared by a Senate committee as a "Senate Film Report."

On Oct. 2, 1963,[1] the Senate agreed to the following resolution (S. Res. 208):

> *Resolved,* That the film report on water pollution, entitled "Troubled Waters," prepared by the Committee on Public Works, shall be designated as Senate Film Report numbered 1, Eighty-eighth Congress, and that there be printed seven additional copies of such film, five for the use of that committee, and two for the Library of Congress. The Secretary of the Senate is authorized and directed to pay, from the contingent funds of the Senate, the actual cost of reproduction of these copies of the film: *Provided,* That copies of said film may be made available to nongovernmental agencies or individuals at the cost of reproduction.

Response to Subpena

§ 6.13 By resolution the House may authorize certain Members to respond to a subpena issued by a federal district court in a contempt case.

On Feb. 23, 1948,[2] the House considered and agreed to the fol-

1. 109 CONG. REC. 18541, 88th Cong. 1st Sess.
2. 94 CONG. REC. 1557, 80th Cong. 2d Sess.

lowing privileged resolution (H. Res. 477):

> Whereas Representatives John S. Wood, J. Hardin Peterson, John R. Murdock, and Gerald W. Landis, Members of this House, have been subpenaed to appear as witnesses before the District Court of the United States for the District of Columbia to testify at 10 a.m. on the 24th day of February 1948, in the case of the *United States* v. *Richard Morford,* Criminal No. 366–47; and
>
> Whereas by the privileges of the House no Member is authorized to appear and testify but by the order of the House: Therefore be it
>
> *Resolved,* That Representatives John S. Wood, J. Hardin Peterson, John R. Murdock, and Gerald W. Landis are authorized to appear in response to the subpenas of the District Court of the United States for the District of Columbia in the case of the *United States* v. *Richard Morford* at such time as when the House is not sitting in session; and be it further
>
> *Resolved,* That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpenas of the said court.

§ 6.14 The House may by resolution authorize certain of its officers to appear before a grand jury in response to a subpena duces tecum and permit the court to take copies of certain papers.

On May 25, 1953,[3] the House considered and agreed to privileged resolutions (H. Res. 245 and H. Res. 246) permitting its Clerk and its Sergeant at Arms to appear before a federal grand jury. The resolution pertaining to the Clerk was as follows:

> Whereas in re investigation of possible violation of title 18, United States Code, section 1001, a subpena duces tecum was issued by the United States District Court for the District of Columbia and addressed to Lyle Snader, Clerk of the House of Representatives, directing him to appear before the grand jury of said court on Thursday, the 28th day of May 1953, at 9:15 o'clock antemeridian to testify and to bring with him certain forms, papers, and records in the possession and under the control of the House of Representatives: Therefore be it
>
> *Resolved,* That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further
>
> *Resolved,* That when it appears by the order of the court or of the judge thereof or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or be-

3. 99 CONG. REC. 5523, 5524, 83d Cong. 1st Sess.

The resolution (H. Res. 246) allowing the Sergeant at Arms to respond was identical in terms to that for the Clerk.

fore any judge or such legal officer, for the promotion of justice, this House will take such order thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That Lyle O. Snader, Clerk of the House, be authorized to appear at the place and before the grand jury of the court named in the subpena duces tecum before-mentioned, but shall not take with him any papers, documents, or records on file in his office or under his control or in his possession as Clerk of the House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers, documents, and records called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceedings and then always at any place under the orders and control of this House and take copies of any papers, documents, or records and the Clerk is authorized to supply certified copies of such papers, documents, or records in possession or control of said Clerk that the court has found to be material and relevant, so as, however, the possession of said papers, documents, and records by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena duces tecum aforementioned.

§ 6.15 The House agreed to a resolution authorizing the Committee on the Judiciary to file appearances and provide for the defense of certain Members, former Members, and House employees in a civil action.

On Aug. 1, 1953,[4] the House considered and agreed to the following privileged resolution (H. Res. 386):

Whereas Harold H. Velde, of Illinois, Donald L. Jackson, of California, Morgan M. Moulder, of Missouri, Clyde Doyle, of California, and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell, and William Wheeler, employees of the House of Representatives, were by subpenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953 in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson, et al.* v. *Loew's, Incorporated, et al.,* an action pending in the Superior Court of California in and for the County of Los Angeles; and

Whereas the complaint in the aforesaid case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* lists among the parties defendant therein Harold H. Velde, Bernard W. Kearney, Donald L. Jackson, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, and James B. Frazier, members of the Committee on Un-American Activities; John S. Wood, and Charles E. Potter, former members of the Committee on Un-

4. 99 CONG. REC. 10949, 10950, 83d Cong. 1st Sess.

American Activities; and Louis J. Russell, and William Wheeler, employees of the Committee on Un-American Activities; and

Whereas summonses in the aforesaid case of *Michael Wilson et al.* v. *Loew's Incorporated, et al.* were served on Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell and William Wheeler while they were in the city of Los Angeles, Calif., actively engaged in the performance of their duties and obligations as members and employees of the Committee on Un-American Activities; and

Whereas Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler appeared specially in the case of Michael Wilson, et al. versus Loew's Incorporated, et al., for the purpose of moving to set aside the service of summonses and to quash the subpenas with which they had been served; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles ruled that the aforesaid summonses served upon Harold H. Velde, Morgan M. Moulder, James B. Frazier, Jr., and Louis J. Russell should be set aside for the reasons that it was the public policy of the State of California "that nonresident members and attaches of a congressional committee who enter the territorial jurisdiction of its courts for the controlling purpose of conducting legislative hearings pursuant to law should be privileged from the service of process in civil litigation"; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles also ruled that the subpenas served upon Harold H. Velde, Morgan M. Moulder, James B. Frazier, Jr., and Louis J. Russell should be recalled and quashed for the reason set forth above, and for the further reasons that such service was premature and that such service was invalid under article I, section 6, of the Constitution of the United States which provides: "They (the Senators and Representatives) shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; . . . and for any speech or debate in either House, they shall not be questioned in any other place"; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles further ruled that the subpenas served on Clyde Doyle and Donald Jackson should be recalled and quashed because such service was invalid under the aforementioned article I, section 6, of the Constitution of the United States; and

Whereas the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* in which the aforementioned Members, former Members, and employees of the House of Representatives are named parties defendant is still pending; and

Whereas the summonses with respect to Donald L. Jackson, Clyde Doyle, and William Wheeler in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.*, have not been quashed:

Resolved, That the House of Representatives hereby approves of the

special appearances of Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler theretofore entered in the case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.,* and be it further

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized to direct the filing in the case of Michael Wilson, et al. v. Loew's Incorporated, et al. of such special or general appearances on behalf of any of the Members, former Members, or employees of the House of Representatives named as defendants therein, and to direct such other or further action with respect to the aforementioned defendants in such manner as will, in the judgment of the Committee on the Judiciary, be consistent with the rights and privileges of the House of Representatives; and be it further Resolved, That the Committee on the Judiciary is also authorized and directed to arrange for the defense of the Members, former Members, and employees of the Committee on Un-American Activities in any suit hereafter brought against such Members, former Members, and employees, or any one or more of them growing out of the actions of such Members, former Members, and employees while performing such duties and obligations imposed upon them by the laws of the Congress and the rules and resolutions of the House of Representatives. The Committee on the Judiciary is authorized to incur all expenses necessary for the purposes hereof, including but not limited to expenses of travel and subsistence, employment of counsel and other persons to assist the committee or subcommittee, and if deemed advisable by the committee or subcommittee, to employ counsel to represent any and all of the Members, former Members, and employees of the Committee on Un-American Activities who may be named as parties defendant in any such action or actions; and such expenses shall be paid from the contingent fund of the House of Representatives on vouchers authorized by the Committee on the Judiciary and signed by the chairman thereof and approved by the Committee on House Administration.

§ 6.16 The House may by resolution authorize a Member to respond to a subpena requiring him to appear before a state court.

On July 9, 1954,[5] the House considered the following privileged resolution (H. Res. 640):

Whereas James A. Haley, a Representative in the Congress of the United States, has been served with a subpena to appear as a witness before the circuit court of the State of Florida for Sarasota County to testify at 10 o'clock a.m., on the 3d day of August 1954, in the case of the *County of Sarasota, Florida* v. *State of Florida and the Taxpayers, Etc.,* and

Whereas by the privileges of the House of Representatives no Member is authorized to appear and testify but by the order of the House: Therefore be it

Resolved, That Representative James A. Haley is authorized to appear in re-

5. 100 CONG. REC. 10904, 83d Cong. 2d Sess.

sponse to the subpena of the Circuit Court of the State of Florida for Sarasota County on Tuesday, August 3, 1954, in the case of the *County of Sarasota, Florida,* v. *State of Florida and the Taxpayers, Etc.;* and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpena of the said court.

§ 6.17 The House considered a resolution relating to a subpena duces tecum served on the House dispersing clerk by a U.S. District Court, authorizing him to appear in the court and permitting the court through its agents to take copies of papers in possession of the clerk.

On Feb. 7, 1955,[6] the House considered and agreed to the following privileged resolution (H. Res. 132):

Whereas in the case of *Bettie M. Bacon* v. *The United States* (No. 2384–53, civil docket) pending in the District Court of the United States for the District of Columbia, a subpena duces tecum was issued by the said court and addressed to Harry M. Livingston, disbursing clerk of the House of Representatives, directing him to appear as a witness before the said court on the 8th day of February 1955, at 1:30 post meridian and to bring with him certain and sundry papers in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court of judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice, or before any judge or such legal officer, for the promotion of justice, this House will take such order thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That Harry M. Livingston, disbursing clerk of the House, be authorized to appear at the place and before the court named in the subpena duces tecum before-mentioned, but shall not take with him any papers or documents on file in his office or under his control or in possession of the Clerk of the House; be it further

Resolved, That when said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding and then always at any place under the orders and control of

6. 101 CONG. REC. 1215, 84th Cong. 1st Sess.

this House and take copies of any documents or papers and the Clerk is authorized to supply certified copies of such documents and papers in possession or control of said Clerk that the court has found to be material and relevant, except minutes and transcripts of executive sessions, and any evidence of witnesses in respect thereto which the court or other proper officer thereof shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk; and be it further

Resolved, That copy of these resolutions be transmitted to the said court as a respectful answer to the subpena aforementioned.

Expressing Sympathy

§ 6.18 The Senate agreed to a resolution wishing a speedy recovery to the wife of a Colombian official who was confined to a hospital while visiting the United States with her husband.

On June 25, 1962,[7] the Senate considered and agreed to the following resolution (S. Res. 355):

Whereas the newly elected President of Colombia, the Honorable Guillermo Valencia, is now a visitor to the United States; and

Whereas Mr. Valencia has served with distinction for 20 consecutive years as a Senator in his country, from which position His Excellency was elected President, both of which facts Members of the United States Senate have taken due and appreciative notice; and

Whereas the gracious wife and companion of President-elect Valencia is now hospitalized in the United States: Be it

Resolved, That the Senate sends to Mrs. Valencia greetings and welcome, and best wishes for early recovery; and be it further

Resolved, That a bouquet of American roses be purchased from the contingent fund of the Senate and be taken by special courier to Mrs. Valencia, as a token of the Senate's esteem for her, for her distinguished husband, and for the people of Colombia.

§ 7. Resolutions of Approval or Disapproval of Executive Plans; the "Legislative Veto"

Congress has, from time to time, provided procedures whereby it has by statute reserved to itself the right to disapprove certain executive actions. These procedures envision some form of congressional action on a simple or concurrent resolution of disapproval or approval.[8] This prac-

7. 108 CONG. REC. 11653, 87th Cong. 2d Sess.

8. Resolutions of approval or disapproval fall into three categories: those in which the resolution must be acted upon by either or both Houses and which are privileged for consideration; those in which the