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APPEALS

Any ruling by the Chair in response to a point of order made by a Senator is subject to an appeal. If no appeal is taken, the ruling of the Chair stands as the judgment of the Senate and becomes a precedent for the guidance of the Senate in the future.

Any Senator, may take an appeal from a ruling of the Chair, and when this occurs the question is stated, "Shall the decision of the Chair stand as the judgment of the Senate?" Unless the Chair is supported by a majority vote of the Senate, the decision of the Chair is overruled. This decision of the Senate becomes a precedent for the Senate to follow in its future procedure until altered or reversed by a subsequent decision of the Chair or by a vote of the Senate.

Responses by the Chair to parliamentary inquiries are not decisions by the Chair and not subject to appeal. They are precedents of lower probative value than are rulings of the Chair or votes of the Senate on an appeal (or on a point of order submitted to the Senate for its decision). Despite the fact that they carry less weight than these other classes of precedents, they do express the opinion of the Chair and guide the Senate in the absence of a stronger precedent to the contrary.

Rule XVII, Paragraph 1

[Committee Jurisdiction—Appeals From References]

Except as provided in paragraph 3, in any case in which a controversy arises as to the jurisdiction of any committee with respect to any proposed legislation, the question of jurisdiction shall be decided by the Presiding Officer, without debate, in favor of the committee which has jurisdiction over the subject matter which predominates in such proposed legislation; but such decision shall be subject to an appeal.

Rule XIX, Paragraph 4

[Appeal on Calling a Senator to Order]

If any Senator, in speaking or otherwise, in the opinion of the Presiding Officer transgress the rules of the Senate the Presiding Officer shall, either on his own motion or at the request of any other Senator, call him to order; and when a Senator shall be called to order he shall take his seat, and may not proceed without leave of the Senate, which, if granted, shall be upon motion that he be allowed to proceed in order, which motion shall be determined without debate. Any Senator directed by the Presiding Officer to take his seat, and any Senator requesting the Presiding Officer to require a Senator to

take his seat, may appeal from the ruling of the Chair, which appeal shall be open to debate.

Rule XX, Paragraphs 1 and 2

[Appeal From the Ruling of the Chair on Points of Order]

1. A question of order may be raised at any stage of the proceedings, except when the Senate is voting or ascertaining the presence of a quorum, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate, subject to an appeal to the Senate. When an appeal is taken, any subsequent question of order which may arise before the decision of such appeal shall be decided by the Presiding Officer without debate; and every appeal therefrom shall be decided at once, and without debate; and any appeal may be laid on the table without prejudice to the pending proposition, and thereupon shall be held as affirming the decision of the Presiding Officer.

2. The Presiding Officer may submit any question of order for the decision of the Senate.

Rule XXII, Paragraph 2

[Appeals Under Cloture Rule]

* * * Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

Appeal Dies:

An appeal from the decision of the Chair dies when the question over which the appeal was taken is terminated or falls, as would be the case if the Senate adjourned after a ruling from which an appeal had been taken, involving a motion to consider a bill, since such a motion dies with an adjournment.[1]

Appeals in Order:

Decisions of the Chair are subject to appeal and by a majority vote the Senate may reverse or overrule any decision by the Chair.[2]

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[1] Dec. 6 and 7, 1876, 44-2, *Record*, pp. 64, 75, 91; *see also* May 13, 1964, 88-2, *Record*, pp. 10783-94; May 14, 1964, 88-2, *Record*, pp. 10926-31, 10936-37.

[2] Rule XX; Feb. 27, 1929, 70-2, *Journal*, p. 235; Mar. 6, 1939, 74-1, *Journal*, p. 169, *Record*, p. 3028; Aug. 4, 1949, 81-1, *Journal*, pp. 617-618, *Record*, pp. 10742-67; July 27, 1949, 81-1, *Journal*, pp. 583-85, *Record*, pp. 10262-78; Mar. 10, 1949, 81-1, *Journal*, pp. 152-155, 158, *Record*, pp. 2125-31, 2214-75; May 27, 1948, 80-2, *Journal*, pp. 369, 370, *Record*, pp. 6552-61; May 4 and 5, 1948, 80-2, *Journal*, pp. 292-93, 295, *Record*, pp. 5219-39, 5293-94; July 3, 1947, 80-1, *Journal*, p. 430, *Record*, pp. 8423-30; Mar. 24, 1944, 78-2,

Continued

The right to appeal a ruling of the Chair is a basic right and only in the most extraordinary circumstances would it be held dilatory.[3]

This fundamental right of a Senator to appeal a ruling of the Chair was stated again under the following circumstances: when the Chair declined to entertain a point of order made during a roll call vote and initially declined to entertain an appeal from that ruling, the Chair corrected itself and stated that "the right to appeal is a most valuable right and is not to be abridged except in the most extraordinary circumstances.[4]

The appeal must be taken before other business intervenes.[5]

An appeal from a decision of the Chair will not lie where business has intervened.[6]

An appeal from a decision of the Chair will not lie as long as the Senator in possession of the floor refuses to yield.[7]

Appeals Not in Order:

Appeals cannot be taken: (1) from an opinion expressed by the Chair in response to a parliamentary inquiry; [8] (2) from a decision of the Chair as to recognition of Senators; [9] (3) or from a ruling that a Senator, who having declined to yield, could not be taken from the floor by a parliamentary inquiry; [10] or (4) from the action of the Chair in submitting a point of order to the Senate for its decision thereon.[11]

An appeal from a decision of the Chair is not in order after business has intervened.[12]

Record, pp. 3037-49; Dec. 4, 1942, 77-2, *Record*, p. 9335; May 13, 1964, 88-2, *Record*, pp. 10783-94; May 14, 1964, 88-2, *Record*, pp. 10926-31, 10936-37; *see also* Mar. 9, 1971, 92-1, *Record*, pp. 5485-87; Sept. 16, 1961, 87-1, *Record*, pp. 19857-59; Sept. 18, 1961, 87-1, *Record*, pp. 20018-20; Jan. 28, 1964, 88-2, *Record*, pp. 1267-68.

[3] Feb. 9, 1982, 97-2, *Record*, pp. 1176-77.

[4] May 13, 1987, 100-1, *Record*, pp. S 6346-55.

[5] July 28, 1916, 64-1, *Record*, pp. 11748-50; Sept. 25, 1917, 65-1, *Record*, p. 7409; May 4 and 5, 1948, 80-2, *Record*, pp. 5219-25, 5233, 5283-94; July 3, 1947, 80-1, *Record*, p. 8255; June 1, 1914, 63-2, *Record*, pp. 9532-33; *see also* Sept. 18, 1961, 87-1, *Record*, pp. 20018-20.

[6] Apr. 30, 1894, 53-2, *Record*, p. 4247; *see also* Apr. 13, 1910, 61-2, *Record*, pp. 4608-10.

[7] July 24, 1947, 80-1, *Record*, pp. 9994, 9996-97, 10000.

[8] Feb. 24, 1927, 69-2, *Record*, pp. 4661-62; June 12, 1935, 74-1, *Journal*, p. 434, *Record*, p. 9128; Feb. 22, 1923, 67-4, *Record*, p. 4254; Oct. 14, 1978, 95-2, *Record*, pp. 37388-90; *see also* Jan. 24, 1938, 75-3, *Record*, p. 1000; Feb. 29, 1960, 86-2, *Record*, pp. 3796-99; Mar. 24, 1960, 86-2, *Record*, pp. 6469-71; Sept. 16, 1961, 87-1, *Record*, pp. 19857-59.

[9] Jan. 29, 1915, 63-2, *Record*, pp. 2577-78; Feb. 11, 1915, 63-3, *Record*, p. 3578.

[10] Feb. 22, 1923, 67-4, *Record*, p. 4254.

[11] Aug. 15, 1962, 87-2, *Record*, pp. 16633-34.

[12] June 1, 1953, 83-1, *Record*, p. 5820; June 1, 1914, 63-2, *Record*, pp. 9532-33.

An appeal will not lie as long as a Senator refuses to yield since he may not be interrupted or taken off the floor against his will.[13]

It is not in order in the absence of a quorum to take an appeal from the decision of the Chair.[14]

Cloture Procedure, Not Debatable:

See "Appeals, Debate of," pp. 724–726; "Appeals," p. 300.

Debate of:

See also "Appeals, Debate of," pp. 724–726; "Appeal, Under Unanimous Consent Agreement," p. 1328.

An appeal from the ruling of the Chair is debatable.[15] However, an appeal during a roll call vote is not debatable.[16]

Table:

See also "Appeals Relative to the Motion To Table," p. 1277.

An appeal having been taken, it is in order to move to lay the appeal on the table.[17]

Time for Consideration:

An appeal from a decision of the Chair is a privileged proposition, if taken before other business has intervened,[18] and while a motion to proceed to the consideration of an appeal (previously taken) is pending, a motion to proceed to the consideration of a bill is not in order.[19]

Vote on:

Under Senate practice, appeals from the decision of the Chair are determined by a majority vote, a quorum being present,[20] but a majority vote is required to sustain the decision of the Chair.[21]

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[13] July 24, 1947, 80–1, *Record*, pp. 9994, 9996–97, 10000; July 24, 1947, 80–1, *Record*, pp. 10007, 10128–29; *see also* July 26, 1947, 80–1, *Record*, pp. 10405–06.

[14] Aug. 20, 1894, 53–2, *Record*, p. 8620; July 15, 1890, 51–1, *Record*, p. 7291; July 23, 1890, 51–1, *Record*, p. 7612.

[15] Mar. 31, 1982, 97–2, *Record*, pp. 6167–70.

[16] May 13, 1987, 100–1, *Record*, p. S 6347.

[17] Nov. 17, 1942, 77–2, *Record*, pp. 8897–98.

[18] July 3, 1914, 63–2, *Record*, p. 11590.

[19] July 1, 1960, 86–2, *Record*, p. 15430.

[20] Sept. 18, 1961, 87–1, *Record*, pp. 20018–20.

[21] Sept. 19, 1986, 99–2, *Record*, p. 24908.

Withdrawal of:

An appeal cannot be withdrawn as a matter of right where the yeas and nays have been ordered; [22] but where the question propounded by a Senator in debate is held, on a point of order, to be a statement, an appeal from the decision of the Chair falls when the question is withdrawn.[23]

A Senator may withdraw his or her appeal if no action thereon has been taken, and denial of yeas and nays does not constitute action.[24]

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[22] July 26, 1962, 87-2, *Record*, pp. 14857-69; July 27, 1962, 87-2, *Record*, pp. 14892-93; *see also* Feb. 8, 1949, 80-1, *Record*, p. 978.

[23] June 12, 1935, 74-1, *Journal*, p. 434.

[24] Sept. 25, 1986, 99-2, *Record*, pp. 26137-38.