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Chapter 46

Recognition

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A. Introduction; Power of Recognition

§ 1. In General; Seeking Recognition

In order to address the House or to offer a motion or make an objection, a Member first must secure recognition from the Speaker or from the Chairman of the Committee of the Whole. Rule XVII clause 1; *Manual* § 945. Under the rule, the Chair has the power and discretion to determine who will be recognized and for what purpose. 2 Hinds §§ 1422–1424; generally, see § 2, infra. To determine a Member's claim to the floor, the Chair may ask for what purpose a Member rises and may grant recognition for the specific purpose indicated. *Manual* § 953.

Duty to Rise and Remain Standing

Members must seek recognition at the proper time in order to protect their rights to make points of order or to offer amendments. Deschler-Brown Ch 29 § 20.25. A Member must be on his feet and must address the Chair in order to be recognized and may not remain seated at the committee table while engaging in debate. Deschler-Brown Ch 29 §§ 8.4, 8.5. Although a Member controlling the floor in debate must remain standing, a Member who inadvertently seats himself and then immediately stands again before the Chair recognizes another Member may be permitted to retain control of the floor. Deschler-Brown Ch 29 § 33.22.

The mere placing of an amendment on the Clerk's desk does not bestow recognition. Deschler-Brown Ch 29 § 19.6. Where numerous amendments that might be offered to a bill have been left with the Clerk, the Chair may remind all Members seeking to offer amendments not only to stand but to seek recognition at the appropriate time. Deschler-Brown Ch 29 § 8.17. A Member recognized in support of an amendment may yield to another for a question or a brief statement, but the Member must remain standing in order to protect his right to the floor. Deschler-Brown Ch 29 § 29.8.

Form

The language used to obtain the floor and to grant recognition to Members follows a traditional format of long standing:

MEMBER: Mr. Speaker (or Mr. Chairman). . . .

> *Note:* This form of address is used whether the Member is seeking recognition to offer a proposition or interrupt a Member having the floor. 5 Hinds § 4979; 6 Cannon § 193. Such salutations as ''Gentlemen of the House'' or ''Ladies and gentlemen'' are not in order. 6 Cannon § 285. Where a woman is presiding, the term ''Madam

Speaker'' or ''Madam Chairman'' is used. 6 Cannon § 284.

SPEAKER (or CHAIRMAN): For what purpose does the gentleman (or gentlewoman) rise?

Note: This question enables the Chair to determine whether the Member proposes a matter that may be entitled to precedence or is otherwise in order under the rules of the House. 6 Cannon §§ 289–291.

MEMBER: I rise to offer a motion to _____ (*or raise other stated business*).

SPEAKER (or CHAIRMAN): The Chair recognizes the gentleman (or gentlewoman) from _____ (*Member's State*).

Recognition to Interrupt a Member

A Member who wishes to interrupt another who has the floor must obtain recognition from the Chair. Deschler-Brown Ch 29 § 8.2. However, in most cases, it is within the discretion of the Member occupying the floor to determine when and by whom he shall be interrupted. *Manual* §§ 364, 946. The interrupting Member is not entitled to the floor until recognized by the Chair, even though he may have been yielded time by the Member in charge of the time. Deschler-Brown Ch 29 § 29.2.

Cross References

Recognition is governed in specific instances and in specific parliamentary situations by practices covered fully elsewhere in this work; for example, AMENDMENTS; PREVIOUS QUESTION; REFER AND RECOMMIT; and RECONSIDERATION. For the Speaker's announced policy of conferring recognition for unanimous-consent requests for the consideration of certain measures, see UNANIMOUS-CONSENT AGREEMENTS.

§ 2. Power and Discretion of Chair

In Jefferson's time, the Speaker was required by House rule to recognize the Member who was ''first up.'' 2 Hinds § 1420. In case of doubt, there was an appeal from his recognition of a particular Member. 2 Hinds §§ 1429–1434. This practice was changed, beginning in 1879, when the House adopted a report asserting that ''discretion must be lodged with the presiding officer.'' The report alluded to the practice of listing those Members desiring to speak on a given proposition but indicated that the Chair should not be obligated to follow the order stipulated. Rather, the report recommended that the Chair be free to exercise ''a wise and just discretion in the interest of full and fair debate.'' 2 Hinds § 1424. Today rule XVII clause 2 gives the Chair the power and discretion to decide who shall be recognized, and his decision is no longer subject to appeal. *Manual* §§ 949,

953; 8 Cannon §§ 2429, 2646. There has been no appeal from a decision of the Speaker on a question of recognition since 1881. *Manual* § 356.

Of course, the recognition of particular Members often is governed by the rules and precedents pertaining to the order of business or by special rules from the Committee on Rules. See §§ 3, 4, infra. However, where matters of equal privilege are pending, the order of their consideration is subject to the Speaker's discretionary power of recognition. Deschler-Brown Ch 29 § 9.55. It follows that, when more than one Member seeks recognition to call up privileged business, it is within the discretion of the Speaker whom he shall recognize. Rule XVII clause 2; Deschler-Brown Ch 29 § 9.56.

Rule XIV clause 6, which provides that questions relating to the priority of business are to be decided by a majority without debate, may not be invoked to inhibit the Speaker's power of recognition. *Manual* § 884.

§ 3. Limitations; Bases for Denial

The Speaker's power of recognition is subject to limitations imposed by the rules, such as rule XVII clause 7 (prohibiting the Chair from recognizing a Member to draw attention to gallery occupants) and rule IV clauses 1 and 2 (restricting use of and admission to the Hall of the House). *Manual* §§ 677, 678, 966; Deschler-Brown Ch 29 § 11.10. The Chair's power of recognition also is governed by established practice and precedent, such as the long-standing tradition that a member of the committee reporting a bill is first recognized for motions to dispose of the bill (see § 11, infra) and the Speaker's announced policy of conferring recognition for unanimous-consent requests for the consideration of certain measures (see UNANIMOUS-CONSENT AGREEMENTS).

§ 4. Alternation in Recognition

In the House

Under the standing rules of the House, the Member reporting or calling up a measure is entitled to recognition for one hour, during which time he may yield to others. At the close of that hour, unless the previous question is moved, the ranking Member in opposition *may* be recognized for an hour with the same privilege of yielding. Thereafter, until the previous question is invoked, other Members favoring and opposing the measure are recognized alternately, preference again being given to members of the committee reporting the measure. *Manual* § 955; 8 Cannon § 2460.

Absent a special rule making party affiliation pertinent, the Chair alternates according to differences on the pending question rather than according to political affiliation. 2 Hinds § 1444. Where the special rule allots control

of time to ''the chairman and the ranking minority member of the committee'' (which is ordinarily the case in the modern practice) the term ''minority'' is construed to refer to the minority party in the House and not to those in the minority on the pending question. 7 Cannon § 767. However, a special rule that allots control of time to those for and against a proposition does not necessarily require a division between the majority and minority parties of the House but, rather, a division between those actually favoring and opposing the measure. 7 Cannon § 766. Rules found in provisions of law establishing procedures for overturning executive decisions normally provide for equal division of time for debate between those favoring and those opposing a proposition, without designating who should control the time. Therefore, it is within the discretion of the Chair to recognize a Member supporting and a Member opposing the measure. *Manual* § 1130; 7 Cannon § 785.

In Committee of the Whole

A similar alternation procedure is followed during general debate in the Committee of the Whole. The usual practice is for the Chair to alternate between those given control of debate time under a special order, usually the chairman and ranking minority member. 7 Cannon § 875; Deschler-Brown Ch 29 § 28.15.

It is the usual practice in the Committee of the Whole, during consideration of a measure under the five-minute rule, to alternate between majority and minority members, giving priority to members of the reporting committee in the order of seniority on the full committee. Deschler-Brown Ch 29 § 21.1. The Chair follows this principle whether recognizing Members to debate a pending amendment or to offer an amendment. Deschler-Brown Ch 29 § 13.9. Because the Chair normally has no knowledge whether specific Members oppose or support the pending proposition, the Chair cannot strictly alternate between both sides of the question. Deschler-Brown Ch 29 § 25.14. However, when an amendment is offered initially, rule XVIII clause 5 (the five-minute rule) contemplates that the five minutes allotted the proponent is followed by recognition of a Member in opposition to the amendment.

B. Right to Recognition; Priorities

§ 5. In General

Rule XVII clause 2 directs the Speaker to ''name the Member who is first to speak'' when two or more Members rise at once. The Speaker or

Chairman has the discretion to determine the order or sequence in which Members will be recognized in debate. *Manual* § 949; Deschler-Brown Ch 29 §§ 9.2, 12.1, 19.20. However, the Chair's determination of priorities is governed by many factors, such as whether the pending proposition has been reported by a committee, whether it is given priority or is privileged under the rules, and whether the rules and practices of the House dictate a priority in recognition. For example, in recognizing a Member for a motion to recommit (who must qualify as being opposed to the bill), the Speaker gives preference to the Minority Leader and then to minority members of the committee reporting the bill in order of their rank on the committee. Deschler Ch 23 § 27.18; generally, see REFER AND RECOMMIT.

§ 6. Priorities of Committee Members

Priority of Committee Members Over Nonmembers

Absent a special rule providing to the contrary, the members of the committee reporting a bill are entitled to priority in recognition over nonmembers for debate on the bill. *Manual* §§ 953, 955; 2 Hinds §§ 1438, 1448; 6 Cannon §§ 306, 307; § 14, infra. Members of the committee reporting a bill also have priority in recognition to make points of order against proposed amendments to the bill. Deschler-Brown Ch 29 § 13.3.

The practice of according priority to committee members is an ancient one, having been adapted from that of the English Parliament. It is reasoned that the members of the reporting committee—having worked for months, if not years, on the legislation—are naturally more familiar with its strengths and weaknesses. Deschler-Brown Ch 29 § 13.12. They are entitled to priority in recognition, even over the Member who introduced the bill. Deschler-Brown Ch 29 § 13.13. However, if the proposition has been brought directly before the House independently of a committee, the proponent may be entitled to priority in recognition for motions and debate. § 10, infra.

Recognition of Committee Chairmen

The chairman of the reporting committee usually has charge of the bill and is entitled at all stages to priority in recognition for allowable motions intended to expedite it. Deschler-Brown Ch 29 §§ 12.2, 24. If the chairman is opposed to the bill, however, he ordinarily yields priority in recognition to a member of his committee who favors the bill. 2 Hinds § 1449.

Priorities as Between Committee Members

Recognition is extended to committee members on the basis of their committee seniority, with the Chair alternating between members of the majority and the minority. Deschler-Brown Ch 29 § 13.25; § 4, supra. Where

opposition is relevant to recognition and no committee member rises in opposition to the measure, any Member may be recognized in opposition. 7 Cannon § 958.

Effect of Failure to Seek Recognition

Although members of the committee reporting a bill under consideration have preference in recognition, a member may lose such preference if he does not seek recognition in a timely manner. Deschler-Brown Ch 29 § 13.13. The Chair may recognize another on the basis that the committee member, though standing, is not actively seeking recognition. Deschler-Brown Ch 29 § 13.14.

§ 7. Right of Member in Control

Where a Member has been placed in charge of a bill by the reporting committee, or has been so designated by a special rule from the Committee on Rules, the Member named as manager is recognized to call up the measure. Rule XVII clause 3(a); Deschler-Brown Ch 29 § 27.1. Preference in recognition is accorded to the manager over other Members. Rule XVII clause 3(a); Deschler-Brown Ch 29 § 24.1. This priority in recognition of the Member in charge prevails in both the House and in the Committee of the Whole. Rule XVII clause 3(a); Deschler-Brown Ch 29 §§ 12.10, 14.3.

The Member in charge of the bill also is entitled at all stages to priority in recognition for allowable motions intended to expedite the bill, from the time of its first consideration to the time of consideration of Senate amendments and conference reports. 2 Hinds §§ 1451, 1452, 1457; 6 Cannon §§ 300, 301. For example, the Member who has been recognized to call up a measure in the House has priority in recognition to move the previous question thereon, even over the chairman of the committee reporting that measure. *Manual* § 953.

The fact that a Member has the floor on one matter does not necessarily entitle him to priority in recognition on a motion relating to another matter. 2 Hinds § 1464. Before the Member in charge has begun his remarks, a Member proposing a preferential motion is entitled to recognition. 5 Hinds §§ 5391–5395. However, once debate has begun, a Member may not deprive the Member in charge of the floor by offering a debatable motion of higher privilege than the pending motion. *Manual* § 953; 2 Hinds §§ 1460–1463; 6 Cannon §§ 297–299; 8 Cannon §§ 2454, 3183, 3193, 3197, 3259.

§ 8. Right to Open and Close General Debate

Generally

Rule XVII clause 3(a) provides that the Member reporting a measure from a committee is entitled to open and close general debate on that measure. *Manual* § 958. Otherwise, rule XVII clause 3(b) precludes a Member from speaking twice on the same question without leave of the House. *Manual* § 959. Under the modern practice, however, where a special order places the control of debate in a ''manager,'' or divides the time between the chairman and ranking minority member of the committee reporting the measure, those controlling the time may yield to other Members as often as they desire, and are not restricted by this rule. *Manual* § 959. The minority member controlling one-half of the time must consume it or yield it back before the closing of debate. Deschler-Brown Ch 29 § 24.19. A majority manager of the bill who represents the primary committee of jurisdiction is entitled to close general debate (in this case, as against another manager representing an additional committee of jurisdiction). *Manual* § 958.

The manager of a bill for purposes of closing general debate may be the chairman of the reporting committee or a designated majority member of that committee. Deschler-Brown Ch 29 §§ 7.3, 7.4.

The right of the manager to open and close general debate under rule XVII clause 3 is recognized in both the House and the Committee of the Whole. Deschler-Brown Ch 29 § 7.4.

Rights of Proponents

The manager of a bill in control of the time, and not its proponent, is ordinarily entitled to close general debate. Deschler-Brown Ch 29 § 7.4. Where existing law provides that general debate in the Committee of the Whole on a joint resolution shall be equally divided and controlled by proponents and opponents, a proponent has the right to open and close general debate. 99–1, Apr. 23, 1985, p 8964. Where a joint resolution having no ''sponsor'' and having not been referred to a committee was made in order by a special rule, its proponent was recognized to open and close general debate, there being no other ''manager'' of the pending resolution. 99–2, Apr. 16, 1986, pp 7611, 7629.

§ 9. — To Close Debate on Amendments

Recognition of Manager of Bill for Motion to Close Debate

In the Committee of the Whole, the Member managing the bill is entitled to priority in recognition to move to close debate on a pending amend-

ment over other Members who desire to debate the amendment or to offer amendments thereto. Deschler-Brown Ch 29 § 78.9.

Recognition of Manager of Bill for Closing Controlled Debate on an Amendment

Under rule XVII clause 3(c), a manager of a bill or other representative of the committee in opposition to, and not the proponent of, an amendment has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule in Committee of the Whole, including a minority manager. This principle prevails, even where the manager of the bill is the proponent of a pending amendment to the amendment. *Manual* § 959.

The Chair will assume that the manager of a measure controlling time in opposition to an amendment is representing the committee of jurisdiction, even where the measure called up is unreported, where an unreported compromise text is made in order as original text in lieu of committee amendments or where the committee reported the measure without recommendation. Where the pending text includes a provision recommended by a committee of sequential referral, a member of that committee is entitled to close debate against an amendment thereto. Where the rule providing for the consideration of an unreported measure designates managers who do not serve on a committee of jurisdiction, those managers are entitled to close controlled debate against an amendment thereto. The majority manager of the bill may be recognized to control time in opposition to an amendment thereto, without regard to the party affiliation of the proponent, where the special order allocates control to ''a Member opposed.'' The right to close debate in opposition to an amendment devolves to a member of the committee of jurisdiction who derived debate time by unanimous consent from a manager who originally had the right to close debate. The proponent of a first-degree amendment who controls time in opposition to a second-degree amendment that favors the original bill over the first-degree amendment does not qualify as a ''manager'' within the meaning of rule XVII clause 3(c) in opposing. *Manual* § 959.

Recognition of Proponent of Amendment

Under certain circumstances, the proponent of an amendment may close debate where he is not opposed by a manager. For example, the proponent may close debate where neither a committee representative nor a Member assigned a managerial role by the governing special order opposes the amendment. Where a committee representative is allocated control of time in opposition to an amendment, not by recognition from the Chair but by

a unanimous-consent request of a third Member who was allocated the time by the Chair, then the committee representative is not entitled to close debate as against the proponent. Similarly, the proponent of the amendment may close debate where no representative from the reporting committee opposes an amendment to a multijurisdictional bill; where the measure is unreported and has no ''manager'' under the terms of a special rule; or where a measure is being managed by a single reporting committee and the Member controlling time in opposition, though a member of a committee having jurisdiction over the amendment, does not represent the reporting committee. *Manual* § 959.

C. Recognition on Particular Questions

§ 10. In General; As to Bills

Under a practice of long standing, special rules give control of general debate in the House or in the Committee of the Whole to the chairman and ranking minority member of the reporting committee(s), and recognition is extended accordingly. In the absence of the chairman and ranking minority member designated by the rule, the Chair recognizes the next ranking majority and minority members for control of such debate, who may either be informally designated during a temporary absence upon informing the Chair or who may be formally designated by unanimous consent for the remainder of the debate. Deschler-Brown Ch 29 § 9.4. If, on the other hand, the proposition has been brought directly before the House independently of a committee, the proponent who calls up the measure is entitled to priority in recognition for motions and debate. 2 Hinds §§ 1446, 1454; 8 Cannon § 2454.

For a discussion of recognition to offer amendments, see AMENDMENTS. For a discussion of recognition for parliamentary inquiries and points of order, see POINTS OF ORDER andPARLIAMENTARY INQUIRIES.

Discharged Bills

If a bill has not been reported from committee, but is before the House pursuant to a motion to discharge, the proponents of that motion are entitled to priority in recognition for the purpose of managing the bill. Deschler-Brown Ch 29 § 27.5. For a discussion of recognition of Members for debate on the motion, see rule XV clause 2; *Manual* § 892; DISCHARGING MEASURES FROM COMMITTEES. In recognizing a Member to control time for debate in opposition to a discharged bill, the Chair recognizes the chairman of the committee having jurisdiction of the subject matter if he is opposed. Deschler-Brown Ch 29 § 25.16.

Measures Called Up by Unanimous Consent

Where a measure is called up in the House pursuant to a unanimous-consent agreement, the Member calling up the bill is recognized for one hour, and amendments may not be offered by other Members unless he yields for that purpose or unless a motion for the previous question is rejected. Deschler-Brown Ch 29 § 24.24. By contrast, a measure called up in the House as in the Committee of the Whole is considered under the five-minute rule.

For the Speaker's policy of conferring recognition for unanimous-consent requests for the consideration of certain measures, see UNANIMOUS-CONSENT AGREEMENTS and COMMITTEES OF THE WHOLE.

§ 11. For Motions

As noted in section 7, supra, the Member in charge of a bill is entitled at all stages to priority in recognition for allowable motions intended to expedite the bill, subject to a determination by the Chair that another Member has a motion of higher precedence. Thus, where one Member moves a call of the House, and another Member immediately moves to adjourn, the Chair will recognize the latter because the motion to adjourn is of higher privilege. 8 Cannon § 2642. If a preferential motion is debatable, a Member must offer it before the other Member has begun debate. This is so because a Member may not, by attempting to offer a preferential motion, deprive another Member, who has begun his remarks, of the floor. 8 Cannon § 3197.

A Member may lose his right to the floor if he neglects to claim it before another Member with a preferential motion has been recognized. 2 Hinds § 1435. A Member desiring to offer a motion must actively seek recognition from the Chair before another motion to dispose of the pending question has been adopted. The fact that the Member may have been standing at that time is not sufficient to secure recognition. Deschler-Brown Ch 29 § 8.19. Moreover, the mere offer of a motion does not confer recognition. Where another Member has shown due diligence, he may be recognized. Deschler-Brown Ch 29 § 23.2.

For treatment of recognition to offer particular kinds of motions, see PREVIOUS QUESTION, SUSPENSION OF RULES, UNANIMOUS-CONSENT AGREEMENTS, and other chapters dealing with specific motions.

§ 12. Of Opposition After Rejection of Motion

Generally

Where an essential motion by the Member in charge of a measure is defeated, the right to priority in recognition passes to a Member opposed, as determined by the Speaker. *Manual* § 954; 2 Hinds §§ 1465–1468; Deschler-Brown Ch 29 § 15.6. Thus, where a motion for the previous question is rejected on a pending resolution, the Chair recognizes the Member he perceives to have led the opposition to that motion. 6 Cannon § 308; Deschler-Brown Ch 29 § 15.11. Recognition of that Member is not precluded by the fact that was previously recognized and offered an amendment that was ruled out on a point of order. 91–1, Jan. 3, 1969, p 27.

The principle that the defeat of an essential motion offered by the Member in charge causes recognition to pass to the opposition is applicable in the following instances:

- House rejects a motion to lay an adversely reported resolution of inquiry on the table. Deschler-Brown Ch 29 § 15.3.
- House rejects a motion for the previous question on a resolution reported from the Committee on Rules. Deschler-Brown Ch 29 § 15.14.
- House rejects a motion for the previous question on a resolution relating to the seating of a Member-elect. Deschler-Brown Ch 29 § 15.15.
- House rejects a motion for the previous question on a resolution to discipline a Member of the House. 6 Cannon § 236.
- House rejects a motion for the previous question on a resolution providing for adoption of rules. 6 Cannon § 308.
- House rejects a motion for the previous question on a motion to recommit. 107–2, Feb. 27, 2002, p ____.
- House rejects a motion to dispose of a Senate amendment reported from conference in disagreement. *Manual* § 954. (Recognition passes to opposition for disposition of that Senate amendment only.)
- Committee of the Whole reports a bill adversely. 4 Hinds § 4897; 8 Cannon § 2430.
- Committee of the Whole reports a bill with the recommendation that the enacting clause be stricken. 8 Cannon § 2629.

The principle that recognition passes to a Member of the opposition is applicable upon defeat of an *essential* motion by the Member in charge of the bill. A motion to postpone consideration to a day certain is not an essential motion whose defeat requires recognition to pass to a Member opposed. Deschler-Brown Ch 29 § 15.2. The mere defeat of an amendment proposed by the Member in charge does not always cause the right to priority in recognition to pass to the opponents. 2 Hinds § 1478. In any case, the recogni-

tion for a motion by a Member in opposition may be preempted by a motion of higher precedence. *Manual* § 954.

Effect of Rejection of Motion for Previous Question on Conference Report or Rejection of Conference Report

The right to priority in recognition ordinarily passes to a Member of the opposition when the House refuses to order the previous question on a conference report, because control passes to the opposition upon rejection of the motion for the previous question. 2 Hinds §§ 1473, 1474; 5 Hinds § 6396. However, the invalidation of a conference report on a point of order, although equivalent to its rejection by the House, does not give the Member raising the question of order the right to the floor and exerts no effect on the right to recognition. 6 Cannon § 313; 8 Cannon § 3284. Rejection of a conference report after the previous question has been ordered thereon does not cause recognition to pass to a Member opposed to the report, and the manager retains control to offer the initial motion to dispose of amendments in disagreement. *Manual* § 954; 2 Hinds 1477.

§ 13. As to Special Rules

Calling Up Special Rules

Recognition to call up special rules—that is, order-of-business resolutions from the Committee on Rules—may be sought pursuant to the provisions of rule XIII clause 6(d). *Manual* § 861. Ordinarily, only a member of the Committee on Rules designated to call up a special rule from the committee may be recognized for that purpose. Deschler-Brown Ch 29 § 18.13. Where a special rule has been reported by the committee and has not been called up within the seven legislative days specified by clause 6(d), recognition to call it up may be extended to any member of that committee, including a minority member. Deschler-Brown Ch 29 § 18.13. The Member calling up the resolution must have announced his intention one calendar day before seeking recognition. See *Manual* § 861. Because calling up such a resolution is privileged, the Speaker would be obliged to recognize for this purpose unless another matter of equal privilege was proposed, in which case the order of consideration would be determined pursuant to the Speaker's discretionary power to grant recognition. Deschler-Brown Ch 29 § 9.55.

Recognition for Debate

A Member recognized to call up a special rule or resolution by direction of the Committee on Rules controls one hour of debate thereon and may offer one or more amendments thereto. Deschler-Brown Ch 29 § 24.26. He need not have the specific authorization of the committee to offer an

amendment. *Manual* § 858. He is recognized for a full hour, notwithstanding the fact that he previously has called up the resolution and withdrawn it after debate. Deschler-Brown Ch 29 § 18.17. Other Members may be recognized only if yielded time. Deschler-Brown Ch 29 § 29.23. The resolution is not subject to amendment from the floor by another Member unless the Member in charge yields for that purpose or the House rejects a motion for the previous question. 6 Cannon § 309; Deschler-Brown Ch 29 § 30.5.

Ordinarily the manager's amendments are voted on after debate and after the previous question is ordered on the amendments and on the resolution. 101–2, Sept. 25, 1990, p 25575.

§ 14. Under the Five-Minute Rule

Generally; Effect of Special Rule

Recognition of Members to offer amendments in the Committee of the Whole under the five-minute rule is within the discretion of the Chair and cannot be challenged on a point of order. Deschler-Brown Ch 29 § 9.6. The Chair does not anticipate the order in which amendments may be offered nor does he declare in advance the order in which he will recognize Members proposing amendments. Deschler-Brown Ch 29 § 21.3. The Chair endeavors to alternate recognition to offer amendments between majority and minority Members (giving priority to committee members). *Manual* § 980. Of course, if a special rule reported from the Committee on Rules specifies those Members who are to control debate, the Chair will extend recognition accordingly. However, where the special rule merely *makes in order* the consideration of a particular amendment, it does not confer a privileged status on the amendment and does not, absent legislative history establishing a contrary intent by the Committee on Rules, alter the principle that recognition to offer an amendment under the five-minute rule is within the discretion of the Chairman of the Committee of the Whole. 95–2, May 23, 1978, p 15095. Under the modern practice, special orders often provide discretionary priority in recognition to Members who have preprinted their amendments in the *Congressional Record*. See, *e.g.*, 107–2, H. Res. 428, May 22, 2002, p ____. As to the effect of special rules on the control and distribution of debate time, see CONSIDERATION AND DEBATE.

Priority of Committee Members over Noncommittee Members

Committee amendments to a pending section are considered before the Chair entertains amendments from the floor. Deschler Ch 27 §§ 26.1–26.3. When entertaining amendments from the floor during the five-minute rule, the Chair follows certain guidelines as a matter of long-standing custom.

Among them is that recognition is first accorded to members of the committee reporting the bill over Members of the House who are not on that committee. Deschler-Brown Ch 29 § 21.1. Thus, the Chair normally will recognize a member of a committee reporting a bill to offer a substitute for an amendment before recognizing a noncommittee member, although that committee member may have been recognized separately to debate the original amendment. Deschler-Brown Ch 29 § 13.20. Members of the committee reporting a pending bill are entitled to priority in recognition over noncommittee members, without regard to their party affiliation. Thus the Chair may accord priority in recognition to minority members of the reporting committee over majority noncommittee members to offer amendments. Deschler-Brown Ch 29 § 13.11.

Priorities as Between Committee Members

In bestowing recognition under the five-minute rule, the Chair gives preference to the chairman and ranking minority member of the committee reporting the bill under consideration. Deschler-Brown Ch 29 § 12.12. Thereafter, the Chair endeavors to alternate between majority party and minority party members of the reporting committee. *Manual* § 981. Priority in recognition to offer amendments is extended to members of the full committee reporting the bill, and the Chair does not accord priority in recognition to members of the subcommittee that considered the bill over other members of the full committee. Deschler-Brown Ch 29 § 13.6. However, in five-minute debate on appropriation bills the Chair may, in his discretion, recognize members of the subcommittee handling the bill first, and then recognize members of the full Committee. Deschler-Brown Ch 29 § 12.8.

In recognizing Members to offer amendments under the five-minute rule, the Chair normally recognizes members of the committee handling the bill in the order of their seniority on the committee. Deschler-Brown Ch 29 § 12.3. However, recognition under the five-minute rule remains within the discretion of the Chair, and on rare occasions he has recognized a junior member of the committee reporting the bill. Deschler-Brown Ch 29 § 21.8.

§ 15. — Under Limited Five-Minute Debate

The House, by unanimous consent, may agree to limit or extend debate under the five-minute rule in the Committee of the Whole, whether or not that debate has commenced. In the Committee of the Whole, debate under the five-minute rule may be limited by the Committee by unanimous consent or, after preliminary debate, by motion. See CONSIDERATION AND DEBATE. When such a limitation has been agreed to, the general rules of rec-

ognition applied under the five-minute rule are considered abrogated. Deschler-Brown Ch 29 § 22.14. Decisions regarding recognition during the remaining time, a division of time not having been ordered as part of the limitation, are largely within the discretion of the Chair. Deschler-Brown Ch 29 § 22.15. He may, in his discretion, either (1) permit continued debate under the five-minute rule, (2) allocate the remaining time among those desiring to speak, or (3) divide the time between a proponent and an opponent to be yielded by them (which has become the prevailing practice). *Manual* § 987. The order in which the Chair recognizes Members desiring to speak also is subject to his discretion. He may take into account such factors as their committee status, whether they have amendments at the desk, and their seniority. Deschler-Brown Ch 29 § 22.12. In exercising these discretionary powers, the Chair may:

- Announce that he will attempt to divide the time equally among those Members standing at the time the limitation is imposed and then, if time remains, recognize other Members seeking recognition. Deschler-Brown Ch 29 § 22.13.
- Divide the time equally among all those Members who were on their feet seeking recognition, whether or not they have previously spoken to the question. Deschler-Brown Ch 29 § 22.9.
- Recognize Members wishing to offer amendments and those opposed to the amendments. Deschler-Brown Ch 29 § 22.15.
- Divide the time between the majority and minority managers of the bill. Deschler-Brown Ch 29 § 79.71.
- Allocate time on an amendment between the proponent and an opponent thereof, to be yielded by them. Deschler-Brown Ch 29 § 24.29.
- Recognize first those Members wishing to offer amendments after having equally divided the time among all Members desiring to speak. *Manual* § 987.
- Recognize during remaining time those Members who have a desire to speak, and then Members who have not spoken to the amendment or Members who were recognized for less than five minutes under the limitation of time. Deschler-Brown Ch 29 § 25.10.
- Allocate the remaining time in three equal parts—to the offeror of an amendment, to the offeror of an amendment to the amendment, and to the floor manager of the bill. Deschler-Brown Ch 29 § 79.78.
- Continue to recognize Members under the five-minute rule (usually where the time remaining for debate is fixed at a longer period, such as an hour and a half, and is subject to any subsequent limitations on time ordered on separate amendments when offered). Deschler-Brown Ch 29 §§ 79.32, 79.46.

- Continue to recognize Members under the five-minute rule but subsequently divide any remaining debate time among those Members standing and reserve some time for the committee to conclude debate. Deschler-Brown Ch 29 § 79.125.
- Reallocate remaining time, after intial allocation, among Members who have not spoken or proceed again under the five-minute rule. Deschler-Brown Ch 29 § 22.43.

§ 16. As to House–Senate Conferences

Recognition to Seek a Conference

A motion to send a measure to conference is authorized by rule XXII clause 1. *Manual* § 1070; see CONFERENCES BETWEEN THE HOUSES. The motion is in order if the appropriate committee has authorized the motion and the Speaker in his discretion recognizes for that purpose. Deschler-Brown Ch 29 § 17.1. The Speaker will not recognize for the motion where he has referred the Senate amendment in question to the House committee or committees with jurisdiction and they have not yet had the opportunity to consider the amendment. *Manual* § 1070.

Recognition for debate and control of debate time on the motion, see CONFERENCES BETWEEN THE HOUSES.

Motions to Instruct Conferees

Recognition to offer a motion to instruct House conferees on a measure initially being sent to conference is the prerogative of the minority. The Speaker recognizes the ranking minority member of the committee reporting the bill if that member seeks recognition to offer the motion after the request or motion to go to conference is agreed to and before the Speaker's appointment of conferees. Deschler-Brown Ch 33 § 11.1. Where two minority members of the committee that has reported a bill seek recognition to offer a motion to instruct conferees pending their appointment by the Speaker, the Chair will recognize the senior minority member of that committee. *Manual* § 541.

If a motion for the previous question is voted down on a motion to instruct the managers on the part of the House, the motion is open to amendment and the Speaker may recognize a Member opposed to ordering the previous question to control the time and offer an amendment. Deschler Ch 23 § 23.7.

Recognition for debate and control of debate time on a motion to instruct, see CONFERENCES BETWEEN THE HOUSES.

Calling Up Conference Reports

A conference report normally is called up for consideration in the House by the senior majority manager on the part of the House at the conference, and he may be recognized to do so, even though he did not sign the report and in fact was opposed to it. Deschler-Brown Ch 29 § 17.7. If the senior House conferee cannot be present on the floor to call up the report, the Speaker may recognize a junior majority member of the conference committee. Deschler-Brown Ch 29 § 27.6. The Speaker also may extend recognition to call up the report to the conferee who is chairman or ranking majority member of a committee with jurisdiction. 6 Cannon § 301; Deschler-Brown Ch 29 § 27.7. Where a conference consists of conferees appointed from more than one committee, the conference report may be called up by the chairman of a committee that was not the primary committee in the House. 97–2, Dec. 21, 1982, pp 33299, 33300.

Recognition to dispose of amendments between the Houses or for debate thereon, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.