

mous consent that all Members have 5 legislative days in which to revise and extend. . . .

MR. [BURT L.] TALCOTT [of California]: Mr. Chairman, I object.

THE CHAIRMAN: That request is properly made in the House and not in Committee of the Whole. Objection is not necessary.⁽¹³⁾

Expungement of Objectionable Words

§ 3.2 A motion to expunge words from the Congressional Record is not in order in the Committee of the Whole.

On Feb. 18, 1941,⁽¹⁴⁾ Chairman Warren G. Magnuson, of Washington, stated that the House, not the Committee of the Whole, determines whether to expunge words which have been objected to by a Member in the Committee.⁽¹⁵⁾

13. Although general leave to print may be granted only by the House, a Member, by unanimous consent, may be given leave to extend his remarks in the Committee of the Whole. 5 Hinds' Precedents §§ 7009, 7010 and 8 Cannon's Precedents § 3488. See also Ch. 5, *supra*.
14. 87 CONG. REC. 1126, 77th Cong. 1st Sess.
15. Compare 5 Hinds' Precedents § 6987 for a holding that while the Committee of the Whole does not control the Record, the Chairman, in the preservation of order, may direct the exclusion of disorderly words spoken

MR. [CLARE E.] HOFFMAN [of Michigan]: All we ask in this case is what we do not expect to get, that you stick by the rules of the game you established last year. That is not too much to expect if we adhere to the agreement of last year. This would give us in Michigan the Representative to which we are entitled. But we know what you are going to do. You know what is going to happen. You are going to skin us, are you not? And we have no way to prevent it.

MR. [ROBERT F.] RICH [of Pennsylvania]: I demand that the gentleman's words be taken down.

THE CHAIRMAN: . . . The Clerk will read the words objected to.

The Clerk read as follows:

You know what is going to happen. You are going to skin us, are you not; and we have not any way to

MR. RICH: Mr. Chairman, I ask that those words be expunged from the Record. They are not going to skin anybody around here.

THE CHAIRMAN: That is a matter for the House to decide. The Committee will rise.

Parliamentarian's Note: The words could have been withdrawn by unanimous consent, but not by motion.

§ 4. Resolving Into Committee of the Whole

The House may resolve into the Committee of the Whole pursuant

by a Member after he has been called to order.

to a standing rule, a resolution (i.e., a special rule from the Committee on Rules)⁽¹⁶⁾ or on motion.⁽¹⁷⁾ The House automatically

16. § 4.1, *infra*. See 4 Hinds' Precedents § 3214, and 7 Hinds' Precedents §§ 783, 794 for earlier precedents on resolving into the Committee of the Whole pursuant to special order.

17. Rule XVI clause 9, *House Rules and Manual* § 802 (1979), permits a motion to resolve into the Committee of the Whole to consider bills raising revenue or general appropriation bills anytime after the Journal is read.

Prior to the amendment to Rule XI clause 4(a) [*House Rules and Manual* § 726 (1979)] effective Jan. 3, 1975 (H. Res. 988, 93d Cong. 2d Sess., 120 CONG. REC. 34469, 34470), to eliminate the authority of the Committee on Ways and Means to report as privileged bills raising revenue, the motion to resolve into the Committee of the Whole to consider a general appropriation bill were of equal privilege (4 Hinds' Precedents §§ 3075, 3076). However, the privileged nature of the motion under Rule XVI clause 9 with respect to revenue bills was derived from and was dependent upon the former privilege conferred upon the Committee on Ways and Means under Rule XI clause 4(a) to report revenue measures to the House at any time (4 Hinds' Precedents § 3076).

Rule XXIV clause 5, *House Rules and Manual* § 891 (1979), permits entertainment of a motion to resolve into the Committee of the Whole after one hour of consideration of

resolves into the Committee of the Whole in certain situations.⁽¹⁸⁾ Thus, when a bill on the Union Calendar is called up at the proper time on Calendar Wednesday, the House automatically resolves into the Committee of the Whole.

(1) And when a Union Calendar

bills from committees. See 4 Hinds' Precedents §§ 3072 et seq. and 6 Cannon's Precedents §§ 716 et seq. for earlier precedents relating to timeliness of the motion to resolve into the Committee of the Whole for consideration of revenue or general appropriation measures, and Jefferson's manual, *House Rules and Manual* § 328 (1979), for the form of a motion to resolve into the Committee of the Whole.

Although it is the usual practice to designate the subject to be considered, the House on occasion has resolved into the Committee without designating a specific subject. See 8 Cannon's Precedents § 2318.

The motion to go into the Committee of the Whole is in order on District Mondays. *House Rules and Manual* § 802 (1979); 6 Cannon's Precedents §§ 716–718; and 7 Cannon's Precedents §§ 876, 1123.

18. See § 4.8, *infra*, for discussion of resolving into Committee after a ruling by the Speaker on words taken down in Committee; and see § 10.9, *infra*, for a discussion of procedure in the House after rejecting a recommendation of the Committee to strike the enacting clause.

1. *House Rules and Manual* § 898 (1979); 7 Cannon's Precedents § 939.

bill is the unfinished business on Calendar Wednesday the Speaker declares the House in Committee of the Whole without motion.⁽²⁾

The motion to resolve into the Committee of the Whole is neither debatable⁽³⁾ nor amendable;⁽⁴⁾ it may not be laid on the table or indefinitely postponed,⁽⁵⁾ and the previous question may not be demanded on it.⁽⁶⁾

The motion to resolve into the Committee of the Whole is listed seventh in the daily order of business, but the motion is usually given more preferential status by the adoption of a special order reported from the Committee on Rules providing for the consideration of a bill "upon adoption of this resolution."⁽⁷⁾

Resolving Pursuant to Resolution

§ 4.1 Where the House adopts a resolution providing for the

2. *House Rules and Manual* §898 (1979); 7 Cannon's Precedents §§940, 942.
3. *House Rules and Manual* §802 (1979); 4 Hinds' Precedents §3078; and 6 Cannon's Precedents §716.
4. *House Rules and Manual* §802 (1979); and §725.
5. *House Rules and Manual* §802 (1979); 6 Cannon's Precedents §726.
6. *House Rules and Manual* §802 (1979); 4 Hinds' Precedents §§3077-3079.
7. Rule XXIV clause 1, *House Rules and Manual* §878 (1979).

immediate consideration of a measure in Committee of the Whole, the House resolves itself into Committee without a motion being made from the floor.

On Mar. 17, 1970,⁽⁸⁾ the House resolved itself into the Committee of the Whole without a motion from the floor after adoption of a resolution providing for consideration of a measure in the Committee:

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

The Clerk read the resolution, as follows:

H. RES. 874

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the

8. 116 CONG. REC. 7690, 7691, 91st Cong. 2d Sess. See also 118 CONG. REC. 28829, 28834, 92d Cong. 2d Sess., Aug. 17, 1972, for another illustration.

conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

THE SPEAKER:⁽⁹⁾ The gentleman from California (Mr. Sisk) is recognized for 1 hour. . . .

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE SPEAKER: Pursuant to House Resolution 874, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 858) to amend the Agricultural Adjustment Act of 1938 with respect to wheat.

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

Recognition for Motions to Resolve Provided for by Resolution

§ 4.2 The recognition by the Speaker of a designated Member to move that the House resolve into the Committee of the Whole to consider a particular bill may be provided for by resolution.

9. John W. McCormack (Mass.).

On Sept. 27, 1965,⁽¹⁰⁾ after the House agreed to a motion discharging a resolution from the Committee on Rules, Speaker John W. McCormack, of Massachusetts, recognized a Member who had been designated by the resolution to move that the House resolve itself into the Committee of the Whole for consideration of H. R. 4644, the District of Columbia home rule bill:

THE SPEAKER: The Clerk will report the resolution. [H. Res. 515].

The Clerk read as follows:

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

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

10. 111 CONG. REC. 25185-87, 89th Cong. 1st Sess.

Mr. [Howard W.] SMITH of Virginia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were yeas 223, nays 179, not voting 30.

So the resolution was agreed to. . . .

THE SPEAKER: . . . The Chair recognizes the gentleman from New York [Mr. Multer].

MR. [ABRAHAM J.] MULTER: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4644) to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

Speaker's Discretion in Recognize for Motions to Resolve

§ 4.3 Where two bills remain undisposed of by the Committee of the Whole, the Speaker, by recognizing for motions to resolve into the Committee for further consideration of those bills, determines in his discretion the order of consideration of that unfinished business, subject to the will of the House as manifested by the vote on the motion.

On Nov. 2, 1971,⁽¹¹⁾ Speaker Carl Albert, of Oklahoma, indi-

11. 117 CONG. REC. 38693, 92d Cong. 1st Sess.

cated that the Chair has discretion to determine the order of consideration of unfinished business by recognizing for motions to resolve into the Committee of the Whole:

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HÉBERT: As I understand the situation as of now, and as related to tomorrow, our understanding is that a continuation of consideration of the bill H.R. 2 will be the first order of business when the House meets tomorrow?

THE SPEAKER: Not under the program, the Chair will answer. There are two unfinished matters pending before the House. One is the Higher Education Act, which has been the unfinished business for several days. It is a matter of discretion of the Chair, and the Chair would like to discuss this matter with all parties concerned.

MR. HÉBERT: I hope the Chair will, because it was my understanding this would be the first order of business tomorrow. That was the reason the committee rose, in deference to the wishes of the Chair.

THE SPEAKER: The Chair will take that up with parties concerned.

Effect of Refusal to Resolve

§ 4.4 Although the House may have agreed that an appropriation bill is to take precedence over other legislation, the House may reach the leg-

isolation of lesser privilege by rejecting the motion to resolve into the Committee of the Whole to consider the appropriation bill.

On May 9, 1950,⁽¹²⁾ during consideration of H.R. 7786, the general appropriations bill, 1951, Speaker pro tempore John W. McCormack, of Massachusetts, indicated that the House could reach legislation of lesser privilege by rejecting the motion that the House resolve itself into the Committee of the Whole on the appropriations bill.

The House had previously agreed by unanimous consent that consideration of the appropriations bill would take precedence over all business except conference reports. However, Mr. Clare E. Hoffman, of Michigan, sought prior consideration of a resolution disapproving of a reorganization plan.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7786) making appropriations for the support of the Government for the fiscal year ending June 30, 1951, and for other purposes.

MR. HOFFMAN of Michigan: Mr. Speaker, I make the point of order that

the House is not proceeding in the regular order because under section 205a of the Reorganization Act, which is Public Law 109 of the Eighty-first Congress, first session, any Member of the House is privileged, and this is a highly privileged motion, to make the motion that the House proceed to the consideration of House Resolution 516.

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

THE SPEAKER PRO TEMPORE: That is the resolution disapproving one of the reorganization plans?

MR. HOFFMAN of Michigan: That is right, House Resolution 516 disapproving plan No. 12. . . .

THE SPEAKER PRO TEMPORE: Does the gentleman from Texas desire to be heard on the point of order?

MR. MAHON: Mr. Speaker, on April 5, 1950, as shown at page 4835 of the daily Record of that day, the chairman of the Committee on Appropriations, the gentleman from Missouri [Mr. Cannon] asked and received unanimous consent that the appropriation bill should have the right-of-way over other privileged business under the rules until disposition, with the exception of conference reports. Therefore, I believe the regular order would be to proceed with the further consideration of H.R. 7786.

Mr. Speaker, I believe that the Record would speak for itself. . . .

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, may I be heard on the point of order?

12. 96 CONG. REC. 6720-24, 81st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE: The Chair will hear the gentleman.

MR. RANKIN: I was going to say that if this is of the highest constitutional privilege it comes ahead of the present legislation.

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

The question involved is not a constitutional question but one relating to the rules of the House and to the Legislative Reorganization Act of 1949 which has been alluded to by the gentleman from Michigan and other Members when addressing the Chair on this point of order. The Chair calls attention to the language of paragraph (b) of section 201 of title II of the Reorganization Act of 1949 which reads as follows: "with full recognition of the constitutional right of either House to change such rules so far as relating to procedure in such House at any time in the same manner and to the same extent as in the case of any other rule of such House."

It is very plain from that language that the intent of Congress was to recognize the reservation to each House of certain inherent powers which are necessary for either House to function to meet a particular situation or to carry out its will.

On April 5, the gentleman from Missouri [Mr. Cannon], chairman of the Committee on Appropriations, submitted a unanimous-consent request to the House, which was granted, which has the force of a rule, and which relates to the rules of the House governing the consideration of the omnibus appropriation bill while it is before the House and, of course, incidentally affecting other legislation. The consent

request submitted by the gentleman from Missouri was "that the general appropriation bill for the fiscal year 1951 have right-of-way over all other privileged business under the rules until disposition, with the exception of conference reports."

That request was granted by unanimous consent. On the next day the gentleman from Missouri [Mr. Cannon], in correcting and interpreting the consent request granted on April 5, submitted a further unanimous-consent request.

The daily Record shows, on page 4976, April 6, that the gentleman from Missouri [Mr. Cannon] said:

Mr. Speaker, on page 4835 of the daily Record of yesterday, the first column carrying the special order made by the House last night reads that the general appropriation bill shall be a special order privileged above all other business of the House under the rule until disposition. The order made was until final disposition. I ask unanimous consent that the Record and Journal be corrected to conform with the proceedings on the floor of the House yesterday.

The Record further shows that the Speaker put the request and there was no objection.

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

THE SPEAKER PRO TEMPORE: The Chair recognizes the gentleman.

MR. RANKIN: We for the first time this year have all the appropriations in one bill. Now, if they drag out consideration under the 5-minute rule beyond the 24th, would that not shut the Congress off entirely from voting on any of these recommendations? So we do have a constitutional right to consider these propositions without having them smothered in this way.

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

Continuing, the Chair will state that in the opinion of the present occupant, in view of the unanimous-consent request made by the gentleman from Missouri and granted by the House, if any member of the Appropriations Committee moves that the House resolve itself into the Committee of the Whole on the State of the Union to consider the appropriation bill, that motion has preference over any other preferential motion. It is a matter that the House decides when the motion is made as to what it wants to do and it has an opportunity when that motion is made to carry out its will. . . .

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. PRIEST: My parliamentary inquiry simply is this, that notwithstanding the question of recognition under the unanimous-consent request ordered by the House at the request of the gentleman from Missouri, the matter of consideration still is in the House, is it not? If the House refuses to go into the Committee of the Whole it still is a question for the House to decide; is that not correct?

THE SPEAKER PRO TEMPORE: Exactly, and the gentleman from Michigan or anyone else making the motion

could address the question to the Chair, which question the Chair would then have to pass upon.

Resolving to Consider Resolution of Disapproval

§ 4.5 A motion that the House resolve itself into a Committee of the Whole for the consideration of a resolution disapproving a reorganization plan is highly privileged and may be called up by any Member, and the Member is not required to qualify as being in favor of the resolution.

On June 8, 1961,⁽¹³⁾ Speaker pro tempore Oren Harris, of Arkansas, indicated that a motion, made pursuant to the Reorganization Act of 1949 [5 USC §912(a)], that the House resolve itself into the Committee of the Whole for consideration of a resolution (H. Res. 303) disapproving a reorganization plan was privileged.

MR. H. R. GROSS [of Iowa]: Mr. Speaker, is it in order and proper at this time to submit a highly privileged motion?

THE SPEAKER PRO TEMPORE: If the matter to which the gentleman refers is highly privileged, it would be in order.

13. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess. See also 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess., July 19, 1961.

MR. GROSS: Then, Mr. Speaker, under the provisions of section 205(a) Public Law 109, the Reorganization Act of 1949, I submit a motion. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: As I understand the parliamentary situation the motion would be to take up the resolution of rejection; is that correct?

THE SPEAKER PRO TEMPORE: The Chair would like to state that the motion has not yet been reported; but the Chair understands that the motion is for the House to go into Committee of the Whole House for the consideration of it.

MR. BROWN: If that should be defeated, of course, we would not have the resolution of rejection before us.

THE SPEAKER PRO TEMPORE: The gentleman is correct. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion offered by the gentleman from Iowa.

The Clerk read as follows:

Mr. Gross moves that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H. Res. 303 introduced by Mr. Monagan disapproving Reorganization Plan No. 2 transmitted to the Congress by the President on April 27, 1961.

THE SPEAKER PRO TEMPORE: . . . The question is on the motion offered by the gentleman from Iowa [Mr. Gross].

The motion was rejected.

§ 4.6 The rejection of a motion that the House resolve itself into the Committee of the Whole for the consideration of a disapproval resolution

does not preclude a subsequent motion to the same effect.

On June 8, 1961,⁽¹⁴⁾ Mr. H. R. Gross, of Iowa, submitted a motion that the House resolve into the Committee of the Whole to consider a resolution disapproving of a reorganization plan. Speaker pro tempore Oren Harris, of Arkansas, indicated that a subsequent motion that the House resolve itself into the Committee of the Whole for consideration of a resolution disapproving the same plan would not be precluded by the rejection of the pending motion.

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

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALLECK: As I understand, there is a motion pending to call up what is known as Reorganization Plan No. 2.

THE SPEAKER PRO TEMPORE: The Chair would state that the gentleman from Iowa indicated he would submit such a motion, but it has not been reported.

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

THE SPEAKER PRO TEMPORE: The gentleman will state it. . . .

MR. HALLECK: If the pending motion is voted down, would it still be in order

14. 107 CONG. REC. 9775-77, 87th Cong. 1st Sess.

at a subsequent date to call up a motion rejecting plan No. 2 for another vote? I ask that because I am opposed to plan No. 2. . . .

THE SPEAKER PRO TEMPORE: The opinion of the Chair, under the Reorganization Act, it could be called up at a subsequent date.⁽¹⁵⁾

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

THE SPEAKER PRO TEMPORE: The gentleman is correct.

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

THE SPEAKER PRO TEMPORE: The gentleman is correct.

After Motion to Discharge

§ 4.7 The House may resolve itself into the Committee of the Whole to consider a bill before the House as a result of a motion to discharge.

On Apr. 26, 1948,⁽¹⁶⁾ after agreeing to discharge H.R. 2245,

15. Under 5 USC §912(a), it is provided: "When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. . . ."

16. 94 CONG. REC. 4835, 4841, 4842, 80th Cong. 2d Sess.

to repeal the tax on oleomargarine from the Committee on Agriculture, the House agreed to resolve itself into the Committee of the Whole for consideration of that bill.

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, I call up the motion to discharge the Committee on Agriculture from the further consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine.

THE SPEAKER:⁽¹⁷⁾ Did the gentleman sign the petition?

MR. RIVERS: I did, Mr. Speaker.

THE SPEAKER: The gentleman qualifies.

The Clerk read the title of the bill.

After conclusion of the debate on the motion to discharge, the following proceedings occurred:

THE SPEAKER: All time has expired.

The question is, Shall the Committee on Agriculture be discharged from further consideration of the bill H.R. 2245?

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered. The question was taken; and there were—yeas 235, nays 121, answered "present" 2, not voting 72. . . .

THE SPEAKER: Without interfering with the rights of the gentleman from South Carolina to move to go into the Committee of the Whole,⁽¹⁸⁾ the Chair

17. Joseph W. Martin, Jr. (Mass.).

18. Rule XXVII clause 4, *House Rules and Manual* §908 (1979) provides:

will entertain consent requests for extensions of remarks only. . . .

MR. RIVERS: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2245) to repeal the tax on oleomargarine; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 3 hours, the time to be equally divided and controlled by the gentleman from Kansas [Mr. Hope] and myself.

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

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from South Carolina.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2245, with Mr. Arends in the chair.

Resolving After Ruling on Words Taken Down

§ 4.8 After the Speaker has ruled on words taken down

"If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege. . . .

in Committee, the House automatically again resolves into the Committee of the Whole.

On Mar. 26, 1965,⁽¹⁹⁾ during consideration of H.R. 2362, the elementary and secondary education bill of 1965, and after Speaker John W. McCormack, of Massachusetts, ruled on words taken down in the Committee of the Whole, Chairman Richard Bolling, of Missouri, indicated that a motion that the House resolve itself into the Committee was not necessary because that procedure is automatic.

The proceedings in the House were as follows:

THE SPEAKER: The Clerk will report the words objected to.

The Clerk read as follows:

I might suggest further you can beat this dog all you want for political purposes; you can demagog however subtly and try to scare people off at the expense of the Nation's schoolchildren with your demagoguery⁽²⁰⁾—

19. 111 CONG. REC. 6107, 89th Cong. 1st Sess. See also 111 CONG. REC. 18441, 89th Cong. 1st Sess., July 27, 1965, for another example of the automatic resolution into the Committee of the Whole following the Speaker's ruling on words taken down in the Committee. Generally, the procedure for taking down words in the Committee of the Whole is discussed at Ch. 29 §§ 48-62, *infra*.
20. The weight of authority now supports the view that allegations of a

THE SPEAKER: The Chair feels that Members in debate have reasonable flexibility in expressing their thoughts.

The Chair sees nothing about the words that contravene the rules of the House. The point of order is not sustained.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2362) with Mr. Bolling in the chair. . . .

THE CHAIRMAN: The gentleman from New Jersey [Mr. Thompson].

MR. [FRANK] THOMPSON [Jr.] of New Jersey: Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

MR. [ROBERT P.] GRIFFIN [of Michigan]: Mr. Chairman, I object.

There has been no motion to resolve the House into the Committee of the Whole House on the State of the Union. The gentleman is out of order at this point.

THE CHAIRMAN: The House automatically goes back into the Committee of the Whole.

The Chair recognizes the gentleman from New York [Mr. Powell].

Automatic Call of House on Motion to Resolve

§ 4.9 An automatic roll call was had on a motion to go into

Member's "demagoguery" do constitute disorderly language in debate. See Ch. 29, Consideration and Debate, §60, *infra*.

the Committee of the Whole to consider an appropriation bill after an intervening motion to adjourn was decided in the negative by division vote.

On Feb. 14, 1946,⁽²¹⁾ an automatic roll call was had on the motion to go into the Committee of the Whole to consider H.R. 5452, making appropriations for the Departments of the Treasury and the Post Office after rejection of a motion to adjourn.

MR. [LOUIS] LUDLOW [of Indiana]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5452) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1947, and for other purposes.

THE SPEAKER PRO TEMPORE:⁽²²⁾ The question is on the motion offered by the gentleman from Indiana.

The question was taken; and on a division (demanded by Mr. Cochran) there were—ayes 103, no 1.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: The Chair will count. [After counting.] One hundred and seventy-four Members present; not a quorum.

²¹. 92 CONG. REC. 1324, 79th Cong. 2d Sess.

²². John J. Sparkman (Ala.).

MR. [COMPTON I.] WHITE [of Idaho]: Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. White) there were—ayes 31, no 103.

So the motion was rejected.

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Indiana [Mr. Ludlow].

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 243, nays 16, not voting 171, as follows: . . .

Motion to Resolve as Related to Question of Consideration

§ 4.10 The question of consideration may not be raised against a motion to resolve into the Committee of the Whole for the consideration of a proposition.

On May 21, 1958,⁽²³⁾ Speaker Sam Rayburn, of Texas, ruled that the question of consideration could not be raised against the motion to resolve into the Committee of the Whole for the consideration of a bill, the motion to resolve being itself a test of the will of the House on consideration:

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

23. 104 CONG. REC. 9216, 85th Cong. 2d Sess.

THE SPEAKER: The gentleman may.

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

THE SPEAKER: The Chair tried to say a moment ago that it cannot be raised against the motion to go into the Committee of the Whole, because that is tantamount to consideration, and the House will have an opportunity to vote on that motion.

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

THE SPEAKER: That is correct.

Withdrawing Motion to Resolve

§ 4.11 A Member may withdraw his motion that the House resolve itself into the Committee of the Whole at any time before the motion is acted upon, and unanimous consent is not required.

On Mar. 17, 1971,⁽²⁴⁾ Speaker Carl Albert, of Oklahoma, stated that a motion that the House resolve itself into the Committee of the Whole could be withdrawn without House permission at any time before the motion is acted upon.

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I move that the House resolve itself into the Com-

24. 117 CONG. REC. 6847, 6848, 92d Cong. 1st Sess.

mittee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 223) proposing an amendment to the Constitution of the United States, extending the right to vote to citizens 18 years of age or older.

THE SPEAKER: The question is on the motion offered by the gentleman from New York.

For what purpose does the gentleman from Iowa rise?

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

THE SPEAKER: The gentleman will state it.

MR. GROSS: Is it proposed to take up this joint resolution at this hour?

THE SPEAKER: For general debate only.

MR. GROSS: Mr. Speaker, I intend to make a point of order that a quorum is not present.

MR. CELLER: Mr. Speaker, I withdraw the motion.

MR. GROSS: Mr. Speaker, does that not require unanimous consent?

THE SPEAKER: The gentleman has the authority of withdrawing his motion before it is acted upon by the House.

The gentleman has withdrawn his motion.

§ 4.12 The chairman of the committee, at the request of the Speaker, withdrew his motion to go into Committee of the Whole to consider a bill reported by his committee, in order that the House might consider emergency legislation reported by another committee.

On Dec. 9, 1970,⁽²⁵⁾ the Chairman of the Committee on Foreign Affairs, Thomas E. Morgan, of Pennsylvania, at the request of Speaker John W. McCormack, of Massachusetts, withdrew his motion that the House resolve itself into the Committee of the Whole. This motion was withdrawn to enable the House immediately to consider emergency railroad strike legislation reported by the Committee on Interstate and Foreign Commerce.

MR. MORGAN: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 19911) to amend the Foreign Assistance Act of 1961, and for other purposes. . . .

THE SPEAKER: Will the gentleman from Pennsylvania (Mr. Morgan) withdraw his motion for the consideration of the bill H.R. 19911.

MR. MORGAN: Mr. Speaker, I withdraw the motion to go into Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 19911. . . .

Mr. [William M.] Colmer [of Mississippi], from the Committee on Rules, reported the following privileged resolution (H. Res. 1300, Rept. No. 91-1687), which was referred to the House Calendar and ordered to be printed:

H. RES. 1300

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

25. 116 CONG. REC. 40688—91, 91st Cong. 2d Sess.

to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1413) to provide for a temporary prohibition of strikes or lockouts with respect to the current railway labor-management dispute.

. . .

MR. COLMER: Mr. Speaker, I call up House Resolution 1300 and ask for its immediate consideration.

THE SPEAKER: The Clerk will report the resolution.

Procedure of Motion to Resolve Over Motion to Discharge

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

On Apr. 2, 1938,⁽²⁶⁾ during consideration of S. 3331, regarding government reorganization, Speaker William B. Bankhead, of Alabama, ruled that a motion that the Committee of the Whole be discharged and that the bill be laid on the table is not preferential to a motion that the House resolve itself into the Com-

mittee of the Whole for consideration of a bill:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

THE SPEAKER: The gentleman from Missouri moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3331) to provide for reorganizing agencies of the Government, extending the classified civil service, establishing a General Auditing Office and a Department of Welfare, and for other purposes.

MR. [JOHN J.] O'CONNOR of New York: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from New York rise?

MR. O'CONNOR of New York: To offer a preferential motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

Mr. O'Connor of New York moves that the Committee of the Whole House on the state of the Union be discharged from further consideration of the bill S. 3331, and that said bill be laid on the table.

MR. [LINDSAY C.] WARREN [of North Carolina]: A point of order, Mr. Speaker.

26. 83 CONG. REC. 4621, 75th Cong. 3d Sess.

THE SPEAKER: The gentleman will state it.

MR. WARREN: Mr. Speaker, it is obvious, of course, even to the gentleman from New York, great parliamentarian that he is, that this motion is merely dilatory. The motion pending before the House is that the House resolve itself into the Committee of the Whole House on the state of the Union. This is the only motion now pending. A motion to lay the bill on the table when it is not even up for consideration is entirely out of order.

MR. O'CONNOR of New York: Mr. Speaker, under clause 4, rule XVI,⁽¹⁾ the motion I offer is a preferential motion. It must be made in the House, it cannot be made in the Committee of the Whole. A motion has been made to consider the bill. A motion to lay the bill on the table is preferential, I submit, according to the authorities I have examined and under the exact language of clause 4, rule XVI.

THE SPEAKER: The Chair is ready to rule.

The gentleman from New York [Mr. O'Connor] offers what he states is a preferential motion that the Com-

mittee of the Whole House on the state of the Union be discharged from consideration of the bill S. 3331, and said bill be laid on the table.

The Chair is of the opinion that under the rules of the House a motion of this sort is not a preferential motion, and therefore not in order. The matter now pending is a simple motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, and under the precedents a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of a bill is not a privileged motion.

The Chair sustains the point of order.

Parliamentarian's Note: Even if the motion had been a straight motion to lay on the table, it would not have been in order since the bill was not "under debate" and therefore not subject to motions under clause 4, Rule XVI.

B. THE CHAIRMAN

§ 5. Speaker's Appointment of Chairman

When the early rules of the House were first drafted, the Chairman of the Committee of the

Whole was elected by the House following the custom of the British Parliament. A 1794 modification altered the method of selection from election by the Members to appointment by the Speaker.⁽²⁾

1. *House Rules and Manual* §782 (1973).

2. Rule XXIII clause 1, *House Rules and Manual* §861 (1979); Jefferson's