

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

### § 31. Relative Precedence Among Privileged Matters

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

20. See also, for the relative precedence of privileged questions, Cannon's

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

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

On Sept. 22, 1966,<sup>(1)</sup> Speaker John W. McCormack, of Massachusetts, made the following statement on recognition, in response to a parliamentary inquiry related to the order of business:

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

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

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

Procedure in the House of Representatives 252, H. Doc. No. 86-122 (1959); *House Rules and Manual* §880 [note] (1979).

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

**tion within seven days, any member of that committee may call it up for consideration as a privileged matter, for which purpose the Speaker would be obliged to recognize such member, unless a matter of equal or higher privilege was pending, in which case the order of consideration would be determined by the Speaker's recognition.**

On Sept. 22, 1966,<sup>(2)</sup> Speaker John W. McCormack, of Massachusetts, answered a parliamentary inquiry as to the order of business:

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, a parliamentary inquiry.

Under the rules of the House, as I understand them, this rule, House Resolution 1007, to bring up the so-called House Un-American Activities Committee bill, is a privileged matter, and if it is not programed, then the gentleman handling the rule or any member of the Rules Committee, may call it up as a privileged matter. Is my understanding correct about that?

THE SPEAKER: The gentleman's understanding is correct. Of course, the question of recognition is with the Chair, where there are two similar preferential matters, but the gentleman's understanding is correct that after 7 legislative days a member of the Rules Committee could call it up.

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

If it were a question of recognition, if the same preferential status existed at the same time, recognition rests with the Chair.

MR. COLMER: I thank the Speaker for his ruling.

Mr. Speaker, in view of that, if the gentleman will continue to yield to me, I should like to serve notice now on the majority leadership that if this resolution is not programed at a reasonably early date, I shall exercise that privilege as the one who is designated to handle this rule.

MR. [HALE] BOGGS [of Louisiana]: Mr. Speaker, I should like to announce further that the program for next week will be announced later in the day.

**§ 31.3 While the call of the Consent Calendar is, under Rule XIII clause 4, mandatory on the first and third Mondays of the month immediately after the approval of the Journal, the Speaker may recognize a Member to call up a conference report under Rule XXVIII clause 1, before directing the Clerk to call the Consent Calendar.**

On May 4, 1970,<sup>(3)</sup> which was Consent Calendar Day under Rule XIII clause 4, requiring that the Consent Calendar be called immediately after the approval of the Journal, Speaker John W. McCormack, of Massachusetts, recog-

3. 116 CONG. REC. 14021-33, 91st Cong. 2d Sess.

nized Mr. Carl D. Perkins, of Kentucky, to call up a conference report on H.R. 515 (to amend the National School Lunch Act and Child Nutrition Act), as a privileged matter under Rule XXVIII clause 1, before directing the call of the Consent Calendar.

**§ 31.4 On a District Day, the Speaker recognized a member of the Committee on Rules to call up a privileged resolution relating to the order of business, and later recognized the chairman of another committee to call up the business made in order thereby, prior to recognizing the Chairman of the Committee on the District of Columbia to call up District business under Rule XXIV clause 8.**

On Sept. 24, 1962,<sup>(4)</sup> which was District of Columbia Day under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, first recognized Mr. William M. Colmer, of Mississippi, to call up by direction of the Committee on Rules House Resolution 804, making in order and providing for the consideration of Senate Joint Resolution 224, authorizing the President to call up armed forces re-

4. 108 CONG. REC. 20489-94, 87th Cong. 2d Sess.

servists. The House having agreed to the resolution, the Speaker recognized Carl Vinson, of Georgia, Chairman of the Committee on Armed Services and manager of the joint resolution, to move that the House resolve itself into the Committee of the Whole for the consideration of the joint resolution, which was, after debate, agreed to by the House.

The Speaker then stated that it was District of Columbia Day and recognized Chairman John L. McMillan, of South Carolina, of the Committee on the District of Columbia for District business.<sup>(5)</sup>

**§ 31.5 When a Member seeks recognition to call up District of Columbia business on the fourth Monday (privileged under Rule XXIV clause 8) and another Member seeks recognition to move to suspend the rules and agree to a Senate joint resolution amending the Constitution (privileged pursuant to a unanimous-consent agreement making it in order on the fourth Monday for the Speaker to recognize Members to move suspension and passage of bills), it is within the discretion of the Speaker as to which of the**

5. *Id.* at p. 20521.

**two Members he shall recognize.**

On Aug. 27, 1962,<sup>(6)</sup> which was the fourth Monday of the month and therefore a day eligible for District of Columbia business, under Rule XXIV clause 8, Speaker John W. McCormack, of Massachusetts, recognized Mr. Emanuel Celler, of New York, to move to suspend the rules and pass a joint resolution (to amend the Constitution to prohibit the use of a poll tax as a qualification for voting) pursuant to a previous unanimous consent request making in order on that day motions to suspend the rules. The Speaker overruled a point of order against prior recognition for the motion to suspend the rules:

MR. CELLER: Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 29, proposing an amendment to the Constitution of the United States relating to qualifications of electors.

MR. [THOMAS G.] ABERNETHY [of Mississippi]: Mr. Speaker, a point of order.

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

MR. ABERNETHY: Mr. Speaker, I make the point of order that this is District Day, that there are District bills on the calendar, and as a member of the Committee on the District of Co-

lumbia I respectfully demand recognition so that these bills may be considered.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, may I be heard on the point of order?

THE SPEAKER: The Chair is prepared to rule, but the gentleman may be heard.

MR. ALBERT: Mr. Speaker, by unanimous consent, suspensions were transferred to this day, and under the rules the Speaker has power of recognition at his own discretion.

MR. ABERNETHY: Mr. Speaker, I respectfully call the attention of the chairman to clause 8, rule XXIV, page 432 of the House Manual. . . .

Mr. Speaker, I submit that rule is clear that when the time is claimed and the opportunity is claimed the Chair shall permit those bills to be considered.

Therefore, Mr. Speaker, I respectfully submit my point of order is well taken, and that I should be permitted to call up bills which are now pending on the calendar from the Committee on the District of Columbia.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker. I should like to be heard on the point of order.

THE SPEAKER: The Chair will hear the gentleman.

MR. SMITH of Virginia: Mr. Speaker, the rules of the House on some things are very clear, and the rules of the House either mean something or they do not mean anything.

Mr. Speaker, the gentleman from Mississippi [Mr. Abernethy], has just called to the Chair's attention clause 8 of rule XXIV. Nothing could be clearer; nothing could be more mandatory. I

6. 108 CONG. REC. 17654-70, 87th Cong. 2d Sess.

want to repeat it because I hope the Chair will not fall into an error on this proposition:

The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only—

And that is all; that is all that you can consider—disposition of motions to discharge committees—

and after the disposal of such business on the Speaker's table as requires reference only—

That is all that the Chair is permitted to consider.

Mr. Speaker, after that is done the day—

shall when claimed by the Committee on the District of Columbia, be set apart for the consideration of such business as may be presented by said committee.

Mr. Speaker, I know that the majority leader bases his defense upon the theory that the House having given unanimous consent to hear suspensions on this Monday instead of last Monday when they should have been heard—and I doubt if very many Members were here when that consent order was made and I am quite sure that a great number of them had no notice that it was going to be made, and certainly I did not—now the majority leader undertakes to say that having gotten unanimous consent to consider this motion on this day to suspend the rules, therefore, it gives the Speaker carte blanche authority to do away with the rule which gives first consideration to District of Columbia matters.

Mr. Speaker, there was no waiver of the rule on the District of Columbia. That consent did not dispose or dispense with the business on the District of Columbia day. The rule is completely mandatory. The rule says that on the second and fourth Mondays, if the District of Columbia claims the time, that the Speaker shall recognize them for such dispositions as they desire to call.

THE SPEAKER: The Chair is prepared to rule.

Several days ago on August 14 unanimous consent was obtained to transfer the consideration of business under suspension of the rules on Monday last until today. That does not prohibit the consideration of a privileged motion and a motion to suspend the rules today is a privileged motion. The matter is within the discretion of the Chair as to the matter of recognition.

**§ 31.6 The consideration of appropriation bills on District of Columbia Monday is of equal privilege with bills called up by the Committee on the District of Columbia; thus it is within the discretion of the Chair as to which business he will recognize for first.**

Jan. 25, 1932, was a Monday and a day eligible for District of Columbia business. Also scheduled for consideration was the Department of Agriculture appropriation bill. Under his power of recognition, Speaker John N. Garner, of Texas, first recognized

Mrs. Mary T. Norton, of New Jersey, to call up a bill by direction of the Committee on the District of Columbia. Following the rejection of the previous question thereon, the Speaker recognized Mr. James P. Buchanan, of Texas, to move that the House resolve itself into the Committee of the Whole for the consideration of the appropriation bill.<sup>(7)</sup>

***House May Determine Order of Business***

**§ 31.7 The regular order of business, such as the relative precedence of a motion to discharge on discharge days over unfinished business, may be varied by unanimous consent.**

On May 8, 1936,<sup>(8)</sup> Speaker Joseph W. Byrns, of Tennessee, answered a parliamentary inquiry as to the order of business and the power of the House to change such order by unanimous consent:

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

MR. [GERALD J.] BOILEAU [of Wisconsin]: Mr. Speaker, reserving the

7. 75 CONG. REC. 2656-60, 72d Cong. 1st Sess.

8. 80 CONG. REC. 7010, 74th Cong. 2d Sess.

right to object, and I shall not object, will the Speaker make the situation clear with reference to the legislative program for Monday?

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

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

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

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

THE SPEAKER: The Chair will state to the gentleman from Wisconsin that, by consent, an agreement can be made whereby the vote on the motion to recommit the pending bill, or a roll call on its passage, can be had first, and then to take up the motion to discharge the committee.

*Parliamentarian's Note:* The House may refuse to consider privileged business brought up (except reports from the Committee on Rules not called up on the same day reported), and

thereby reach business or legislation of lesser precedence.<sup>(9)</sup>

**§ 31.8 Where two propositions of equal privilege are pending, it is for the Chair to determine whom he will recognize to call up one of the propositions, but the House may by unanimous consent determine such precedence.**

On Sept. 11, 1945,<sup>(10)</sup> Speaker Sam Rayburn, of Texas, entertained a unanimous-consent request relating to the order of business and responded to a parliamentary inquiry as to its effect:

THE SPEAKER: The Chair recognizes the gentleman from North Carolina.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow, immediately after

9. See §§ 30.16–30.19, *supra*, for the question of consideration and preventing consideration.

10. 91 CONG. REC. 8510, 8511, 79th Cong. 1st Sess.

the meeting of the House for business, to consider the bill (H.R. 3974) to repeal war time; that general debate be limited to 1 hour, to be equally divided and controlled by the gentleman from Oklahoma [Mr. Boren], chairman of the subcommittee, and the gentleman from Massachusetts [Mr. Holmes].

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, and I shall not because I want to congratulate the committee on bringing in the legislation at this early date, as I understand it, that will be the first order of business tomorrow?

MR. BULWINKLE: Yes; that is my understanding.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, reserving the right to object, I was under the impression that H.R. 3660 was to be the next order of business.

THE SPEAKER: That is a question for the Chair, as to whether the Chair will recognize the gentleman from Illinois to call up the rule or recognize the gentleman from Oklahoma to call up the bill repealing war time. The request being made at this time is for the war time repeal bill to take precedence.



RELATIVE PRECEDENCE OF PRIVILEGED QUESTIONS

*(References are to sections in this chapter or in volumes I-VIII of Hinds' and Cannon's Precedents)*

<i>Item of business</i>	<i>Takes precedence over</i>
Appropriation bill .....	District of Columbia business (VI, §§ 716–718; VII, §§ 876, 1123) (also held equal with, § 29.10, supra). Private Calendar business (IV §§ 3082–3085).
Approval of Journal .....	Business on Speaker's table (§ 2.17 supra). Conference report (V, § 6443). Executive communications (§ 2.17, supra). Motion to dispense with Calendar Wednesday (§ 4.42, supra). Question of personal privilege (§ 2.13, supra; VI, § 637). Rules Committee report (§ 2.12, supra). Veto message postponed to day certain (§ 3.36, supra).
Calendar Wednesday business .....	Appropriation bill (VII, § 904). Bill privileged under rules (VIII, § 2289). Conference report (VII, §§ 899–901). Motion to discharge resolution of inquiry (VII, §§ 896, 897). Motion to rerefer (VII, §§ 883, 884, 2117, 2118). Privileged report from Committee on House Administration (§ 4.3, supra). Resolution of inquiry (VII, § 898). Rules Committee report (§ 4.7, supra). Senate bill similar to reported House Calendar bill (VII, § 906). Special order, business under (VII §§ 773, 789). Unfinished business from previous day with previous question ordered (VII, §§ 890–894).
Calendar Wednesday, motion to dispense with.	District of Columbia business (§ 4.33, supra).
Conference report .....	Appropriation bill (VIII, § 3291). Consent Calendar business (§ 29.25, supra).

**RELATIVE PRECEDENCE OF PRIVILEGED QUESTIONS—Continued**

*(References are to sections in this chapter or in volumes I–VIII of Hinds' and Cannon's Precedents)*

<i>Item of business</i>	<i>Takes precedence over</i>
	District of Columbia business (VIII, § 3292).
	Operation of previous question (§ 29.26, supra).
	Private Calendar business (§ 29.27, supra).
	Rules Committee report (V, § 6449).
	Special order, business under (V, §§ 6454; VII § 789).
	Senate amendment in disagreement (V, § 6523).
Consent Calendar business .....	Appropriation bill (VII, §§ 986, 987).
	Contested election case (VII, §§ 988, 989).
	Unfinished business from previous day with previous question ordered (VII, § 990).
Contested election case (if brought up as question of constitutional privilege, which is not the present practice).	Calendar Wednesday business (VIII, § 2276).
	Question of privileges of House (VI, § 572).
	Rules Committee report (III, § 2554).
	Suspension of rules (V, § 6825).
	Veto message (V, §§ 6641, 6642) .
Election of House committee .....	Appropriation or revenue bill (VI, § 3).
Election of Speaker .....	Oath of Members (I, §§ 212, 214).
Impeachment .....	Approval of Journal (VI, § 469).
	Conference report (§ 28.11, supra).
	Contested election case (III, § 2581).
Message from President .....	Unfinished business (§§ 3.6, 3.7, supra).
	Question of privilege, message may be received pending (V, §§ 6640–6642).
Message from Senate .....	Operation of previous question (§ 2.24, supra).
Motion to discharge committee .....	Appropriation bill (VII, §§ 1016, 1017).
	Special order, business under (§ 30.11, supra).
	Suspension of rules (VII, § 1018).
	Unfinished business (§ 3.8, supra).

RELATIVE PRECEDENCE OF PRIVILEGED QUESTIONS—**Continued***(References are to sections in this chapter or in volumes I–VIII of Hinds' and Cannon's Precedents)*

<i>Item of business</i>	<i>Takes precedence over</i>
	Unfinished business from previous day with previous question ordered (§ 3.23, supra).
Motion to rerefer after reading of Journal	Appropriation bill (VII, § 2124) . Conference report (VII, § 2124). Private Calendar business (VII, § 2128).
Oath of Members (question of privileges of House).	Approval of Journal (I, § 172). Calendar Wednesday business (VI, § 22). Operation of previous question (§ 28.20, supra). Point of order of no quorum (VI, § 21). Rules Committee report (§ 28.21, supra). Suspension of rules (V, § 6826).
Question of personal privilege .....	Bill privileged under rules (VI, § 557). Bill privileged under special order (III, § 2524; VI, § 555). Calendar Wednesday business (VII, §§ 908–911; VI, § 613). Consent Calendar business (VI, § 553). Motion to discharge committee (VI, § 553). Operation of previous question (VI, § 561; VIII, § 2688). Rules Committee report (III, § 2530). Senate amendment in disagreement (III, § 2531). Suspension of rules (VI, 553).
Question of privileges of House .....	Appropriation bill (VIII, § 3461). Approval of Journal (II, § 1630; VI, § 637). Bill privileged under special order (VI, §§ 560, 395). Calendar Wednesday business (VII, § 911; VI, § 394; §§ 4.4, 4.5, supra). Conference report (VI, §§ 559, 403). Consent Calendar business (VI, § 553). Disposition of message from President (V, § 6640). District of Columbia business (§ 5.3, supra).

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DESCHLER'S PRECEDENTS

RELATIVE PRECEDENCE OF PRIVILEGED QUESTIONS—**Continued**

*(References are to sections in this chapter or in volumes I-VIII of Hinds' and Cannon's Precedents)*

<i>Item of business</i>	<i>Takes precedence over</i>
	Motion to discharge committee (VI, § 553).
	Operation of previous question (III, § 2532).
	Rules Committee report (III, § 2530; VIII, § 3491).
	Suspension of rules (VI, § 553).
Resolution of inquiry .....	Consent Calendar business (VI, § 409).
Rules Committee report .....	Consent Calendar business (§ 17.12, supra).
	District of Columbia business (§ 5.4, supra).
	Motion to discharge resolution of inquiry (§ 17.7, supra).
Suspension of rules .....	Contested election case (VII, § 988).
	District of Columbia business (held equal with, § 5.1, supra).
	Unfinished business from previous day with previous question ordered (V, §§ 6827, 6831-6833).
Unfinished business from previous day with previous question ordered.	Special order, business under (V, § 5520; VIII, § 2674).
	Veto message (disposition of, VIII, § 2693).
Veto message .....	Calendar Wednesday business (§ 4.6, supra; VII, § 912).
	Special order (§ 3.5, supra).