CHAPTER 24

Bills, Resolutions, Petitions, and Memorials

Commentary and editing by David Paul Bird, J.D.

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Bills, Resolutions, Petitions, and Memorials

A. INTRODUCTORY; VARIOUS TYPES OF BILLS, RESOLUTIONS, AND OTHER MECHANISMS FOR ACTION

§ 1. In General

The objectives of this chapter are to define the various procedures by which measures are introduced and considered by the Congress and to describe the formal steps through which legislation must pass in order to become law. The role of the President in approving or vetoing measures submitted by the Congress is also considered.

While the greater part of the business considered and voted upon in the two Houses of Congress is legislative in character, other kinds of business are taken up by resolution either in one House alone or in both Houses concurrently. These nonlegislative measures, while not having the force of statute and usually limited to declarations of policy or to the internal operations of Congress, nevertheless play an important procedural role. Examples of such business include measures expressing the opinions of Congress on political questions or establishing rules of parliamentary procedure.

§ 2. Bills

The term "bill," as used in the Constitution,[1] refers to the chief vehicle employed by the Congress in the enactment of laws under its legislative power.

Bills are categorized under two headings: public and private. The former are general in their application, while the latter are specific and are limited in application to specified individuals or entities.[2]

Chapter 2 of title I of the United States Code contains the following provision regarding the enacting clause of a bill:

> § 101. The enacting clause of all Acts of Congress shall be in the following form: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled."

Cross Reference

Introduction and reference of bills, see Ch. 16, supra.

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1. U.S. Const. art. I, § 7.

2. See § 3, infra.

Interpretation of Bills

§ 2.1 It is not in order for a Member to have distributed on the floor of the House copies of a bill marked with his own interpretation of its provisions.

On Aug. 16, 1935,[3] during consideration of a resolution (H. Res. 343) making in order the consideration of the Snyder-Guffey coal bill (H.R. 9100), Mr. Claude A. Fuller, of Arkansas, raised the following parliamentary inquiry:

> MR. FULLER: Mr. Speaker, I rise to a parliamentary inquiry. I just sent a page for the bill under consideration, H.R. 9100, and received the copy which I have in my hand. At the top of the bill, pasted onto it is a pink slip, and on that pink slip in typewriting are the words:
>
> > Bituminous-coal bill as amended and reprinted—controversial phases largely eliminated. Two-thirds of tonnage output operators favor bill, and more than 95 percent of labor.
>
> My inquiry is to know whether it is proper for anybody to paste such a thing as that on a document of the House and whether it is proper for it to be circulated in the House. This is the first time in my experience that I have ever seen any advertisement on an official document or bill pending in the House. I rise for the purpose of ascertaining how it came there and whether or not it is proper to be on this bill.
>
> The Speaker:[4] The Chair has no information on the subject. Where did the gentleman get his copy of the bill?
>
> MR. FULLER: From a page. I send this copy to the desk so that the Speaker may examine it.
>
> MR. [J. BUELL] SNYDER [of Pennsylvania]: I can tell the gentleman how that came there.
>
> THE SPEAKER: The gentleman may state.
>
> MR. SNYDER: Mr. Speaker, I had so many of these bills sent to my office, and with my secretarial help we wrote those words on that pink slip and pasted the slip on the bill. That is how that happens to be there. I sent copies of these bills with the slip on them to those interested and sent some of them to the desk back here, to be handed out upon request. It is altogether fitting and proper that I should do so. . . .
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> THE SPEAKER: The Chair knows of no rule or authority for inserting a statement like that to which the gentleman has called attention on a bill, and the Chair instructs the pages of the House not to distribute any more bills carrying this sort of inscription to Members on the floor of the House.

§ 2.2 The Speaker does not rule on the effect of the provisions of a bill or whether they might have been incorrectly drafted.

On May 3, 1949,[5] during consideration in the House of the Na-

3. 79 CONG. REC. 13433, 74th Cong. 1st Sess.

4. Joseph W. Byrns (Tenn.).

5. 95 CONG. REC. 5543, 5544, 81st Cong. 1st Sess.

tional Labor Relations Act of 1949 (H.R. 2032), Mr. Adam Clayton Powell, Jr., of New York, raised a point of order:

> MR. POWELL: If this bill uses language which is no longer in keeping with our laws, I raise the point of order that it is incorrectly drawn. On page 53, line 13, this bill uses the language, "to review by the appropriate circuit court of appeals." I make the point of order that there is no longer any circuit court of appeals.
>
> THE SPEAKER:[6] There might be 203 Members take the same position that the gentleman from New York does, but that does not alter the situation.

The question is on the engrossment and third reading of the bill.

§ 3. Private Bills

Private legislation is the means by which the Congress grants relief to ". . . one or several specified persons, corporations, institutions, etc. . . ."[7] who may have no other legal remedy available to them. It also provides a means whereby honoraria are granted to individuals, but by far its most common usage pertains to granting a remedy to the personal and pecuniary grievances of individuals.[8]

Private laws constitute a significant portion of the total number of laws passed by each Congress. For example, in the 92d Congress 161 private laws and 607 public laws were enacted.[9]

The distinction between public and private bills is sometimes difficult to make. A statutory definition of a private bill was nacted in 1895[10] and amended in 1905.[11] However, this definition[12] was removed from title 44 of the United States Code when that title was enacted into positive law in 1968.[13] Through the years the

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6. Sam Rayburn (Tex.).

7. 4 Hinds' Precedents Sec. 3285.

8. In the 92d Congress, for example, 609 bills and resolutions regarding claims against the United States were referred to the House Committee on the Judiciary and 2,144 bills and resolutions concerning individual immigration problems. U.S. House of Representatives. Final Legislative Calendar, Committee on the Judiciary (92d Cong.), p. 10.

9. For a table listing private and public laws enacted in each Congress since the 52d Congress, see Calendars of the United States House of Representatives and History of Legislation, Final Edition (92d Cong.), p. 261.

10. Jan. 12, 1895, Ch. 23, § 55, 28 Stat. 609.

11. Jan. 20, 1905, Ch. 50, § 2, 33 Stat. 611.

12. ". . . The term 'private bill' shall be construed to mean all bills for the relief of private parties, bills granting pensions, bills removing political disabilities, and bills for the survey of rivers and harbors." Codified at 44 USC Sec. 189 (1964 ed).

13. Oct. 22, 1968 Pub. L. No. 90–620, § 706, 82 Stat. 1238, 1248.

term "private bill" has been used to describe widely differing types of legislation.(14)

Since 1968, the preponderance of private laws enacted by the House has continued to be for the relief of individuals devoid of other legal remedy. Citizenship for a person or persons otherwise ineligible on a technicality is frequently granted by private law.

A Speaker or former Speaker, and Members of Congress have on more than one occasion been granted permission to accept, or accept and wear, a foreign decoration,(15) when such acceptance would otherwise be constitutionally prohibited.(16)

Other purposes for which private laws have been enacted have included: permitting free entry to the United States of scientific and musical apparatus destined for use at specific colleges and universities; conveyance of real property and rights of the United States; relief of certain named private businesses; exemption from taxation of specific property in the District of Columbia; authorization for the Secretary of Agriculture to grant an easement over certain lands to a railroad company; and requirements that the Foreign Claims Settlement Commission determine or redetermine the validity of claims of named individuals against specified foreign governments.

In the Legislative Reorganization Act of 1946,(17) Congress limited the types of measures that may be considered as private bills:

> Sec. 131. No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in Title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.(18)

Certain of the categories in which private bills were banned under the act were delegated to other agencies by other sections of the act. The Secretaries of War, the Navy, and the Treasury were authorized to establish civilian

14. 4 Hinds Precedents § 3285.

15. Priv. L. No. 89–61 (H.R. 10132); Priv. L. No. 91–244 (H.J. Res. 1420); Priv. L. No. 92–24 (H.J. Res. 850).

16. U.S. Const. art. I, § 9 clause 8.

17. Aug. 2, 1946, Ch. 753, 60 Stat. 812.

18. 60 Stat. 831. This provision was incorporated into the rules of the House in 1953. See Rule XXII clause 2, *House Rules and Manual* § 852 (1981).

boards to review military and naval records to correct errors and remove any injustices.[19] The Federal Tort Claims Act provided administrative and judicial remedies in certain personal injury cases involving negligence of federal employees acting within the scope of their employment.[20] And general authority for the construction of bridges over the navigable waters of the United States was delegated to the Chief of Engineers and the Secretary of War.[21]

Today private bills considered and passed in the Congress fall largely into two major categories: claims cases and immigration and naturalization cases. Other less frequently introduced types of private bills include conveyances of real property to identified individuals or private groups, bills affecting military rank (though not correcting military records) of individuals, bills or resolutions paying tribute to or conferring awards or medals upon living persons, bills documenting private vessels, and bills permitting U.S. citizens to be employed by foreign governments.

Claims Cases

Since the United States may not be sued absent the authority of an act of Congress,[1] Congress has over the years enacted a series of laws allowing the administrative and judicial settlement of claims against the United States in order to alleviate the determination of individual cases by means of private legislation.

The Court of Claims was created by the Act of Feb. 24, 1855,[2] ". . . primarily to relieve the pressure on Congress caused by the volume of private bills."[3] Under this act the court was directed to hear claims and report its findings and recommendations to Congress. By the Act of Mar. 3, 1863,[4] the judgments of the court were made final, but appeals to the Supreme Court were allowed in certain cases.

In 1887, Congress enacted the Tucker Act the[5] whereby the jurisdiction of the court was greatly expanded. Its present form in the revised title 28 provides:

> The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of

19. Sec. 207, 60 Stat. 837, now at 10 USC § 1552.

20. Title IV, §§ 401–403, 60 Stat. 842.

21. Title V, §§ 501–511, 60 Stat. 847.

1. *United States* v *Clarke,* 8 Pet. (33 U.S.) 436 (1834).

2. Ch. 122, 10 Stat. 612.

3. Opinion of Justice Harlan, *Glidden Company* v *Zdanok,* 370 U.S. 530, 552 (1962).

4. Ch. 92, § 5, 12 Stat. 765, 766.

5. Mar. 3, 1887, Ch. 359, 24 Stat. 505.

an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. . . .[6]

Congress has also authorized suits against the United States in the Court of Claims for patent infringement,[7] in U.S. District Court for admiralty and maritime torts,[8] and in U.S. District Court for torts by employees of the government while acting within the scope of their employment.[9]

Furthermore, the Congress has established the Customs Court,[10] the Court of Customs and Patent Appeals,[11] and the Tax Court[12] to hear claims cases against the government in these areas.

Cases that do not fall into any of the above categories or where a statute of limitations under one of those judicial or administrative remedies has run, become possible subjects for private legislation to be considered by the Congress itself. However, the separation between judicial and congressional determination of claims cases is not complete since Congress frequently refers private bills to the Court of Claims[13] for a determination of the nature of the claims ". . . and the amount, if any, legally or equitably due from the United States. . . ."[14]

Perhaps the clearest, although indirect, statement upholding the constitutional basis of private claims legislation was made by

6. 28 USC § 1491.

7. 28 USC § 1498 (1970 ed.).

8. Feb. 28, 1920, Ch. 95, § 2, 41 Stat. 525, 46 USC § 742 (1970 ed.); and Mar. 3, 1925, Ch. 428, § 1, 43 Stat. 1112, 46 USC § 781 (1970 ed.).

9. Federal Tort Claims Act, 28 USC §§ 1346(b), 2671 et seq.

10. 28 USC § 1581.

11. 28 USC § 211 et seq.

12. 28 USC § 7441 et seq.

13. 28 USC § 1492.

14. 28 USC § 2509. The congressional reference of claims has generated some question as to the nature of the Court of Claims as legislative or constitutional. That court and the Court of Customs and Patent Appeals were declared constitutional under art. III in *Glidden* v *Zdanok*, 370 U.S. 530 (1962). However, no clear standard for pronouncing a court to be legislative (art. I) rather than constitutional (art. III) has been announced by the Supreme Court. See: *Constitution of the United States of America* pp. 590–596, S. Doc. No. 92–82, 92d Cong. 2d Sess. (1972).

It is clear that a court is of a legislative character when it performs functions of a legislative or advisory nature which are subject to review by a legislative or executive body. See *Gordon* v *United States*, 5 Wall. (72 U.S.) 419 (1867). Thus, the Court of Claims commissioners, not the Court of Claims judges, are performing a nonjudicial advisory function under the congressional reference statute (28 USC § 2509(b)).

the U.S. Supreme Court in the case of *Pope* v *United States.*[15] That case was decided on appeal to the Supreme Court after the Court of Claims had refused to give effect to a private law directing that court to render judgment for the petitioner.

The petitioner first sued for the costs incurred in performing additional work in connection with a contract with the government for the construction of a tunnel as part of the water system of the District of Columbia. The Court of Claims denied these costs since such additional work was not specified in the contract. After a review of the case was denied by the Supreme Court, the petitioner obtained a private law from Congress directing the Court of Claims to order payment of the costs in question. The Court of Claims declined to follow this private law on the grounds that it was an invasion of a judicial function which that court had already exercised.

The Supreme Court ruled that the private law in question did not set aside the former judgment but created a new obligation on the part of the government where none existed before. Mr. Chief Justice Stone, writing for the Court, went on to say:

> We perceive no constitutional obstacle to Congress' imposing on the Government a new obligation where there had been none before, for work performed by petitioner which was beneficial to the Government and for which Congress thought (petitioner) had not been adequately compensated. The power of Congress to provide for the payment of debts, conferred by § 8 of Article I of the Constitution, is not restricted to payment of those obligations which are legally binding on the Government. It extends to the creation of such obligations in recognition of claims which are merely moral or honorary.[16]

A similar interpretation of article I, section 8, clause 1 of the

15. 323 U.S. 1 (1944).

The Supreme Court on two occasions has upheld the validity of private laws affecting controversies between individuals. Those cases were *Maynard* v *Hill,* 125 U.S. 190 (1888), and *Paramino Co.* v *Marshall,* 309 U.S. 370 (1940). The former involved a private law granting an individual an ex parte divorce in the Oregon Territory, and the latter involved a private law directing the reopening of a work injury case against a private insurance carrier under the Longshoremen's and Harbor Workers' Compensation Act. A commentator has suggested that such laws would not be upheld today under modern concepts of equal protection (Private Bills in Congress, 79 Harv. L. Rev. 1684, 1696.) Private bills now generally do not affect rights between individuals.

16. *Pope* v *United States,* 323 U.S. 1 at p. 9.

Constitution was announced by the Supreme Court in 1895 in the case of *United States* v *Realty Company.*[17] Although that case did not involve a private law, it did provide to a class of individuals the type of relief that is dispensed under a private bill. The Court said, "The term 'debts' includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual." [18]

In 1949, the Court of Claims, citing both the *Pope* and *Realty Co.* cases, made clear that the "debts" of the United States to be paid by private legislation are not limited in their determination by ". . . principles of right and justice as administered by courts of equity, but (by) the broader moral sense based upon general equitable consideration. . . ." [19]

Immigration Cases

The second major subject of private legislation now considered in Congress involves situations arising under the immigration and naturalization laws.[1] Specifically, Congress has acted to exempt individuals from the application of the law in hardship cases where the law would otherwise prohibit entry into or require deportation from the United States, or where individuals are capable of rendering service to the nation but are otherwise incapable of fulfilling citizenship requirements.

Deportation cases are inherently difficult because, by the nature of the process, an individual subject to deportation is likely to be removed from the country before a private bill exempting him can be introduced and considered in Congress. To alleviate this problem the Department of Justice and the House and Senate Judiciary Committees follow a procedure under which the deportation of an individual will be halted when a private bill has been introduced on his behalf and the Committee on the Judiciary of either the House or Senate has requested a report from the Immigration and Naturalization Service.[2]

17. 163 U.S. 427.

18. *Id.* at p. 440.

19. *Burkhardt* v *United States,* 84 F Supp 553, 559 (Ct. Cl. 1949).

1. 8 USC §§ 1101–1503 (1970).

2. Rules of the Committee on the Judiciary, Subcommittee on Immigration, U.S. House of Representatives, Rule No. 3, 93d Cong. (1973). Rule 4 of these rules provides further, that a departmental report shall not be requested in cases of those ". . . who have entered the United States as nonimmigrants, stowaways, in tran-

Collateral References

Col. M. T. Bennett. Private Claims Acts and Congressional References, Reprinted by House Committee on the Judiciary. 90th Cong. 2d Sess. (Committee Print 1968).

Private Bills in Congress. 79 Harv. L. Rev. 1684 (1966).

Private Bills and the Immigration Law. 69 Harv. L. Rev. 1083 (1956).

Gelhorn and Lauer. Congressional Settlement of Tort Claims Against the United States, 55 Colum. L. Rev. 1 (1955).

Authorizing Acceptance of Foreign Honors or Awards

§ 3.1 A private bill authorizing a former Speaker of the House to accept an award from a foreign government passed the House on the Private Calendar.

On Aug. 3, 1965,[3] the House passed a private bill (H.R. 10132) to authorize the Honorable Joseph W. Martin, Jr., of Massachusetts, a former Speaker, to accept from the Government of Portugal the award of the Military Order of Christ with the rank of Grande Officer.[4]

Indemnifying a Foreign Government

§ 3.2 A bill to indemnify a foreign government for injury to its nationals is a public bill.

On Apr. 6, 1936,[5] the Clerk called on the Consent Calendar

sit, deserting crewmen, or by surreptitiously entering without inspection through the land or sea borders of the United States."

The committee has subsequently placed further conditions and restrictions on when and in what types of cases it will request a report.

Under a prior practice, mere introduction of a bill was sufficient to stay deportation. The procedure was recognized in United States ex rel. *Knauff* v *McGrath* (171 F2d 839, 2d cir. 1950), where a writ of habeas corpus was issued staying the deportation of one on whose behalf a private bill granting admission has been introduced in Congress.

3. 111 CONG. REC. 19210, 89th Cong. 1st Sess.

4. See also H.R. 11227, authorizing Representative Eugene J. Keogh (N.Y.), to accept the award of the Order of Isabella the Catholic from Spain. 112 CONG. REC. 12480, 89th Cong. 2d Sess., June 7, 1966.

Congress has by law consented to the acceptance of decorations by Members, officers, or employees of the House. [See 5 USC § 7342(d), Foreign Gifts and Decorations Act, Pub. L. No. 95–105.] The Committee on Standards of Official Conduct has promulgated regulations concerning such acceptance and retention of decorations and gifts from foreign governments (see Ethics Manual for Members and Employees, published each Congress by the committee).

5. 80 CONG. REC. 5027, 5028, 74th Cong. 2d Sess.

the bill (H.R. 11961) authorizing an appropriation for the payment of the claim of General Higinio Alvarez, a Mexican citizen, with respect to certain lands in Arizona. Mr. Jesse P. Wolcott, of Michigan, raised a point of order against consideration of the bill on the grounds that it was of a private character and should be on the Private Calendar instead of the Consent Calendar.

The Speaker[6] ruled, "In the opinion of the Chair, this is a public bill. It provides that part of this money shall be paid to the Government of Mexico."[7]

Indian Claims

§ 3.3 A bill dealing with Indians as a nation and not with Indians as individuals is a public bill.

On Feb. 4, 1931,[8] the Clerk called on the House Calendar the bill (S. 3165) conferring jurisdiction upon the Court of Claims to hear, consider, and report upon a claim of the Choctaw and Chickasaw Indian nations or tribes for fair and just compensation for certain lands.

Mr. William H. Stafford, of Wisconsin, raised a point of order against the bill contending that it was a private bill:

> A private bill is a bill for the relief of one or several specified persons, corporations, institutions, etc., and is distinguished from a public bill, which relates to public matters and deals with individuals by classes only.

The Chair[9] ruled that, ". . . As the Chair recollects the law, the United States deals with the Choctaw and Chickasaw tribes as nations and through treaties. Therefore this bill deals with the Indians as a nation and not with Indians as individuals. The Chair believes that this is a public bill and is properly on the public calendar, and overrules that point of order. . . ."

Disposition of Private Bills

§ 3.4 Where a bill affects an individual or particular individuals or corporations or institutions, it should go to the Private Calendar.

On Mar. 17, 1930,[10] Mr. William H. Stafford, of Wisconsin,

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6. Joseph W. Byrns (Tenn.).

7. Speaker Byrns cited *Cannon's Procedure* (p. 335, 1963 ed.) for authority that, "A bill to indemnify a foreign government for injury to its nationals" is a public bill. For a similar ruling by Speaker William B. Bankhead (Ala.), see 81 CONG. REC. 649, 75th Cong. 1st Sess., Feb. 1, 1937.

8. 73 CONG. REC. 3969–71, 71st Cong. 3d Sess.

9. Earl C. Michener (Mich.).

10. 72 CONG. REC. 5454, 71st Cong. 2d Sess.

raised a point of order against the consideration on the Consent Calendar of the bill (H.R. 5917), for the relief of certain newspapers (for advertising services rendered the Public Health Service), that it was a private bill and not properly on the Consent Calendar.

The Chair[11] ruled that, ". . . Where a bill affects an individual, individuals, corporations, institutions, and so forth, it should and does go to the Private Calendar. Where it applies to a class and not to individuals as such, it then becomes a general bill and would be entitled to a place on the Consent Calendar. In the judgment of the Chair this bill, while affecting a class of concerns, specifies individuals, and for the purpose of the rule the Chair holds that the bill is improperly on this [Consent] Calendar and transfers it as of the date of the original reference to the Private Calendar."

§ 4. Joint Resolutions

The joint resolution is another legislative instrument employed by the Congress in the exercise of its power under article I, section 1 of the Constitution. It is the type of measure that requires an affirmative vote by both Houses and submission to the President for approval under article I, section 7. When a joint resolution is approved by the President, or when he fails to return it to the Congress within the prescribed time, or when he vetoes it and his veto is overridden it becomes public law and it is published in the statutes-at-large as such.[12]

Thus, the joint resolution is considered in the same manner as a bill, with one important exception: where a joint resolution is used to bring about a constitutional amendment,[13] the resolution, after approval thereof by both Houses by two-thirds vote, is submitted to the states for ratification. It is not submitted to the President.[14]

There are no established rules requiring the use of a joint resolu-

11. Earl C. Michener (Mich.).

12. 1 USC §§ 106, 106a, 112.

13. Since 1936 the following amendments to the Constitution have been adopted pursuant to joint resolutions: 22d amendment, H.J. Res. 27. 93 CONG. REC. 2392, 80th Cong. 1st Sess., Mar. 21, 1947; 23d amendment, S.J. Res. 39. 106 CONG. REC. 12858, 86th Cong. 2d Sess., June 16, 1960; 24th amendment, S.J. Res. 29. 108 CONG. REC. 17670, 87th Cong. 2d Sess., Sept. 14, 1962; 25th amendment, S.J. Res. 1. 111 CONG. REC. 15593, 89th Cong. 1st Sess., July 6, 1965; and 26th amendment, S.J. Res. 7. 117 CONG. REC. 7570, 92d Cong. 1st Sess., Mar. 23, 1971.

14. U.S. Const. art. 5.

tion rather than of a public bill, or vice versa, in the consideration and enactment of legislation. However, in practice joint resolutions are not now used for purposes of general legislation. They are used for special purposes and for such incidental matters as changing or fixing effective dates,[15] to establish joint committees or provide a commission with subpena power,[16] or to provide continuing appropriations.[17] The joint resolution, because it permits the use of a preamble (which is not appropriate in a bill), is also used where it is necessary to set forth in the legislation the events or state of facts which prompt the measure. For this reason, declarations of war have been made by joint resolution.[18]

Chapter 2 of title I of the United States Code contains the following provision regarding the enacting clause of a joint resolution:

> § 102. The resolving clause of all joint resolutions shall be in the following form: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled."

15. See § 4.4 et seq., infra.
16. See §§ 4.10, 4.11, infra.
17. See § 4.3, infra.
18. See § 4.16, infra.
Note: Joint resolutions may contain preambles which are amendable after engrossment and prior to third reading of the joint resolution.

Constitutional Amendment

§ 4.1 It is permissible on the floor of the Senate, where a germaneness rule is not operating, to amend a joint resolution that is legislative in character by striking all after the resolving clause and inserting provisions of a constitutional amendment.

On Mar. 26, 1962,[19] during consideration in the Senate of a joint resolution (S.J. Res. 29) establishing the former dwelling house of Alexander Hamilton as a national monument, Senator Spessard L. Holland, of Florida, offered an amendment in the nature of a substitute proposing to amend the Constitution to abolish the poll tax. Senator Richard B. Russell, of Georgia, raised a point of order against the amendment:[20]

> . . . I take the position that the Constitution itself prescribes the method by which it may be amended, and that the pending proposal does not appear in the Constitution as a means where-

19. 108 CONG. REC. 5042, 87th Cong. 2d Sess.
20. *Id.* at pp. 5083–87 (Mar. 27).

by a proposed constitutional amendment may be submitted to the several States. I further submit that in the 173 years since the Constitution of the United States was first ratified and approved, no attempt whatever has ever been made to distort the constitutional process. This is the first time in 173 years that an effort has been made to use a piece of proposed general legislation as a vehicle for amending the Constitution of the United States and submitting that amendment to the several States. . . .

In article V we find the language to which the great interest of Congress should be devoted. Yet instead of a resolution in the form prescribed or indicated in article V, and followed for the 173 years that Congress has been meeting, an attempt is made to utilize a piece of proposed legislation, respectable enough in itself, proposing a memorial to a great American who has not yet had any memorial erected in his honor; but which requires the ordinary legislative process requiring the signature of the President or else a vote on the part of Congress to override a veto by the President.

Mr. President, the amendment of the Constitution of the United States is a procedure which is solely between the Congress and the several States. This is the only process from which the President of the United States is completely excluded. Nothing in the Constitution indicates that the President shall even see a proposed amendment of the Constitution. He has no authority to veto it. There is no requirement that he approve it. Nothing in the Constitution indicates that it shall even be brought to his attention.

Yet the Senate is undertaking to add to article V of the Constitution, without any authority to do so, a third method of amending the Constitution, by saying that a proposed amendment to the Constitution can be appended to the joint resolution now under consideration.

Mr. President, this is wholly unconstitutional procedure. Nothing in the Constitution warrants it. Nothing in the precedents of the Senate justifies it, although over the years we have had almost every precedent of which the mind of man can conceive. . . .

MR. [MIKE] MANSFIELD [of Montana]: Mr. President, I think it is clear that the proposal of the Senator from Florida is entirely in accord with the Constitution of the United States and with the Senate rules. On the question of final adoption of Senate Joint Resolution 29, as amended by the Holland substitute, two-thirds of the Senate must vote in the affirmative if the resolution is to be agreed to. The same will be true in the House of Representatives. The joint resolution, as thus amended, will then be submitted to the several States for ratification. Therefore, all the requirements of the Constitution and of our rules will have been met.

Mr. President, I move that the question of constitutionality as raised by the distinguished Senator from Georgia be laid on the table, and I ask for the yeas and nays.

The motion was agreed to (58 yeas, 34 nays).[21]

§ 4.2 A joint resolution proposing an amendment to the Constitution may be amend-

21. *Id.* at pp. 5086, 5087.

ed in the Senate by a substitute providing legislative provisions designed to accomplish the same result.

On Feb. 2, 1960,[1] during consideration in the Senate of a joint resolution (S.J. Res. 39) to amend the Constitution to allow Governors to fill temporary vacancies in the House of Representatives, Senator Jacob K. Javits, of New York, raised the following parliamentary inquiry:

> I understand that it will be in order, after action is taken on the Holland amendment, for me to move as substitute for the entire joint resolution a statutory provision to accomplish the same result. Is that correct?
>
> THE PRESIDING OFFICER:[2] The Senator is correct.

Continuing Appropriations

§ 4.3 Measures providing continuing appropriations for a fiscal year are enacted by joint resolution, and such joint resolutions, when previously made in order by unanimous consent, are called up as privileged, even though they are not now considered general appropriations bills.

On Aug. 25, 1965,[3] Mr. George H. Mahon, of Texas, made the following statement:

> Mr. Speaker, pursuant to the unanimous-consent agreement of yesterday, I call up the joint resolution (H.J. Res. 639) making continuing appropriations for the fiscal year 1966, and for other purposes, and ask unanimous consent that it be considered in the House as in Committee of the Whole. . . .
>
> THE SPEAKER:[4] Is there objection to the request of the gentleman from Texas?
>
> There was no objection.

Fixing Date for Reorganization Plan

§ 4.4 A joint resolution has been used to fix the date when certain reorganization plans of the President shall go into effect.

On June 1, 1939,[5] the House considered the following Senate joint resolution (S.J. Res. 138):

> *Resolved, etc.,* That the provisions of reorganization plan No. I, submitted to the Congress on April 25, 1939, and the provisions of reorganization plan No. II, submitted to the Congress on May 9, 1939, shall take effect on July 1, 1939, notwithstanding the provisions of the Reorganization Act of 1939.

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1. 106 CONG. REC. 1747, 86th Cong. 2d Sess.
2. Edmund S. Muskie (Me.).
3. 111 CONG. REC. 21751, 89th Cong. 1st Sess.
4. John W. McCormack (Mass.).
5. 84 CONG. REC. 6527, 76th Cong. 1st Sess.

With the following committee amendment:

Page 1, after line 8, insert the following:

"Sec. 2. Nothing in such plans or this joint resolution shall be construed as having the effect of continuing any agency or function beyond the time when it would have terminated without regard to such plans or this joint resolution or of continuing any function beyond the time when the agency in which it was vested would have terminated without regard to such plans or this joint resolution."

Fixing Date for Convening Congress

§ 4.5 A joint resolution has been used to fix the day of meeting of a new session of Congress in lieu of the regular meeting date.

On Dec. 30, 1941,(6) the House considered and passed the following joint resolution (S.J. Res. 123):

Resolved, etc., That the second session of the Seventy-seventh Congress shall begin at noon on Monday, January 5, 1942, and the first session of the Seventy-eight Congress shall begin at noon on Monday, January 4, 1943.(7)

Change in Date for Counting Electoral Votes

§ 4.6 A joint resolution has been used to change the date for the counting of the electoral votes.

On Feb. 7, 1956,(8) the House considered and passed the following joint resolution (H.J. Res. 517):

Whereas January 6, 1957, is a Sunday; and

Whereas Public Law 771, 80th Congress (62 Stat. 672, 675), provides that "Congress shall be in session on the 6th day of January succeeding every meeting of the (Presidential) electors" for the purpose of counting the electoral votes: Therefore be it

Resolved, etc., That the two Houses of Congress shall meet in the Hall of the House of Representatives on Monday the 7th day of January 1957, at 1 o'clock postmeridian, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States.

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6. 87 CONG. REC. 10126–31, 77th Cong. 1st Sess.

7. The Constitution provides: "The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day." U.S. Const. amend. 20, § 2.

See also 111 CONG. REC. 28563, 89th Cong. 1st Sess., Oct. 22, 1965; 105 CONG. REC. 19364, 19365, 86th Cong. 1st Sess., Sept. 12, 1959; joint resolution pocket vetoed 102 CONG. REC. 15294, 84th Cong. 2d Sess., July 27, 1956; and 93 CONG. REC. 10521, 80th Cong. 1st Sess., July 26, 1947.

8. 102 CONG. REC. 2220, 84th Cong. 2d Sess.

Change in Date for Submission of Presidential Budget

§ 4.7 A joint resolution has been used to postpone the dates for the submission of the President's budget message and economic report.

On Jan. 6, 1965,[9] the House considered and passed the following joint resolution (H.J. Res. 123):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. 11), the President shall transmit to the Congress not later than January 25, 1965, the budget for the fiscal year 1966, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. 1022), the President shall transmit to the Congress not later than January 28, 1965, the Economic Report.[10]

Authorizing Printing of Publication

§ 4.8 A joint resolution has been used to authorize the printing of additional copies of "Senate Procedure" and making such publications subject to copyright.

On Oct. 16, 1963,[11] the House considered and passed the following joint resolution (S.J. Res. 123):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be printed and bound for the use of the Senate one thousand five hundred copies of a revised edition of Senate Procedure, to be prepared by Charles L. Watkins, Parliamentarian, and Floyd M. Riddick, Assistant Parliamentarian, to be printed under the supervision of the authors and to be distributed to the Members of the Senate.

Sec. 2. That, notwithstanding any provisions of the copyright laws and regulations with respect to publications in the public domain, such edition of Senate Procedure shall be subject to copyright by the authors thereof.

§ 4.9 The House agreed to a joint resolution providing for the printing of "Cannon's Procedure in the House of Representatives."

On Mar. 25, 1959,[12] the House considered and passed the fol-

9. 111 CONG. REC. 134, 135, 89th Cong. 1st Sess.

10. For a joint resolution postponing the dates set by law for the transmittal of the President's economic report and the report thereon by the Joint Economic Committee, see 115 CONG. REC. 40901, 91st Cong. 1st Sess., Dec. 22, 1969.

11. 109 CONG. REC. 19611, 88th Cong. 1st Sess.

12. 105 CONG. REC. 5259, 5260, 86th Cong. 1st Sess.

lowing joint resolution (H.J. Res. 301):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be printed and bound for the use of the House one thousand five hundred copies of "Cannon's Procedure in the House of Representatives", by Clarence Cannon, to be printed under the supervision of the author and to be distributed to the Members by the Speaker.

Sec. 2. That, notwithstanding any provision of the copyright laws and regulations with respect to publications in the public domain, "Cannon's Procedure in the House of Representatives" shall be subject to copyright by the author thereof.

Establishing a Joint Committee

§ 4.10 The House considered a joint resolution proposing the establishment of a joint committee to investigate crime.

On July 12, 1968,[13] the House considered the following joint resolution (H.J. Res. 1):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby created a Joint Committee To Investigate Crime, to be composed of seven Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, and seven Members of the Senate to be appointed by the President pro tempore of the Senate. In each instance not more than four members shall be members of the same political party.[14]

Grant of Subpena Power

§ 4.11 The House agreed to a joint resolution granting subpena powers to the commission appointed by the President to report on the assassination of President John F. Kennedy.

On Dec. 10, 1963,[15] the House considered and passed a joint resolution (S.J. Res. 137) stating in part:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purposes of this joint resolution, the term 'Commission' means the Commission appointed by the President by Executive Order 11130, dated November 29, 1963.

(b) The Commission, or any member of the Commission when so authorized by the Commission, shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation

13. 114 CONG. REC. 21012, 90th Cong. 2d Sess.

14. Investigations generally, see Ch. 15, supra; creating committees, see Ch. 17, supra.

15. 109 CONG. REC. 23941, 88th Cong. 1st Sess.

by the Commission. The Commission, or any member of the Commission or any agent or agency designated by the Commission for such purpose, may administer oaths and affirmations, examine witnesses, and receive evidence.

Travel Appropriations

§ 4.12 The House considered a joint resolution making appropriations for mileage for the Vice President, Senators, Representatives, Delegates, and Commissioners, and for pay of pages incidental to a special session of Congress.

On Sept. 25, 1939,[16] the House considered and passed the following joint resolution (H.J. Res. 384):

Resolved, etc., That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of expenses incident to the second session of the Seventy-sixth Congress, namely:

For mileage of the President of the Senate and of Senators, $51,000.

For mileage of Representatives, the Delegate from Hawaii, and the Resident Commissioner from Puerto Rico, and for expenses of the Delegate from Alaska, $171,000.

For the payment of 21 pages for the Senate and 48 pages for the House of Representatives, at $4 per day each, for the period commencing September 21, 1939, and ending with the last day of the month in which the Seventy-sixth Congress adjourns sine die at the second session thereof, so much as may be necessary for each the Senate and House of Representatives.

Presidential Honors

§ 4.13 The House considered a joint resolution providing for a Presidential proclamation recognizing former President Truman's role in the creation of the United Nations.

On Sept. 26, 1968,[17] the House considered and passed the following joint resolution (H.J. Res. 1459):

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and requested to issue on October 24, 1968, a proclamation recognizing the significant part which Harry S. Truman, as President of the United States, played in the creation of the United Nations.

§ 4.14 The House considered a joint resolution providing for a joint session of Congress to commemorate the 150th anniversary of the birth of Abraham Lincoln.

On July 24, 1958,[18] the House considered and passed the fol-

16. 85 CONG. REC. 16, 76th Cong. 2d Sess.

17. 114 CONG. REC. 28327, 90th Cong. 2d Sess.

18. 104 CONG. REC. 15019, 15020, 85th Cong. 2d Sess.

lowing joint resolution (H.J. Res. 648):

Whereas Thursday, February 12, 1959, will mark the 150th anniversary of the birth of Abraham Lincoln, 16th President of the United States; and

Whereas Mr. Lincoln is our best example of that personal fulfillment which American institutions permit and encourage; and . . .

Whereas on Monday, February 12, 1866, in the presence of the President of the United States, the members of his Cabinet, the Chief Justice and Associate Justices of the Supreme Court, the diplomatic corps, officers of the Army and Navy, assistant heads of departments, the governors of States and Territories, and others in authority, the two Houses of Congress convened in joint session to hear "an address upon the life and character of Abraham Lincoln, late President of the United States," pronounced by an eminent historian, the Honorable George Bancroft: Now, therefore, be it

Resolved, etc., That on Thursday, February 12 next, the sesquicentennial of the birth of Abraham Lincoln shall be commemorated by a joint session of the Congress, and to that end the President of the Senate will appoint 4 Members of the Senate and the Speaker of the House will appoint 4 Members of the House of Representatives jointly to constitute a Committee on Arrangements.

The Committee on Arrangements shall plan the proceedings, issue appropriate invitations, and select a distinguished Lincoln scholar to deliver the memorial address; and be it further

Resolved, That the President of the United States, the Vice President of the United States, the Chief Justice and Associate Justices of the Supreme Court, the diplomatic corps, assistant heads of departments, and the members of the Lincoln Sesquicentennial Commission be invited to join in this commemoration.

§ 4.15 The House considered a joint resolution providing for a ceremony to commemorate the 100th anniversary of Lincoln's second inauguration.

On June 23, 1964,[19] the House considered and passed the following joint resolution (H.J. Res. 925):

Whereas March 4, 1965, will be the one hundredth anniversary of the second inauguration of Abraham Lincoln as President of the United States; and

Whereas President Lincoln in his inaugural address looked to the end of a great fratricidal struggle and spoke, "with malice toward none and charity for all," of "a just and lasting peace among ourselves and with all nations"; and . . .

Whereas today a part of the aspirations which Abraham Lincoln held for the people of the United States has been achieved: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That on Wednesday, March 4 next, the one hundredth anniversary of Abraham Lincoln's second inauguration shall be commemorated by such observance as may be determined by the committee

19. 110 CONG. REC. 14699, 88th Cong. 2d Sess.

on arrangements in cooperation with the National Civil War Centennial Commission, the Civil War Centennial Commission of the District of Columbia, and the Lincoln Group of the District of Columbia.

Immediately upon passage of this resolution, the President of the Senate shall appoint four Members of the Senate and the Speaker of the House shall appoint four Members of the House of Representatives jointly to constitute a committee on arrangements.

Declaration of War

§ 4.16 The House adopted a joint resolution declaring war on Japan.

On Dec. 8, 1941,[20] the House passed the following joint resolution (H.J. Res. 254):

Whereas the Imperial Government of Japan has committed repeated acts of war against the Government and the people of the United States of America: Therefore be it

Resolved, etc., That the state of war between the United States and the Imperial Government of Japan which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial Government of Japan; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.[1]

§ 4.17 The House adopted a joint resolution relating to hostilities in Southeast Asia and supporting the President's actions to repel aggression by North Vietnam.

On Aug. 7, 1964,[2] the House considered and passed the following joint resolution (H.J. Res. 1145):

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations

20. 87 CONG. REC. 9519, 9520, 77th Cong. 1st Sess.

1. For other joint resolution declaring war, see also: (1) against Rumania, 88 CONG. REC. 4818, 77th Cong. 2d Sess., June 3, 1942; (2) against Hungary, 88 CONG. REC. 4817, 77th Cong. 2d Sess., June 3, 1942; (3) against Bulgaria, 88 CONG. REC. 4816, 77th Cong. 2d Sess., June 3, 1942; and (4) against Germany and Italy, 87 CONG. REC. 9665, 9666, 77th Cong. 1st Sess., Dec. 11, 1941.

2. 110 CONG. REC. 18538, 18539, 88th Cong. 2d Sess.

joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

§ 5. Concurrent Resolutions

Concurrent resolutions are used as a means by which the two Houses may concurrently express certain facts, or declare certain principles, opinions, or purposes. A concurrent resolution is binding on neither House until agreed to by both. They are not used in the adoption of general legislation. Concurrent resolutions are used in the adoption of joint rules, setting up joint committees, expressing the sense of Congress on propositions,[3] and in recent years as vehicles by which both Houses are permitted to approve or disapprove of certain executive actions, pursuant to laws containing mechanisms for such procedures (see *House Rules and Manual*, 97th Congress, "Congressional Disapproval" provisions contained in public laws).

The important practical consideration to be kept in mind in distinguishing joint and concurrent resolutions, in the current usage, is that only the former must be submitted to the President for his approval before taking effect. A concurrent resolution does not involve an exercise of the legislative

3. *Procedure in the U.S. House of Representatives* (97th Cong.) Ch. 24 § 1.3.

power under article I of the Constitution in which the President must participate. The following language is found in article I, section 7, clause 3, of the Constitution:

> Every Order, Resolution, or Vote, to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him.

Since the passage of a concurrent resolution requires the concurrence of both Houses, it is possible to argue, on the basis of this language, that a concurrent resolution also requires submission to the President for his approval. However, the Congress has never accepted this literal interpretation. In 1897 the Committee on the Judiciary of the Senate issued a report on the nature of the concurrent resolution.(4) The committee found that:

> . . . [T]he Constitution looks beyond the mere form of a resolution in determining whether it should be presented to the President, and looks rather to the subject-matter of the resolution itself to ascertain whether it is one "to which the concurrence of the Senate and House of Representatives may be necessary."
>
> The Constitution prescribes no definite form in which legislation shall be framed. The manner by which the legislative will may be expressed seems to be left to the discretion of Congress, except that section 7 (article I) seems to imply that it is to be done *by bill*, as it expressly provides that "*every bill* which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States" (subdivision 2); and it is also to be implied from the provisions of subdivision 3 (article 1, sec. 7) that it *may* be done by "order, resolution, or vote," and in that case it must be presented to the President as "in the case of a bill."
>
> . . . [N]o "order, resolution, or vote" need be presented to the President unless its subject-matter is legislation to which the Constitution expressly requires in the first instance the assent of both Houses, matter to which such assent is constitutionally necessary. In other words, the phrase "to which the concurrence . . . may be necessary" should be held to refer to the "concurrence" made "necessary" by the other provisions of the Constitution and not to the mere form of the procedure; so that no mere resolution, joint, concurrent, or otherwise, need be presented to the President for his approval unless it relates to matter of legislation to which the Constitution requires the concurrence of both Houses of Congress and the approval of the President—in other words, unless such Congressional action be the exercise of "legislative powers" vested in Congress under the provisions of section 1, article I.

4. Senate Committee on the Judiciary, Inquiry in Regard to River and Harbor Act, S. Rept. No. 1335, 54th Cong. 2d Sess. (1897); 4 Hinds' Precedents § 3483.

Use of Concurrent Resolution

§ 5.1 Concurrent resolutions are not used in practice to enact legislation; but if they are so used, the approval of the President would be required.

On July 19, 1945,[5] the following memorandum was prepared and inserted in the Record by Senator Abe Murdock, of Utah:

MEMORANDUM ON CONCURRENT RESOLUTIONS

Article I, section 7, subdivision 3 of the Constitution of the United States provides:

"Every order, resolution, or vote, to which the concurrence of the Senate and the House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States."

While this constitutional provision would seem literally to require that every concurrent resolution be submitted to the President, the Senate Committee on the Judiciary has indicated that a somewhat more liberal reading of the constitutional provision may be warranted. Senate Report No. 1335, Fifty-fourth Congress, second session, was submitted pursuant to a resolution of the Senate which directed the Judiciary Committee to inquire, among other things, as to whether concurrent resolutions generally are required to be submitted to the President of the United States.

On the subject of concurrent resolutions, the committee report may be summarized as follows: Concurrent resolutions, except in a few early instances in which the resolution was neither designated as concurrent or joint, have not been used for the purposes of enacting legislation but to express the sense of Congress upon a given subject, to adjourn longer than 3 days, to make, amend, or suspend joint rules, and to accomplish similar purposes, in which both Houses have a common interest, but with which the President has no concern. They have never embraced legislative provisions proper, and hence have never been deemed to require Executive approval. While resolutions, other than joint resolutions, may conceivably embrace legislation, if they do so they require the approval of the President. But Revised Statutes, Second Edition, 1878, page 2, sections 7 and 8, prescribe the form of bills and joint resolutions, and it may properly be inferred that Congress did not intend or contemplate that any legislation should thereafter be enacted except by bill or joint resolution. That is a fair inference, because Congress provided no form for legislation by concurring resolution. Moreover, the rules of the respective Houses treat bills and joint resolutions alike, and do not contemplate that legislation shall be enacted in any other form or manner.

In substance, it was the conclusion of the committee that concurrent resolutions were, as a matter of congressional practice, never used to enact legislation, but that if they were so used the approval of the President would be required. The committee report concludes that—

"Whether concurrent resolutions are required to be submitted to the Presi-

5. 91 CONG. REC. 7809, 7810, 79th Cong. 1st Sess.

dent of the United States" must depend not upon their mere form but upon the fact whether they contain matter which is properly to be regarded as legislative in its character and effect. If they do, they must be presented for his approval; otherwise, they need not be. In other words, we hold that the clause in the Constitution which declares that every order, resolution, or vote must be presented to the President, to "which the concurrence of the Senate and House of Representatives may be necessary," refers to the necessity occasioned by the requirement of the other provisions of the Constitution whereby every exercise of "legislative power" involves the concurrence of the two Houses; and every resolution not so requiring two concurrent actions, to wit, not involving the exercise of legislative powers, need not be presented to the President. In brief, the nature or substance of the resolution, and not its form, controls the question of its disposition."

Cannon's Precedents of the House of Representatives, volume VII, section 1045, states that a "concurrent resolution" is not used in conveying title to Government property. His authority for this statement is that on January 15, 1923, a concurrent resolution declining a devise of land to be used as a national park was considered and agreed to with the following amendment:

Insert: "*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled*" in lieu of "*the Senate (the House of Representatives concurring).*" (64 Congressional Record 1773.)

In section 1037 of volume VII, Cannon states that "a concurrent resolution is without force and effect beyond the confines of the Capitol." In addition, in section 1084, Cannon states that on June 1, 1920, the Senate was considering the concurrent resolution respectfully declining to grant to the Executive the power to accept a mandate over Armenia, as requested in the message of the President, when Mr. Hitchcock, of Nebraska, offered an amendment empowering the President to appoint American members of a joint commission to supervise certain fiscal relations of Armenia. Mr. Henry Cabot Lodge, of Massachusetts, presented a point of order to the effect that this was a concurrent resolution, that concurrent resolutions did not go to the President, but that since the proposed amendment was legislation requiring the assent of the President it would not be in order on a resolution which does not go to the President. Thomas R. Marshall, Vice President of the United States, said that so far as he was aware there was no opinion of the Supreme Court to the effect that a concurrent resolution need not go to the President, and consequently overruled the point of order which had been made against it.

In response to an inquiry from the Secretary of the Interior. Attorney General Caleb Cushing, on August 23, 1854, rendered an opinion in which he held that a declaratory resolution of either House of Congress is not obligatory against the judgment of the Executive. He characterized the contrary view as follows:

"According to the letter of the Constitution, resolutions of the two Houses, even a joint resolution, when submitted to the President and disapproved by him, do not acquire the

force of law until passed anew by a concurrent vote of two-thirds of each House. On the present hypothesis, the better way would be not to present the resolution to the President at all, and then to call on him to accept it as law, with closed eyes, and, however against law he may know it to be, yet to execute it out of deference to the assumed opinion of Congress.

"In the second place, the hypothesis puts an end to all the forms of legislative scrutiny on the part of Congress. A declaratory law, especially if it involve the expenditure of the public treasure, has forms of legislation to go through to insure due consideration. All these time-honored means of securing right legislation will pass into desuetude, if the simple acceptance of a resolution, reported by a committee, is to be received as a constitutional enactment, obligatory on all concerned, including the Executive.

"In this way, instead of the revenues of the Government being subject only to the disposition of Congress in the form of a law constitutionally enacted, they will be transferred to the control of an accidential majority, expressing its will by a resolution, passed, it may be, out of time, and under circumstances, in which a law, duly and truly representing the will of Congress, could not have passed. And thus, all those checks and guards against the inconsiderate appropriation of the public treasure, so carefully devised by the founders of the Government, will be struck out of the Constitution." (6 Op. Attorney General 694.)

With specific reference to the authority of Congress to declare by resolution, without presentation to the President, the meaning of an existing law, the Attorney General stated (idem, p. 694):

"A mere vote of either or of both Houses of Congress, declaring its opinion of the proper construction of a general law, has, be it repeated, in itself, no constitutional force or obligation as law. It is opinion merely, and to be dealt with as such, receiving more or less of deference, like other mere opinions, according to the circumstances."

Establishing Joint Committees

§ 5.2 The House adopted a concurrent resolution, establishing a Joint Committee on the Organization of the Congress, reported by the House Committee on Rules.

On Mar. 3, 1965,[6] the Committee on Rules of the House of Representatives reported the following privileged resolution (H. Con. Res. 4):

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a Joint Committee on the Organization of the Congress (hereinafter referred to as the committee) to be composed of six Members of the Senate (not more than three of whom shall be members of the majority party) to be appointed by the President of the Senate, and six Members of the House of Representatives (not more than three of whom shall be members of the majority party) to be appointed by the Speaker of the House

6. 111 CONG. REC. 3995, 89th Cong. 1st Sess.

of Representatives. The committee shall select a chairman and a vice chairman from among its members. No recommendation shall be made by the committee except upon a majority vote of the members representing each House, taken separately.

Sec. 2. The committee shall make a full and complete study of the organization and operation of the Congress of the United States and shall recommend improvements in such organization and operation with a view toward strengthening the Congress, simplifying its operations, improving its relationship with other branches of the United States Government, and enabling it better to meet its responsibilities under the Constitution . . .

(d) The committee shall report from time to time to the Senate and the House of Representatives the results of its study, together with its recommendations, the first report being made not later than one hundred and twenty days after the effective date of this concurrent resolution. If the Senate, the House of Representatives, or both, are in recess or have adjourned, the report shall be made to the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be. All reports and findings of the committee shall, when received, be referred to the Committee on Rules and Administration of the Senate and the appropriate committees of the House.[7]

§ 5.3 The Joint Committee on Hawaii was created by a concurrent resolution.

On Aug. 21, 1937,[8] the House agreed to the following concurrent resolution (S. Con. Res. 18):

Resolved by the Senate (the House of Representatives concurring), That there is hereby created a joint congressional committee to be known as the Joint Committee on Hawaii, which shall be composed of not to exceed 12 Members of the Senate, to be appointed by the President of the Senate, and not to exceed 12 Members of the House of Representatives and the Delegate from Hawaii, to be appointed by the Speaker of the House of Representatives. The committee shall select a chairman from among its members. The committee shall cease to exist upon making its report to Congress pursuant to this resolution.

Sec. 2. The committee is authorized and directed to conduct a comprehensive investigation and study of the subject of statehood and of other subjects relating to the welfare of the Territory of Hawaii. The committee shall report to the Senate and to the House of Representatives not later than January 15, 1938, the results of its investigation and study, together with its rec-

7. On Mar. 11, 1965 (*Id.* at pp. 4768–80) following the passage of H. Con. Res. 4, S. Con. Res. 2 (an identical resolution) was taken from the Speaker's table and agreed to. The language of this concurrent resolution was similar to that employed in the 79th Congress in setting up a joint committee to study a proposal which resulted in the Legislative Reorganization Act of 1946. See H. Con. Res. 18, 79th Cong., H. Jour. pp. 80, 137, 79th Cong. 1st Sess.

8. 81 CONG. REC. 9624, 75th Cong. 1st Sess.

ommendations for such legislation as it deems necessary or desirable.

Sec. 3. For the purpose of this resolution, the committee is authorized to sit and act, as a whole or by subcommittee, at such times and places as it deems advisable, to hold such hearings, to administer such oaths and affirmations, to take such testimony, and to have such printing and binding done as it deems necessary.

§ 5.4 A concurrent resolution is used to provide for the appointment of a joint committee for the inauguration of the President-elect.

On May 5, 1948,[9] the House considered and agreed to the following concurrent resolution (S. Con. Res. 48):

Resolved by the Senate (the House of Representatives concurring), That a joint committee consisting of three Senators and three Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect of the United States on the 20th day of January 1949.

§ 5.5 A concurrent resolution provided for the appointment of a joint committee to formulate plans for the commemoration of the anniversary of the death of General Lafayette.

On Feb. 2, 1934,[10] the House considered and passed the following concurrent resoluton (H. Con. Res. 26):

Resolved by the House of Representatives (the Senate concurring), That there is hereby established a special joint congressional committee to be composed of five members of the Senate to be appointed by the President of the Senate and five members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, which shall make appropriate arrangements for the commemoration of the one-hundredth anniversary of the death of General Lafayette, occurring on May 20, 1934.

Authorizing Hearings

§ 5.6 The Joint Committee on Washington Metropolitan Problems was authorized, by concurrent resolution, to hold hearings and report to the Committee on the District of Columbia of the Senate and House on two bills "to aid in the development of an integrated system of transportation for the National Capital region."

On Apr. 21, 1960,[11] the House considered and agreed to the fol-

9. 94 CONG. REC. 5321, 80th Cong. 2d Sess.

10. 78 CONG. REC. 1889, 73d Cong. 2d Sess.

11. 106 CONG. REC. 8546, 86th Cong. 2d Sess.

lowing concurrent resolution (S. Con. Res. 101) from consideration of which the Rules Committee had been discharged:

Resolved by the Senate (the House of Representatives concurring), That the Joint Committee on Washington Metropolitan Problems, created by House Concurrent Resolution 172, agreed to August 29, 1957 [and extended by S. Con. Res. 2 in the 86th Congress], is hereby authorized to hold public hearings on the bills S. 3193 and H.R. 11135, and to furnish transcripts of such hearings, and make such recommendations as it sees fit, to the Committees on the District of Columbia of the Senate and House of Representatives, respectively.

Additional Committee Funds

§ 5.7 The House agreed to a concurrent resolution providing additional funds for the Joint Committee on the Organization of the Congress.

On Jan. 27, 1966,[12] the House agreed to the following concurrent resolution (S. Con. Res. 69) which had been called up for consideration pursuant to a unanimous-consent request by Mr. Ray J. Madden, of Indiana:

Resolved by the Senate (the House of Representatives concurring), That the Joint Committee on the Organization of the Congress, established by Senate Concurrent Resolution 2, Eighty-ninth Congress, agreed to March 11, 1965, is hereby authorized, from February 1, 1966, through December 31, 1966, to expend not to exceed $140,000 from the contingent fund of the Senate upon vouchers approved by the chairman of the joint committee.

Adjournments

§ 5.8 The House agreed to a Senate concurrent resolution providing for sine die adjournment of Congress.

On Nov. 21, 1929,[13] the House considered and agreed to the following privileged Senate concurrent resolution (S. Con. Res. 19):

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session of the Congress by adjourning their respective Houses on Friday, November 22, 1929, at the following hours, namely: the Senate at the hour of 10 o'clock p.m., and the House at such hour as it may by order provide.

§ 5.9 The House passed a concurrent resolution providing for adjournment sine die and giving the consent of the House to an adjournment sine die of the Senate at any time prior to Dec. 25, 1954.

12. 112 CONG. REC. 1341, 89th Cong. 2d Sess.

13. 71 CONG. REC. 5916, 71st Cong. 1st Sess.

On Aug. 20, 1954,[14] the House considered and agreed to a Senate amendment to a concurrent resolution (H. Con. Res. 266):

> Strike out all after the enacting clause and insert "That the House of Representatives shall adjourn on August 20, 1954, and that when it adjourns on said day, it stand adjourned sine die.
>
> "*Resolved further,* That the consent of the House of Representatives is hereby given to an adjournment sine die of the Senate at any time prior to December 25, 1954, when the Senate shall so determine; and that the Senate, in the meantime may adjourn or recess for such periods in excess of 3 days as it may determine."

§ 5.10 Adjournments of more than three days have been effected pursuant to concurrent resolution.

On June 22, 1940,[15] the House adopted the following privileged concurrent resolution (H. Con. Res. 83):

> *Resolved by the House of Representatives (the Senate concurring),* That when the two Houses adjourn on Saturday, June 22, 1940, they stand adjourned until 12 o'clock meridian, Monday, July 21, 1940.

§ 5.11 The House adopted a concurrent resolution providing that the House adjourn from July 21 to Oct. 8, 1945, and consenting to a Senate adjournment during the month of August or September until Oct. 8, 1945; the resolution also made provision for the earlier reassembling of the two Houses by the leadership if legislative expediency should so warrant.

On July 18, 1945,[16] the House considered and agreed to the following concurrent resolution (H. Con. Res. 68):

> *Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on Saturday, July 21, 1945, it stand adjourned until 12 o'clock meridian on Monday, October 8, 1945, or until 12 o'clock meridian on the third day after Members are notified to reassemble in accordance with section 3 of this concurrent resolution, whichever occurs first.
>
> Sec. 2. That the consent of the House of Representatives is hereby given to an adjournment of the Senate at any time during the month of August or September, 1945, until 12 o'clock meridian on Monday, October 8, 1945, or until 12 o'clock meridian on the third day after Members are notified to reassemble in accordance with section 3 of this concurrent resolution, whichever occurs first.
>
> Sec. 3. The President pro tempore of the Senate and the Speaker of the

14. 100 CONG. REC. 15554, 83d Cong. 2d Sess.

15. 86 CONG. REC. 9085, 76th Cong. 3d Sess.

16. 91 CONG. REC. 7733, 7734, 79th Cong. 1st Sess.

House of Representatives shall notify the Members of the Senate and the House, respectively, to reassemble whenever in their opinion legislative expediency shall warrant it or whenever the majority leader of the Senate and the majority leader of the House, acting jointly, or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for the consideration of legislation.

Changing Text Agreed to by Both Houses

§ 5.12 Changes in the text of a joint resolution agreed to by the two Houses (but not yet sent to the President) may be made by concurrent resolution, called up by unanimous consent, which directs the Clerk to make corrections in the enrollment of the joint resolution.

On Feb. 1, 1937,[17] the House was considering a Senate amendment to a joint resolution (H.J. Res. 81) creating a Joint Committee on Government Organization which had passed both the House and the Senate. Mr. John E. Rankin, of Mississippi, offered an amendment to the Senate amendment, but the Speaker[18] ruled it out of order because it amended language in the resolution to which both Houses had already agreed. The Speaker then indicated that the proposed change could be effected by concurrent resolution:[19]

MR. [CLAUDE A.] FULLER [of Arkansas]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. FULLER: Cannot that be amended by unanimous consent?

THE SPEAKER: The only way under the rules of the House by which this situation could be changed would be by a concurrent resolution, agreed to by both Houses, changing the text of the matter already passed upon by the House and accepted by the Senate.

§ 5.13 Items in an appropriation bill which were not in disagreement between the two Houses, and hence not committed to the conferees, were changed through adoption of a concurrent resolution called up unanimous consent.

On July 23, 1962,[20] the House adopted a concurrent resolution (H. Con. Res. 505) ordering the

17. 81 CONG. REC. 646–48, 75th Cong. 1st Sess.

18. William B. Bankhead (Ala.).

19. See 7 Cannon's Precedents §§ 1041, 1042 for instances in which concurrent resolutions were used to amend bills agreed to by both Houses.

20. 108 CONG. REC. 14400, 14403, 87th Cong. 2d Sess.

Clerk of the House to make certain changes in the enrollment of a bill (H.R. 11038) making supplemental appropriations for the fiscal year 1962. Mr. Albert Thomas, of Texas, asked unanimous consent that further reading of the resolution be dispensed with so that he could explain the purpose of the resolution. The proceedings were as follows:

SECOND SUPPLEMENTAL APPROPRIATION BILL, 1962

MR. THOMAS: Mr. Speaker, pursuant to the unanimous agreement of last Friday,[21] I call up for consideration a House concurrent resolution.

The Clerk read as follows:

H. Con. Res. 505

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives be authorized and directed in the enrollment of the bill H.R. 11038 to make the following changes in the engrossed House bill:

(1) Page 2, strike out lines 13 to 16 inclusive. . . .

(28) Page 14, strike out lines 4 to 7, inclusive.

(29) Page 14, strike out lines 17 to 21, inclusive.

MR. THOMAS (interrupting reading of the House concurrent resolution): Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with. I shall attempt to explain what it is.

THE SPEAKER:[22] Is there objection to the request of the gentleman from Texas?

There was no objection.

MR. THOMAS: Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about $447 million, which was a reduction, in round figures, of $100 million under the budget, a reduction of about 20 percent.

It went to the other body and that body added some 29 items, increasing the amount over the House by $112 million, which made a round figure of about $560 million.

We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

It is a complete reduction and a change. It is in the concurrent resolution because it could not be in the conference report, and the reason it could not be in the conference report is because it is a reduction in those amounts. . . .

The previous question was ordered.

THE SPEAKER: The question is on the resolution.

21. See 108 CONG. REC. 14364, 87th Cong. 2d Sess., July 20, 1962, for the unanimous-consent request "to consider on Monday next a concurrent resolution in connection with . . . H.R. 11038."

22. Sam Rayburn (Tex.).

The concurrent resolution was agreed to.[1]

Rescinding Passage of Bill

§ 5.14 The House agreed to a concurrent resolution rescinding the action of the two Houses in connection with the passage of a private bill and providing that the bill be postponed indefinitely.

On Feb. 7, 1952,[2] the House by unanimous consent considered and agreed to the following concurrent resolution (S. Con. Res. 88):

Resolved by the Senate (the House of Representatives concurring), That the action of the two Houses in connection with the passage of the bill (S. 1236) for the relief of Kim Song Nore be rescinded, and that the said bill be postponed indefinitely.

1. *Parliamentarian's Note:* The second supplemental appropriation bill, H.R. 11038, was passed by the House on Mar. 30, and by the Senate, amended, on Apr. 6, 1962. The conference report was not filed until July 20. Since fiscal year 1962 expired on June 30, there was no longer a need for some of the funds carried in the bill when it passed the two Houses. To eliminate the sums no longer required, but not in disagreement, the concurrent resolution was agreed to.
2. 98 CONG. REC. 934, 82d Cong. 2d Sess.

Rescinding Resolution of Adjournment

§ 5.15 A concurrent resolution was submitted proposing to rescind a concurrent resolution adjourning the House to a day certain.

On Aug. 23, 1951,[3] Mr. John E. Rankin, of Mississippi, offered a resolution (H. Con. Res. 152):

Resolved by the House of Representatives (the Senate concurring), That House Concurrent Resolution 151, Eighty-second Congress, is hereby repealed.

Mr. J. Percy Priest, of Tennessee, then interjected a motion that the House adjourn, and that motion was considered and agreed to (the motion to adjourn taking precedence over a concurrent resolution proposing to rescind a concurrent resolution adjourning the House to a day certain). Thereupon the House adjourned until Sept. 12, 1951, in accordance with the terms of House Concurrent Resolution 151.

Authorization to Conference Managers

§ 5.16 By concurrent resolution, the managers of a conference may be authorized to

3. 97 CONG. REC. 10586, 82d Cong. 1st Sess.

consider amendments inadvertently omitted from the official papers.

On July 20, 1956,[4] Mr. Clair Engle, of California, asked unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 86) authorizing the conferees on H.R. 1774, abolishing the Verendrye National Monument, North Dakota, to consider certain Senate amendments that were inadvertently omitted from the official papers and not originally disagreed to by the House.

The resolution was as follows:

Resolved by the Senate (the House of Representatives concurring), That the conferees on H.R. 1774, in addition to the Senate amendments already pending before them, be authorized to consider the following amendments:

"(3) Page 1, line 6, strike out all after 'permits' down to and including 'site' in line 8.

"(4) Page 1, strike out all after line 8 over to and including line 5 on page 2."

There was no objection, and the concurrent resolution was agreed to.

Amending Conference Report

§ 5.17 The House agreed to a concurrent resolution amending a conference report that had been agreed to by the two Houses.

On Feb. 27, 1931,[5] the House by unanimous consent considered and agreed to the following concurrent resolution (H. Con. Res. 52):

Resolved by the House of Representatives (the Senate concurring), That the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (H.R. 980) entitled "An Act to permit the United States to be made a party defendant in certain cases," heretofore agreed to by the two Houses be amended by adding at the end of the amendment agreed to in the report the following new section:

Sec. 7. This act shall not apply to any lien of the United States held by it for its benefit under the Federal Reclamation laws.

Rescinding Appointment of Conferees

§ 5.18 The House agreed to a concurrent resolution of the Senate rescinding the action of the two Houses in appointing conferees and providing for the return of the bill to the Senate for further amendment.

On May 20, 1940,[6] the House, by unanimous consent, agreed to

4. 102 CONG. REC. 13724, 84th Cong. 2d Sess.

5. 74 CONG. REC. 6279, 6280, 71st Cong. 3d Sess.

6. 86 CONG. REC. 6463, 76th Cong. 3d Sess.

the following concurrent resolution (S. Con. Res. 47):

Resolved by the Senate (the House of Representatives concurring), That the action of the two Houses, respectively, with reference to the appointment of conferees on the bill (H.R. 8438) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1941, and for other purposes, be, and it is hereby, rescinded; and that the bill, with the accompanying papers, be returned to the Senate.

Providing for Joint Session

§ 5.19 A joint session to receive a communication from the President is provided for by concurrent resolution.

On Jan. 3, 1935,[7] the House considered and agreed to the following concurrent resolution (H. Con. Res. 1):

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Friday, the 4th day of January, 1935, at 12:30 o'clock in the afternoon, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.[8]

§ 5.20 The House agreed to a concurrent resolution providing for a joint session of the two Houses to commemorate the 200th anniversary of George Washington's birthday.

On Jan. 20, 1932,[9] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 12):

Resolved by the House of Representatives (the Senate concurring), That in commemoration of the two-hundredth anniversary of the birth of George Washington the two Houses of Congress shall assemble in the Hall of the House of Representatives at 11:30 o'clock a.m. on Monday, February 22, 1932.

That the President of the United States, as the Chairman of the United States Commission for the celebration of the two-hundredth anniversary of the birth of George Washington, is hereby invited to address the American people in the presence of the Congress in commemoration of the bicentennial anniversary of the birth of the first President of the United States.

That invitations to attend the ceremony be extended to members of the

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7. 79 CONG. REC. 15, 74th Cong. 1st Sess.

8. This is the customary form for the concurrent resolution convening a joint session to hear the President's state of the Union message. For similar examples, see 113 CONG. REC. 34, 35, 90th Cong. 1st Sess, Jan. 10, 1967; 109 CONG. REC. 23, 88th Cong. 1st Sess., Jan. 9, 1963; and 100 CONG. REC. 8, 83d Cong. 2d Sess., Jan. 6, 1954.

9. 75 CONG. REC. 2342, 72d Cong. 1st Sess.

cabinet, the Chief Justice and associate justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the General of the Armies, the Chief of Naval Operations, and the Major General Commandant of the Marine Corps, and such other persons as the Joint Committee on Arrangements shall deem proper.

§ 5.21 The House agreed to a concurrent resolution providing for a joint session of the two Houses to receive a message from the President; such session to commence immediately following the joint session to count the electoral vote.

On Jan. 6, 1945,[10] the House considered and agreed to the following concurrent resolution (S. Con. Res. 2):

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Saturday, the 6th of January 1945, immediately following the counting of the electoral votes for President and Vice President, as provided for in Senate Concurrent Resolution 1, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The terms "joint meeting" and "joint session" have distinct meanings. 'Joint meeting' is properly used to describe joint proceedings during recesses of the two Houses for purposes that are usually ceremonial, while "joint session" refers to actual sessions of both Houses that have some legislative purpose, or which are prescribed by law as the count of the electoral vote (3 USC § 15).

§ 5.22 A concurrent resolution providing for a joint session of the House and the Senate to receive a message from the President is privileged.

On May 20, 1935[11] Mr. Edward T. Taylor, of Colorado, asked for the immediate consideration of a concurrent resolution (H. Con. Res. 22) providing for a joint session of the House and Senate to receive a message from the President.

THE SPEAKER:[12] The question is on the resolution.

MR. [THOMAS L.] BLANTON [of Texas]: Mr. Speaker, reserving the right to object, I wish to ask a question.

THE SPEAKER: The Chair is of the opinion that this is a privileged resolution.

§ 5.23 The House agreed to a concurrent resolution pro-

10. 91 CONG. REC. 63, 79th Cong. 1st Sess.

11. 79 CONG. REC. 7838, 74th Cong. 1st Sess.

12. Joseph W. Byrns (Tenn.).

viding for a joint session of the two Houses to count the electoral votes for President and Vice President.

On Jan. 5, 1937,[13] the House considered and agreed to the following concurrent resolution (S. Con. Res. 2):

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Wednesday, the 6th day of January 1937, at 1 o'clock p.m., pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

§ 5.24 The House agreed to a concurrent resolution providing for a joint session to hear an address by the President of Brazil.

On May 9, 1949,[14] the House considered and agreed to the following concurrent resolution (H. Con. Res. 59):

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, the 19th day of May 1949, at 12:30 o'clock p.m., for the purpose of hearing an address by His Excellency Eurico Gaspar Dutra, President of the United States of Brazil.

Parliamentarian's Note: This appears to have been a joint session, but most such occasions are joint meetings which are arranged informally by each House granting permission for a recess on the day agreed upon without a concurrent resolution being used.

13. 81 CONG. REC. 14, 75th Cong. 1st Sess.

14. 95 CONG. REC. 5909, 81st Cong. 1st Sess.

Legislative Budget

§ 5.25 A legislative budget for a fiscal year was established by concurrent resolution.

On Feb. 27, 1948,[15] the House considered the following concurrent resolution (S. Con Res. 42) which had been made in order for consideration by the adoption of House Resolution 485:

> *Resolved by the Senate* (*the House of Representatives concurring*), That it is the judgment of the Congress, based upon presently available information, that revenues during the period of the fiscal year 1949 will approximate $47,300,000,000 and that expenditures during such fiscal year should not exceed $37,200,000,000, of which latter amount not more than $26,600,000,000 would be in consequence of appropriations hereafter made available for obligation in such fiscal year.

Providing Facilities for Prayer

§ 5.26 A concurrent resolution authorized the Architect of the Capitol to make available a room, with facilities for prayer and meditation, for the use of Members of the Senate and House.

On July 17, 1953,[16] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 60):

> *Resolved by the House of Representatives* (*the Senate concurring*), That the Architect of the Capitol is hereby authorized and directed to make available a room, with facilities for prayer and meditation, for the use of Members of the Senate and House of Representatives. The Architect shall maintain the prayer room for individual use rather than assemblies and he shall provide appropriate symbols of religious unity and freedom of worship.

Attendance at Foreign Meeting

§ 5.27 A concurrent resolution provided for the acceptance of an invitation to attend a meeting of the Empire Parliamentary Association and for the appointment of certain Members to a delegation thereto.

On June 22, 1943,[17] the House considered and agreed to the following concurrent resolution (S. Con. Res. 14):

> *Resolved by the Senate* (*the House of Representatives concurring*), That the Senate and the House of Representatives hereby accept the invitation tendered by the Speaker of the Senate of Canada and joint-president of the Empire Parliamentary Association, Dominion of Canada branch, to have four

15. 94 CONG. REC. 1875–85, 80th Cong. 2d Sess.

16. 99 CONG. REC. 9073–76, 83d Cong. 1st Sess.

17. 89 CONG. REC. 6268, 78th Cong. 1st Sess.

Members of the Senate and four Members of the House of Representatives attend a meeting to be held in Ottawa, Canada, during the period June 26 to July 1, 1943, at which the Dominion of Canada Branch of the Empire Parliamentary Association will be host to a delegation from the United Kingdom Parliament and probably to delegations from the legislative bodies of Australia, New Zealand, and Bermuda. The President of the Senate and the Speaker of the House of Representatives are authorized to appoint the Members of the Senate and the Members of the House of Representatives, respectively, to attend such meeting and are further authorized to designate the chairmen of the delegations from each of the Houses. The expenses incurred by the members of the delegations appointed for the purpose of attending such meeting, which shall not exceed $1,000 for each of the delegations, shall be reimbursed to them from the contingent fund of the House of which they are Members, upon the submission of vouchers approved by the chairman of the delegation of which they are members.

Honoring Former Presidents

§ 5.28 A concurrent resolution may be used by the Congress to extend birthday greetings to a former President of the United States.

On Aug. 2, 1949,(18) the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 59):

Resolved by the Senate (*the House of Representatives concurring*), That the Congress hereby extends to the Honorable Herbert Hoover, our only living ex-President, its cordial birthday greetings on his seventy-fifth birthday, and expresses its admiration and gratitude for his devoted service to his country and to the world; and that the Congress hereby expresses its hope that he be spared for many more years of useful and honorable service; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to Mr. Hoover.

§ 5.29 By concurrent resolution a day was set aside for appropriate exercises in commemoration of the life, character, and public service of former President Franklin D. Roosevelt.

On May 23, 1946,(19) the House, by unanimous consent, considered the following concurrent resolution (H. Con. Res. 152):

Resolved, That Monday, the 1st day of July 1946, be set aside as the day upon which there shall be held a joint session of the Senate and the House of Representatives for appropriate exercises in commemoration of the life, character, and public service of the late Franklin D. Roosevelt, former President of the United States.

18. 95 CONG. REC. 10628, 81st Cong. 1st Sess.

19. 92 CONG. REC. 5559, 79th Cong. 2d Sess.

That a joint committee, to consist of three Senators and five Members of the House of Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, shall be named, with full power to make all arrangements and publish a suitable program for the joint session of Congress herein authorized, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, and such other invitations shall be issued as to the said committee shall seem best.

That all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

Honoring Military Figures

§ 5.30 The House agreed to a concurrent resolution tendering the thanks of Congress to General of the Army Douglas MacArthur.

On July 20, 1962,[20] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 347):

Resolved by the House of Representatives (*the Senate concurring*), That the thanks and appreciation of the Congress and the American people are hereby tendered to General of the Army Douglas MacArthur, in recognition of his outstanding devotion to the American people, his brilliant leadership during and following World War II, and the unsurpassed affection held for him by the people of the Republic of the Philippines which has done so much to strengthen the ties of friendship between the people of that nation and the people of the United States.[1]

§ 5.31 The House agreed to a concurrent resolution authorizing the use of the rotunda of the Capitol for lying-in-state ceremonies for the body of General of the Army Douglas MacArthur.

On Apr. 6, 1964,[2] the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 74):

Resolved by the Senate (*the House of Representatives concurring*), That in recognition of the long and distinguished service rendered by Douglas MacArthur, General of the Army of the United States, the remains be per-

20. 108 CONG. REC. 14329, 14330, 87th Cong. 2d Sess.

1. See also concurrent resolution commending Lt. Col. John H. Glenn, USMC, on successfully completing the first United States manned orbital space flight. 108 CONG. REC. 2608, 87th Cong. 2d Sess., Feb. 20, 1962.

2. 110 CONG. REC. 6878, 88th Cong. 2d Sess.

mitted to lie in state in the rotunda of the Capitol from April 8 to April 9, 1964, and the Architect of the Capitol, under the direction and supervision of the President pro tempore of the Senate and the Speaker of the House of Representatives, shall take all necessary steps for the accomplishment of that purpose.

Honoring Foreign Governments

§ 5.32 The House agreed to a concurrent resolution amending a concurrent resolution providing for a joint session in commemoration of the 50th anniversary of the liberation of Cuba.

On Apr. 14, 1948,(3) the House considered and agreed to the following concurrent resolution (H. Con. Res. 184):

Resolved by the House of Representatives (*the Senate concurring*), That the first paragraph of House Concurrent Resolution 139, Eightieth Congress, is hereby amended to read as follows:

"That in commemoration of the fiftieth anniversary of the liberation of Cuba, the two Houses of Congress shall assemble in the Hall of the House of Representatives at 12 o'clock meridian, on Monday, April 19, 1948."

§ 5.33 The House agreed to a concurrent resolution extending the congratulations of Congress to the Finnish Parliament on its 50th anniversary.

On Nov. 27, 1967,(4) the House considered and agreed to the following concurrent resolution (S. Con. Res. 49):

Whereas the year 1967 marks the fiftieth anniversary of the independence of Finland; and

Whereas these fifty years have been marked by close ties of friendship and association between Finland and the United States: Now, therefore, be it

Resolved by the Senate (*the House of Representatives concurring*), That the Congress of the United States extends its congratulations and best wishes to the Parliament of Finland on the occasion of the fiftieth anniversary of the independence of Finland and in affirmation of the affection and friendship of the people of the United States for the people of Finland.(5)

Honoring Royalty

§ 5.34 The House agreed to a concurrent resolution to assemble the House and the Senate in the rotunda to wel-

3. 94 CONG. REC. 4437, 80th Cong. 2d Sess.

4. 113 CONG. REC. 33762, 33763, 90th Cong. 1st Sess.

5. *Parliamentarian's Note:* The concurrent resolution was enrolled on parchment, signed by the Speaker and the Vice President, and transmitted to the Secretary of State. The Secretary in turn saw to it that the resolution was included in the next diplomatic pouch to Finland.

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

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

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

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

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

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

§ 6. Simple Resolutions

Cross References

Simple Resolutions as related to House-Senate Conferences, Ch. 33, infra.
Simple Resolutions as related to privileges of the House or a Member, Ch. 11, supra.
Simple resolutions and special orders, Ch. 21, supra.

Use of Simple Resolution

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

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

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

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

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

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

MR. DANAHER: That is correct.

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

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

THE PRESIDING OFFICER: The Senator will state it.

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

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

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

THE PRESIDING OFFICER: THE SENATOR WILL STATE IT.

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

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

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

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

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

9. Scott W. Lucas (Ill.).

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

MR. DANAHER: I yield.

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

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

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

The legislative clerk read as follows:

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

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

Adoption of Rules

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

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

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

Waiver of Rules

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

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

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

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

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

The Clerk read the resolution as follows:

H. RES. 337

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Carl Albert (Okla.).

The Chair, therefore, overrules the point of order.

Amending Rules

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

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

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

RULE XII

DELEGATES AND RESIDENT COMMISSIONERS

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

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

Committee Investigations

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

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

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

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

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

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

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

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

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

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

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

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

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

16. Sam Rayburn (Tex.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is further provided:

That for any speech or debate in either House they—

Referring to the Senators and Representatives—

shall not be questioned in any other place.

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

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

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

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

Consideration of Concurrent Resolutions

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

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

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

consideration of House Concurrent Resolution 570:

SENSE OF CONGRESS WITH RESPECT TO BERLIN

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 827 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 570) expressing the sense of the Congress with respect to the situation in Berlin. After general debate, which shall be confined to the concurrent resolution, and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the concurrent resolution shall be considered as having been read for amendment. No amendment shall be in order to said concurrent resolution except amendments offered by the direction of the Committee on Foreign Affairs and such amendments shall not be subject to amendment. At the conclusion of the consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the concurrent resolution and amendments thereto, to final passage without intervening motion except one motion to recommit with or without instructions.

Rescinding Resolution Previously Adopted

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

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

Resolved, That the adoption by the House of Representatives of House Resolution 174, 85th Congress, is hereby rescinded. The United States Court of Claims is hereby directed to return to the House of Representatives the bill (H.R. 2648) entitled "A bill for the relief of the MacArthur Mining Co., Inc., in receivership," together with all accompanying papers, referred to said court by said House Resolution 174.

Requesting Conference

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

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

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

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

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

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

Providing a Standing Order of Business

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

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

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

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

Distribution of Senate Film Report

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

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

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

Response to Subpena

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

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

1. 109 CONG. REC. 18541, 88th Cong. 1st Sess.

2. 94 CONG. REC. 1557, 80th Cong. 2d Sess.

lowing privileged resolution (H. Res. 477):

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

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

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

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

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

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

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

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

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

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

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

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

> Whereas Harold H. Velde, of Illinois, Donald L. Jackson, of California, Morgan M. Moulder, of Missouri, Clyde Doyle, of California, and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell, and William Wheeler, employees of the House of Representatives, were by subpenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953 in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson, et al.* v. *Loew's, Incorporated, et al.,* an action pending in the Superior Court of California in and for the County of Los Angeles; and
>
> Whereas the complaint in the aforesaid case of *Michael Wilson, et al.* v. *Loew's Incorporated, et al.* lists among the parties defendant therein Harold H. Velde, Bernard W. Kearney, Donald L. Jackson, Francis E. Walter, Morgan M. Moulder, Clyde Doyle, and James B. Frazier, members of the Committee on Un-American Activities; John S. Wood, and Charles E. Potter, former members of the Committee on Un-

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

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

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

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

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

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

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

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

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

Resolved, That the House of Representatives hereby approves of the

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

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

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

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

> Whereas James A. Haley, a Representative in the Congress of the United States, has been served with a subpena to appear as a witness before the circuit court of the State of Florida for Sarasota County to testify at 10 o'clock a.m., on the 3d day of August 1954, in the case of the *County of Sarasota, Florida* v. *State of Florida and the Taxpayers, Etc.*, and
>
> Whereas by the privileges of the House of Representatives no Member is authorized to appear and testify but by the order of the House: Therefore be it
>
> *Resolved,* That Representative James A. Haley is authorized to appear in re-

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

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

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

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

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

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

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

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

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

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

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

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

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

Expressing Sympathy

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

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

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

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

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

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

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

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

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

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

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

tice has come to be known as the "legislative (or congressional) veto," and has been used extensively as a congressional device to maintain control over executive plans and actions authorized by statute. This procedure has been employed only when it has been authorized by a specific statute and for the specific purpose stated in such statute, there being no inherent power under the Constitution by which the Congress may nullify a duly authorized function of the executive branch. The procedure prescribed by a given statute in this respect varies according to the extent of control the Congress wished to exercise.

The constitutionality of these legislative veto provisions has been questioned since their earliest use.(9) The Supreme Court has in fact invalidated the one-House legislative veto mechanism contained in section 244(d)(2) of the Immigration and Nationality Act in *Immigration and Naturalization Service* v *Chadha et al.* decided June 23, 1983.(10) The opinion of the Court is to the effect that the constitutional requirement of bicameral consideration and presentment to the President is an absolute requirement for all exercises of legislative power.

The precedents contained in this section must be considered in light of the Court's ruling. They are retained because of their historic significance and because they may yet have precedential value in other contexts and in the event future legislative mechanisms are devised to overcome the constitutional infirmities recognized in *Chadha.*

Under some statutes enacted prior to the *Chadha* decision, the branch or agency of the government affected must submit certain of its decisions or plans to the Houses of Congress or directly to the appropriate congressional committees for a stated period, and such decisions or plans will not go into effect if the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action.(11)

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resolution must be acted upon by either or both Houses but which are not privileged; and those in which the resolution need only be acted upon by designated committees of either or both Houses. See *House Rules and Manual* § 1013 (1981). All three types are in a sense "nonlegislative" in that none are presented to the President for his approval or disapproval pursuant to Art. I, § 7 of the Constitution.

9. See President Carter's message on the subject of legislative vetoes, June 21, 1978, H. Doc. 95–357.

10. 462 U.S.——.

11. For example, the Atomic Energy Act of 1954 (42 USC § 2074) provides

Such provisions are to be distinguished from those statutes under which Congress is entitled to receive periodic reports from an agency on its plans or programs, but does not have direct authority to disapprove of them.(12) However, the congressional committee receiving reports under such a statute may exercise an informal negotiating procedure with the agency involved in order to bring its decisions into conformity with the views of the committee. The Internal Revenue Code, for example, provides that whenever the Internal Revenue Service determines that a taxpayer is entitled to a tax refund or credit in excess of $100,000 it shall not award the money to the taxpayer until 30 days after it has submitted a report of its decision to the Joint Committee on Internal Revenue Taxation.(13)

The staff of the joint committee then reviews each report it receives from the Internal Revenue Service to decide whether or not it agrees with the service's determination. Frequently a tax refund or credit case will not become final until the joint committee and the service have through consultation agreed on the proper determination.

In addition to expressing its disapproval by resolution the Congress may choose to amend the law under which the decision or plan was submitted, or by statute suspend the action of the reporting agency. For example, during the 83d Congress the Supreme Court drafted and submitted to the Congress under a mandatory 90-day waiting period new rules of evidence for federal courts and amendments to the federal rules of civil and criminal procedure.

Under other statutes, the agency involved must come into agreement with the appropriate congressional committees regarding the final terms of such plan. Thus, a 1949 statute authorizing the establishment of a joint long-range proving ground for guided missiles contained the following language:

> . . . Prior to the acquisition under the authority of this section of any

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that the Atomic Energy Commission must submit to the Joint Committee on Atomic Energy, for a period of 60 days before becoming effective, its determination as to the distribution of certain "special nuclear material". The proposals do not become effective if the Congress passes a concurrent resolution expressing its disapproval thereof.

12. See 18 USC § 3771 and 28 USC § 2072. The Supreme Court approved, by way of dictum, the validity of the waiting period requirement regarding the adoption of new court rules in *Sibbach* v *Wilson & Co.*, 312 U.S. 1, 15 (1941).

13. 26 USC § 6405.

lands or rights or other interests pertaining thereto, the Secretary of the Air Force shall come into agreement with the Armed Services Committees of the Senate and the House of Representatives with respect to the acquisition of such lands, rights, or other interests.(14)

The "come-into-agreement" clause was used during and after World War II, but in recent years it has fallen into disuse because of strong Presidential protest. For example, in 1954 President Eisenhower vetoed a bill (H.R. 7512, 83d Cong.) authorizing the transfer of federally owned land within Camp Blanding Military Reservation, Florida, to the State of Florida after the Secretary of the Army had come into agreement with the Committees on Armed Services of the Senate and House of Representatives regarding the terms of such transfer. In his veto message the President said:

> The purpose of this clause is to vest in the Committees of Armed Services of the Senate and House of Representatives power to approve or disapprove any agreement which the Secretary of the Army proposes to make with the State of Florida pursuant to section 2(4). The practical effect would be to place the power to make such agreement jointly in the Secretary of the Army and the members of the Committees on Armed Services. In so doing, the bill would violate the fundamental constitutional principle of separation of powers prescribed in articles I and II of the Constitution which place the legislative power in the Congress and the executive power in the executive branch.
>
> The making of such a contract or agreement on behalf of the United States is a purely executive or administrative function, like the negotiation and execution of Government contracts generally. Thus, while Congress may enact legislation governing the making of Government contracts, it may not delegate to its Members or committees the power to make such contracts, either directly or by giving to them a power to approve or disapprove a contract which an executive officer proposes to make. Moreover such a procedure destroys the clear lines of responsibility for results which the Constitution provides.(15)

14. Pub. L. No. 81–60, § 2, 63 Stat. 66.

15. H. Doc. No. 403, 83d Cong. 2d Sess. (May 26, 1954). See also the memorandum of Mr. J. V. Rankin of the Department of Justice expressing disapproval of a come-into-agreement clause in proposed amendments to the Public Building Act of 1949. 100 CONG. REC. 4878, 4879, 83d Cong. 2d Sess., Apr. 8, 1954.

President Eisenhower made even stronger objection in his budget message of 1960 to another come-into-agreement statute: "In the budget message for 1959, and again for 1960, I recommended immediate repeal of section 601 of the Act of September 28, 1951 (65 Stat. 365). This section prevents the military departments and the Office of Civil and Defense Mobilization from carrying out certain transactions involving real

Another procedural device found in agency authorization statutes is the clause providing that the agency charged with general executive authorization under a statute must consult the committees of both Houses that have jurisdiction over the subject matter of the statute before taking certain of the specific actions authorized under it. For example, the statute pertaining to the disposition of naval petroleum reserves declares that:

> The Committee on Armed Services of the Senate and the House of Representatives must be consulted and the President's approval must be obtained before any condemnation proceedings may be started under this chapter. . . .[16]

Still other statutes provide that an affirmative resolution of approval must be adopted by the congressional committees having jurisdiction of the subject matter before a plan drafted under the provisions of such statute by an executive agency shall go into effect. This affirmative approval procedure has usually been tied to the appropriation process. Thus, a statute will read that "no appropriation shall be made" until the particular projects authorized under it have been drafted by an agency concerned, submitted to the appropriate congressional committees, and approved by them by means of committee resolution.[17]

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property unless they come into agreement with the Committees on Armed Services of the Senate and the House of Representatives. As I have stated previously, the Attorney General has advised me that this section violates fundamental constitutional principles. Accordingly, if it is not repealed by the Congress at its present session, I shall have no alternative thereafter but to direct the Secretary of Defense to disregard the section unless a court of competent jurisdiction determines otherwise." Budget Message of the President for fiscal year 1961. H. Doc. No. 255, 86th Cong. 2d Sess., and 106 CONG. REC. 674, 86th Cong. 2d Sess., Jan. 18, 1960. That same year the Congress amended the statute that the President found objectionable by changing the come-into-agreement clause to one permitting a committee resolution of disapproval of military real estate transactions. Act of June 8, 1960, Pub. L. No. 86–500, title V, § 511(1), 74 Stat. 186; 10 USC § 2662.

16. 10 USC § 7431.

17. See § 7 of the Public Building Act of 1959 (40 USC § 606), and § 2 of the Watershed Protection and Flood Control Act of 1954, as amended (16 USC § 1002). The Public Building Act of 1954 provided that if a project approved by committee resolution receives no appropriation within a year the committee may rescind their approval at any time thereafter before an appropriation has been made. See *House Rules and Manual* § 1013

The legislative veto came into use in the modern practice of the Congress with the passage of the Reorganization Act of 1939.[18] Under the act the President is authorized to draft plans for the reorganization of the executive branch. Such plans will go into effect upon their completion and 60 days after the President has submitted them to the Congress. However, if during that 60-day period[19] ". . . either House passes a resolution stating in substance that the House does not favor the reorganization plan",[20] the plan shall not go into effect. The act also sets forth the procedure by which such resolutions shall be considered in the House and Senate as exceptions to the regular rules of procedure.[21]

The use of the resolution of disapproval has not been limited to reorganization plans of the President. It is found in other statutes as well, as illustrated by the following examples.

The Immigration and Nationality Act of 1952 provides that when the Attorney General determines that certain classes of aliens are to be deported he may suspend the deportation after reviewing the petitions filed by the individuals affected. Such suspensions, however, will not become final until the Attorney General has reported his determination to the Congress and neither the Senate nor the House of Representatives has passed a simple resolution, before the end of the session following the session in which the report is received, disapproving such determination. The law further provides that in cases involving certain classes of aliens sus-

(1981) for compilation of "Legislative Veto" provisions contained in recent public laws.

18. Apr. 3, 1939, Ch. 36, 53 Stat. 561; 5 USC §§ 901–913.

19. The 60-day period must be continuous during a session of the Congress. It is broken only by an adjournment of the Congress *sine die*, and it does not include adjournments of more than three days within a session of Congress. 5 USC § 906(b).

20. 5 USC § 906(a). The act originally provided that disapproval must be expressed by concurrent resolution (53 Stat. 562, 563). However, the requirement was changed to a simple resolution by the 1949 amendments (June 20, 1949, Ch. 226, § 6, 63 Stat. 205).

Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective or, if both Houses have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the 60-day period mentioned above. 5 USC § 906(c).

21. 5 USC §§ 908–913.

pension of deportation may be finalized before the end of the following session of Congress by the adoption of a concurrent resolution approving the Attorney General's findings.[1]

The resolution of disapproval may take the form of a committee resolution. For example, the Small Projects Reclamation Act of 1956[2] provides that no appropriation shall be made for participation in certain projects under the act prior to 60 days after the Secretary of the Interior has submitted his findings and approval for such projects to the Congress, ". . . and then only if, within said sixty days, neither the House nor the Senate Interior and Insular Affairs Committee disapproves the project proposal by committee resolution."[3]

Some statutes have provided that the entire authority granted therein may be terminated by a concurrent resolution of the Congress prior to the stated expiration date of the act, if one is provided. Thus, the Lend-Lease Act provided:

> After June 30, 1943, or after the passage of a concurrent resolution by the two Houses before June 30, 1943, which declares that the powers conferred by or pursuant to subsection (a) are no longer necessary to promote the defense of the United States, neither the President nor the head of any department or agency shall exercise any of the powers conferred by or pursuant to subsection (a); except that until July 1, 1946, any of such powers may be exercised to the extent necessary to carry out a contract or agreement with such a foreign government made before July 1, 1943, or before the passage of such concurrent resolution, whichever is the earlier.[4]

1. 8 USC § 1254 (1970 ed.)

2. 70 Stat. 1044.

3. 70 Stat. 1045, § 4(c), 43 USC § 422d(d) (1970 ed.).

4. Act of Mar. 11, 1941, Ch. 11, § 3(c), 55 Stat. 32. See also the Selective Service Extension Act of Aug. 18, 1941, Ch. 362, § 2, 55 Stat. 626; the Emergency Price Control Act of June 30, 1942, Ch. 26, § 1(b), 56 Stat. 24; the Economic Cooperation Act of Apr. 3, 1948, Ch. 169, title I, § 122, 62 Stat. 155; the "Gulf of Tonkin Resolution" of Aug. 10, 1964, Pub. L. No. 88–408, § 3, 78 Stat. 384; and the War Powers Resolution of Nov. 7, 1973, Pub. L. No. 93–148, § 5(c), 87 Stat. 556–557.

President Franklin D. Roosevelt objected to the inclusion of such a concurrent resolution disapproval provision in the Lend-Lease Act. However, he did not make his objections public because he felt the measure was urgently needed and he feared endangering its passage by his own pronouncement. R. H. Jackson, A Presidential Legal Opinion, 66 Harv. L. Rev. 1353, at 1356 (1953).

For a compilation of the views of a number of Presidents on the various forms of the legislative veto, see

Collateral References

Congressional Adaptation: The Come-into-Agreement Provision. 37 Geo. Wash. L. Rev. 387 (1968).

Cooper, Joseph and Ann. The Legislative Veto and the Constitution. 30 Geo. Wash. L. Rev. 467 (1962).

Harris, Joseph P. *Congressional Control of Administration*, CH. 8, The Legislative Veto. The Brookings Institution, Washington, D.C. (1964).

Jackson, Robert H. A Presidential Legal Opinion. 66 Harv. L. Rev. 1353 (1953).

Terminating Authority by Concurrent Resolution

§ 7.1 The House adopted a joint resolution relating to preservation of peace in Southeast Asia, authorizing the President to repel aggression by North Vietnam, and providing that the Congress may terminate such authority by concurrent resolution.

On Aug. 7, 1964,(5) the House considered and passed the following joint resolution (H.J. Res. 1145):

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of Southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in Southeast Asia. Consonent with the Constitution of the United States and the Charter of the United Nations and in accordance with obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including

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Hearings on the Separation of Powers Doctrine Before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, 90th Cong. 1st Sess., pp. 215–228 (1967).

5. 110 CONG. REC. 18538, 18539, 88th Cong. 2d Sess.

the use of armed force, to assist any member of protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Approval of Executive Plan

§ 7.2 The House passed a Senate joint resolution expressing approval of a report of the Department of the Interior on the construction of a dam and reservoir, and then tabled a similar House concurrent resolution called up on the Consent Calendar.

On Aug. 18, 1958,[6] Mr. Wayne N. Aspinall, of Colorado, sought and obtained unanimous consent that a Senate joint resolution be considered in lieu of a similar House concurrent resolution on the Consent Calendar.[7] The Senate joint resolution (S.J. Res. 190) was passed, and the House concurrent resolution was laid on the table. The proceedings were as follows:

The Clerk called the resolution (H. Con. Res. 301) to approve the report of the Department of the Interior on Red Willow Dam and Reservoir in Nebraska.

THE SPEAKER PRO TEMPORE [John W. McCormack, of Massachusetts]: Is there objection to the present consideration of the concurrent resolution?

MR. ASPINALL: Mr. Speaker, I ask unanimous consent that a similar Senate resolution, Senate Joint Resolution 190, be considered in lieu of the House Concurrent Resolution.

THE SPEAKER PRO TEMPORE: Is there objection to the request of the gentleman from Colorado?

There being no objection, the Clerk read the Senate joint resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the report of the Secretary of the Interior demonstrating economic justification for construction and operation of the Red Willow Dam and Reservoir is hereby approved.[8]

Changing Effective Date of Executive Plan

§ 7.3 The House adopted a House joint resolution chang-

6. 104 CONG. REC. 18290, 18291, 85th Cong. 2d Sess.

7. H. Con. Res. 301, 85th Cong. 2d Sess. (1958).

8. *Parliamentarian's Note:* Pub. L. No. 84–505 (70 Stat. 126), provided that there should be no expenditure of funds for construction of the Red Willow Dam until the Secretary of the Interior, with the approval of the President, had submitted to the Congress a report and the Congress had approved such report. Following research as to the meaning of the word "Congress" in the statute, it was decided that the approval should take the form of a joint resolution for Presidential signature.

ing the effective date of a reorganization plan.

On May 23, 1940,[9] the House considered and passed the following joint resolution (H.J. Res. 551):

Resolved, etc., That the provisions of Reorganization Plan No. V, submitted to the Congress on May 22, 1940, shall take effect on the tenth day after the date of enactment of this joint resolution, notwithstanding the provisions of the Reorganization Act of 1939.

Sec. 2. Nothing in such plan or this joint resolution shall be construed as having the effect of continuing any agency or function beyond the time when it would have terminated without regard to such plan or this joint resolution or of continuing any function beyond the time when the agency in which it was vested would have terminated without regard to such plan or this joint resolution.

§ 7.4 The House passed a Senate joint resolution changing the date when certain reorganization plans of the President would go into effect.

On June 1, 1939,[10] by direction of the Select Committee on Government Organization, Mr. John J. Cochran, of Missouri, called up a joint resolution (S.J. Res. 138) which the House considered and passed:

Resolved, etc., That the provisions of reorganization plan No. I, submitted to the Congress on April 25, 1939, and the provisions of reorganization plan No. II, submitted to the Congress on May 9, 1939, shall take effect on July 1, 1939, notwithstanding the provisions of the Reorganization Act of 1939.[11]

Disapproval of Executive Plan

§ 7.5 Formerly, a privileged concurrent resolution was used to express disapproval of an executive reorganization plan.

On May 3, 1939,[12] the House considered and rejected the following concurrent resolution:

HOUSE CONCURRENT RESOLUTION 19

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the Reorganization Plan No. I, transmitted to Congress by the President on April 25, 1939.[13]

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9. 86 CONG. REC. 6713, 76th Cong. 3d Sess.

10. 84 CONG. REC. 6527, 76th Cong. 1st Sess.

11. See also 86 CONG. REC. 6712, 76th Cong. 3d Sess., May 23, 1940.

12. 84 CONG. REC. 5085, 76th Cong. 1st Sess.

13. See also 93 CONG. REC. 7252, 80th Cong. 1st Sess., June 18, 1947; 93 CONG. REC. 6898, 80th Cong. 1st Sess., June 12, 1947; and 86 CONG. REC. 6027–49, 76th Cong. 3d Sess., May 14, 1940. The Reorganization Act of 1949 changed from concurrent to simple the form of resolution used in disapproving reorganization plans. June 20, 1949, Ch. 226, § 6, 63 Stat. 205; 5 USC § 906(a).

Discharge by Unanimous Consent

§ 7.6 The Select Committee on Reorganization was discharged from further consideration of a resolution disapproving a reorganization plan by unanimous consent.

On May 7, 1940,[14] Mr. Clarence F. Lea, of California, moved to discharge the Select Committee on Government Organization from further consideration of House Concurrent Resolution 60 (disapproving Reorganization Plan No. IV):[15]

THE SPEAKER:[16] The Clerk will report the resolution.

The Clerk read as follows:

HOUSE CONCURRENT RESOLUTION 60

Resolved by the House of Representatives (the Senate concurring), That the Congress does not favor the Reorganization Plan No. IV transmitted to Congress by the President on April 11, 1940.

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, the majority members of the Select Committee on Organization are in accord with the gentleman from California, and I ask unanimous consent that the motion of the gentleman from California to discharge the select committee be considered as having been agreed to.

THE SPEAKER: Without objection, it is so ordered.

There was no objection.

Parliamentarian's Note: The motion here was privileged, but was agreed to by unanimous consent to avoid debate and a vote on the discharge motion.

Qualification to Offer Motion to Discharge Resolution

§ 7.7 A Member must qualify as being in favor of a resolution disapproving a reorganization plan in order to move to discharge a committee from further consideration thereof.

14. 86 CONG. REC. 5676, 76th Cong. 3d Sess.

15. 5 USC § 911(a) at that time provided that a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan of the President was privileged when the resolution had been before the committee for 10 calendar days. 5 USC § 911 at present provides that if the committee to which is referred a resolution as specified has not reported such resolution or identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved. Pub. L. No. 81–109 as amended by Pub. L. No. 95–17 and extended by Pub. L. No. 96–230.

16. Sam Rayburn (Tex.).

On Aug. 3, 1961,[17] Mr. H. R. Gross, of Iowa, offered the following motion:

Mr. Gross moves to discharge the Committee on Government Operations from further consideration of House Resolution 335, introduced by Mr. Monagan, disapproving Reorganization Plan No. 6, transmitted to Congress by the President on June 12, 1961.

THE SPEAKER:[18] Is the gentleman in favor of the resolution?

MR. GROSS: Mr. Speaker, I am in favor of the disapproving resolution, yes.

THE SPEAKER: The gentleman is entitled to 30 minutes.[19]

Debate on Motion to Discharge

§ 7.8 Debate on a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan is limited to one hour and is equally divided between the Member making the motion and a Member opposed thereto.

On Aug. 3, 1961,[20] Mr. H. R. Gross, of Iowa, offered a privileged motion:

The Clerk read as follows:

Mr. Gross moves to discharge the Committee on Government Operations from further consideration of House Resolution 335, introduced by Mr. Monagan, disapproving Reorganization Plan No. 6, transmitted to Congress by the President on June 12, 1961.

THE SPEAKER:[1] Is the gentleman in favor of the resolution?

MR. GROSS. Mr. Speaker, I am in favor of the disapproving resolution, yes.

THE SPEAKER: The gentleman is entitled to 30 minutes.

The gentleman from Florida will be recognized for 30 minutes.[2]

Parliamentarian's Note: The Member opposed must also qualify.

§ 7.9 Debate on a motion to discharge the Committee on Government Operations from consideration of a resolution disapproving a reorganization plan was, by unanimous consent, extended from one to two hours to be controlled and divided by the proponent of the motion and a Member designated by the Speaker.

On July 18, 1961,[3] Mr. John W. McCormack, of Massachusetts, made the following unanimous-consent request:

MR. MCCORMACK: Mr. Speaker, I ask unanimous consent that in the event a

17. 107 CONG. REC. 14548, 87th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

19. See 5 USC § 911.

20. 107 CONG. REC. 14548, 87th Cong. 1st Sess.

1. Sam Rayburn (Tex.).

2. See 5 USC § 911(b).

3. 107 CONG. REC. 12774, 87th Cong. 1st Sess.

motion is made to discharge the Committee on Government Operations on the resolution disapproving Reorganization Plan No. 7, that the time for debate be extended from 1 hour to 2 hours, one-half to be controlled by the proponent of the motion and one-half by a Member designated by the Speaker.

THE SPEAKER:[4] Is there objection to the request of the gentleman from Massachusetts?

There was no objection.[5]

§ 7.10 The Presiding Officer ruled that in the Senate the one hour of debate on a motion to discharge a committee from further consideration of a resolution disapproving a reorganization plan is inclusive of time consumed by quorum calls, parliamentary inquiries, and points of order.

On Feb. 20, 1962,[6] during consideration of a motion to discharge the Committee on Government Operations from further consideration of Senate Resolution 288, opposing Reorganization Plan No. 1 of 1962, Senator Mike Mansfield, of Montana, raised a parliamentary inquiry:

> Mr. President, I should like to raise a parliamentary inquiry of my own: I should like to have a ruling from the Chair as to the appropriate procedure for a motion of this kind.
>
> THE VICE PRESIDENT:[7] The understanding of the Chair is that debate on the motion is limited to 1 hour, to be equally divided. If a point of order is made or if there is a quorum call or if the Senator from Montana or any other Senator obtains the floor and speaks, the time available under the motion will be running.

Parliamentarian's Note: The ruling in the House would be to the contrary. Under the precedents, since debate is not set by the clock, votes, quorum calls, etc., do not come out of the time.

Motion to Consider Resolution of Disapproval

§ 7.11 A motion that the House resolve itself into the 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.

On June 8, 1961,[8] Mr. H. R. Gross, of Iowa, raised a parliamentary inquiry:

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4. Sam Rayburn (Tex.).

5. Debate on motions to discharge resolutions disapproving reorganization plans is limited to one hour (63 Stat. 207, 5 USC § 911(b)) rather than 20 minutes under the normal discharge procedure (Rule XXVII clause 4, *House Rules and Manual* § 908 (1981)).

6. 108 CONG. REC. 2528, 87th Cong. 2d Sess.

7. Lyndon B. Johnson (Tex.).

8. 107 CONG. REC. 9775–77, 87th Cong. 1st Sess.

Mr. Speaker, is it in order and proper at this time to submit a highly privileged motion?

THE SPEAKER PRO TEMPORE:[9] If the matter to which the gentleman refers is highly privileged, it would be in order.

MR. GROSS: Then, Mr. Speaker, under the provisions of section 205(a) Public Law 109, the Reorganization Act of 1949,[10] I submit a motion. . . .

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.[11]

Consideration of Resolution of Disapproval

§ 7.12 The following procedure was employed in the House in considering a resolution disapproving a reorganization plan of the President.

On June 10, 1947,[12] Mr. Clare E. Hoffman, of Michigan, made the following statement regarding a resolution disapproving the President's Reorganization Plan No. 2 of 1947:

> 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 House Concurrent Resolution 49; 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 Alabama [Mr. Manasco] and myself.
>
> THE SPEAKER:[13] Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.
>
> THE SPEAKER: The question is on the motion offered by the gentleman from Michigan?
>
> The motion was agreed to.

§ 7.13 After a committee has reported a resolution disapproving a reorganization plan, any Member may move that the House proceed to consideration thereof, and a Member is not required to qualify as being in favor of the resolution in order to move that the House resolve into the Committee of the Whole to consider it.

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9. Oren Harris (Ark.).

10. Section 205 of the Reorganization Act of 1949 (68 Stat. 207, 5 USC § 912(a)) 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. The motion is highly privileged and is not debatable."

11. 107 CONG. REC. 9777, 87th Cong. 1st Sess.

12. 93 CONG. REC. 6722, 80th Cong. 1st Sess.

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

On July 19, 1961,[14] Mr. Dante B. Fascell, of Florida, moved that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 328) disapproving Reorganization Plan No. 5 transmitted to the Congress by the President on May 24, 1961. Mr. H. R. Gross, of Iowa, raised a parliamentary inquiry based on his contention that a Member so moving must qualify as being in favor of such resolution.

MR. GROSS: . . . Is the gentleman from Florida in favor of the resolution, or does he disfavor the resolution?

THE SPEAKER:[15] Under the rules, the gentleman does not have to qualify in that respect on this particular motion.[16]

Precedence of Consideration

§ 7.14 Consideration of resolutions disapproving reorganization plans of the President does not take precedence over a grant of unanimous consent for the consideration of an appropriation bill, unless the Committee on Appropriations yields for that purpose.

On May 9, 1950,[17] Mr. Clare E. Hoffman, of Michigan, raised a point of order against the consideration of the general appropriation bill of 1951 (H.R. 7786):

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:[18] 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. [GEORGE H.] MAHON [of Texas]: 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 gen-

14. 107 CONG. REC. 12905, 12906, 87th Cong. 1st Sess.

15. Sam Rayburn (Tex.).

16. See 5 USC Sec. 912(a).

17. 96 CONG. REC. 6720–24, 81st Cong. 2d Sess.

18. John W. McCormack (Mass.).

tleman 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] TABER [of New York]: Under the established rules of practice of the House, when a special order like that is granted, like that which was granted at the request of the gentleman from Missouri [Mr. Cannon], if those in charge of the bill do not present on any occasion a motion to go into Committee of the Whole, it is in order for the Speaker to recognize other Members for other items that are in order on the calendar. That does not deprive the holder of that special order of the right, when those items are disposed of, to move that the bill be considered further in Committee of the Whole.

MR. [ROBERT F.] RICH [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. RICH: If the 21 resolutions that were presented to the House by the President, a great many of which have been considered by the Committee on Expenditures in the Executive Departments—of which the chairman is a member, and which have been acted on by that committee—are not presented to the House before the twenty-fourth of this month, they become law. The general appropriation bill does not necessarily have to be passed until the 30th of June, but it is necessary that the 21 orders of the President be brought before the House so they can be acted on by the twenty-fourth of this month, and it seems to me that they ought to take precedence over any other bill.

THE SPEAKER PRO TEMPORE: The gentleman has made a statement of fact, not a parliamentary inquiry.

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

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 gentleman from Michigan makes a point of order, the substance of which is that the motion he desires to make or that someone else should make in relation to the consideration of a disapproving resolution of one of the reorganization plans takes precedence over the appropriation bill insofar as recognition by the Chair is concerned. The gentleman from Michigan raises a very serious question and the Chair feels at this particular time that it is well that he did so.

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: Let the Chair finish.

MR. RANKIN: Mr. Speaker, I would like to propound a parliamentary inquiry at this time.

THE SPEAKER PRO TEMPORE: The Chair is in the process of making a ruling.

MR. RANKIN: That is the reason I want to propound the inquiry right at this point.

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. [ARTHUR L.] MILLER of Nebraska: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. MILLER of Nebraska: I understood the statement of the gentleman from Missouri on April 6 was that the appropriation bill would take precedence over all legislation and special orders until entirely disposed of. Does that include conference reports?

THE SPEAKER PRO TEMPORE: A conference report is in a privileged status in any event.

MR. TABER: They were specifically exempted.

THE SPEAKER PRO TEMPORE: They were specifically exempted. In relation to the observation made by the gentleman from Michigan [Mr. Hoffman] that because other business has been brought up and that therefore constitutes a violation of the unanimous-consent request, the Chair, recognizing the logic of the argument, disagrees with it because that action was done through the sufference of the Appropriations Committee and, in the opinion of the Chair, does not constitute a violation in any way; therefore does not obviate the meaning and effect of the unanimous-consent request heretofore entered into, and which the Chair has referred to.

For the reasons stated, the Chair overrules the point of order.

MR. HOFFMAN of Michigan: Mr. Speaker, a further point of order.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HOFFMAN of Michigan: The point of order is the same as I raised before; but, to keep the Record clear, I wish to make the same point of order regarding House Resolution 522, House Resolution 545, and House Resolution 546, that is, that the House proceed to the consideration of each of those resolutions in the order named, assuming, of course, that the ruling will be the same, but making a record.

THE SPEAKER PRO TEMPORE: The Chair will reaffirm his ruling in relation to the several resolutions the gentleman has referred to.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. EBERHARTER: I believe I am correct, Mr. Speaker, in stating that since the unanimous-consent request of the gentleman from Missouri [Mr. Cannon] was granted, that the House took up a measure under the new 21-day rule. I would like to know, Mr. Speaker,

whether or not that was taken up because of its high privilege or whether it was taken up because of the sufferance of the chairman of the Committee on Appropriations, the gentleman from Missouri (Mr. Cannon).

THE SPEAKER PRO TEMPORE: The present occupant of the Chair, of course, is unable to look into the mind of the Speaker who was presiding at the time. But from the knowledge that the Chair has, which, of course, is rather close, it was because the chairman of the Committee on Appropriations permitted it to be done through sufferance. In other words, if the chairman of the Committee on Appropriations had insisted on going into the Committee of the Whole House on the State of the Union, and if the present occupant of the chair had been presiding, there is nothing else that could have been done under the unanimous-consent request, in the Chair's opinion, but to recognize the motion.

MR. EBERHARTER: A further parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. EBERHARTER: As I understand the unanimous-consent request of the gentleman from Missouri, it was that the appropriation bill would take preference over any other matters having a high privilege. My understanding of the new 21-day rule is that that is a matter of the highest privilege, and therefore I am wondering whether the same rule applies.

THE SPEAKER PRO TEMPORE: The gentleman is correct, but that rule can be changed just like any other rule of the House can be changed.

MR. EBERHARTER: But the gentleman from Missouri did not insist on all matters having the highest privilege. According to the Record, he only made his request with respect to motions having a high privilege.

THE SPEAKER PRO TEMPORE: The unanimous-consent request, I might advise the gentleman from Pennsylvania, appears in the Record of April 6, 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."

§ 7.15 The Speaker permitted consideration and debate on a conference report to intervene between consideration of two resolutions disapproving of two Presidential reorganization plans where the original papers accompanying the conference report were messaged from the Senate before consideration of the second resolution had begun.

On Sept. 28, 1970,[19] the Speaker[1] recognized a Member to call up a conference report on a bill dealing with railroad safety (S. 1933) after consideration of the first of two reorganization plans and before debate was to begin on the second.[2] He announced his intention to do so as follows:

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19. 116 CONG. REC. 33870, 91st Cong. 2d Sess.

1. John W. McCormack (Mass.).

2. The House was considering H. Res. 1209, disapproving of Reorganization

The Chair has been informed and understands that the original papers on the next conference report have not been messaged over to the House as yet. They will be here shortly.

The Chair will recognize the gentleman from California (Mr. Holifield) in connection with the first reorganization plan, and if the papers [on the conference report] arrive between consideration of the first and second reorganization plans, the Chair will recognize the gentleman from West Virginia at that time.

Limitations on Time for Debate

§ 7.16 Debate on resolutions disapproving reorganization plans is fixed by statute, and the Senate rule relative to the time for debate on usual propositions does not apply.

On May 14, 1940,[3] the Senate considered a concurrent resolution (S. Con. Res. 43) disapproving a Presidential reorganization plan. The Vice President[4] made the following statement:

> Let the Chair make a statement with reference to the statutory and parliamentary situation. The statute, as the Chair understands it, and as it was interpreted by the President pro tempore yesterday—and the Chair thinks he was correct—divides the time equally between those for and those against the pending resolution. The Parliamentarian advises the Chair that those favoring the resolution have 2 hours and 4 minutes and those opposed to it have 1 hour and 56 minutes. Ordinarily, under the rules of the Senate, when a Senator is recognized he may continue to address the Senate indefinitely. In this case, however, the statute limits the time. Any Senator recognized now can continue until the limitation of time for his side would take him from the floor. The Chair is going to recognize the Senator from Vermont. He has 2 hours and 4 minutes on his side. When he ceases, some other Senator then will be recognized. The Chair thought he ought to make this statement, so that the Senate may understand the parliamentary situation.

§ 7.17 By unanimous consent, debate on a resolution disapproving Reorganization Plan No. 1 of 1959, was limited to two hours in lieu of the 10 hours allowed under the Reorganization Act of 1949.

On July 1, 1959,[5] Mr. Neal Smith, of Iowa, asked unanimous consent that debate on House Resolution 295 disapproving Reorganization Plan No. 1 of 1959 scheduled for consideration on the following Monday be limited to two hours, one-half of the time to be

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Plan No. 3 and H. Res. 1210, disapproving of Plan No. 4.

3. 86 CONG. REC. 6027, 76th Cong. 3d Sess.

4. John N. Garner (Tex.).

5. 105 CONG. REC. 12519, 86th Cong. 1st Sess.

controlled by the majority and one-half of the time to be controlled by the minority.

There was no objection.[6]

§ 7.18 A resolution disapproving a reorganization plan was called up and debated for two hours in the Committee of the Whole under a previous unanimous-consent agreement.

On July 6, 1959,[7] Mr. Dante B. Fascell, of Florida, moved that the House resolve itself under the Committee of the Whole House on the state of the Union for the consideration of the resolution (H. Res. 295) disapproving Reorganization Plan No. 1 of 1959. The proceedings in the Committee of the Whole were as follows:

THE CHAIRMAN:[8] Under the consent agreement of Wednesday, July 1,[9] 2 hours of general debate are allowed on the resolution, to be equally divided between the majority and the minority.

At the conclusion of debate Mr. Fascell moved:

Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that it do pass.

The motion was agreed to.

§ 7.19 A resolution disapproving a reorganization plan of the President was, by unanimous consent, considered in the House as in Committee of the Whole, debated for only five minutes, and passed.

On June 18, 1947,[10] the House considered a concurrent resolution disapproving Reorganization Plan No. 3 of the President. The proceedings were as follows:

REORGANIZATION PLAN NO. 3

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, I move that the House proceed to take up House Concurrent Resolution 51, which does not favor Reorganization Plan No. 3 of May 27, 1947, and, pending that motion, I ask unanimous consent that the resolution may be considered in the House as in the Committee of the Whole and that general debate be limited to 5 minutes.

THE SPEAKER:[11] Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring),

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6. Section 205 of the Reorganization Act of 1949 (63 Stat. 207, 5 USC § 912) permits 10 hours of debate on such a resolution.

7. 105 CONG. REC. 12740–46, 86th Cong. 1st Sess.

8. Stewart L. Udall (Ariz.).

9. 105 CONG. REC. 12519, 86th Cong. 1st Sess.

10. 93 CONG. REC. 7252, 80th Cong. 1st Sess.

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

That the Congress does not favor the Reorganization Plan No. 3 of May 27, 1947, transmitted to Congress by the President on the 27th day of May 1947.

THE SPEAKER: The gentleman from Michigan is recognized for 5 minutes.

MR. HOFFMAN: Mr. Speaker, I understand there is no objection to this resolution.

I yield to the gentleman from Alabama [Mr. Manasco], ranking minority member of the committee, to explain the resolution and any opposition, if any there be.

MR. [CARTER] MANASCO: Mr. Speaker, a similar plan was sent up during the Seventy-ninth Congress and rejected by the House.

This plan reorganizes the housing agencies of the Government. Our committee thinks these agencies should be reorganized but we do not think the lending and insuring agencies should be placed in the same organization with the construction agency.

I have no requests for time on this side. That is the only issue involved.

MR. HOFFMAN: Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

§ 7.20 In considering three resolutions disapproving three reorganization plans of the President, the House agreed by unanimous consent that the three resolutions be considered together, that debate be limited to three hours, and that after debate the resolutions be voted on separately.

On June 28, 1946,[12] Mr. Carter Manasco, of Alabama, made the following unanimous-consent request regarding resolutions of disapproval of the President's Reorganization Plans Nos. 1, 2, and 3:

REORGANIZATION PLANS NO. 1, NO. 2, AND NO. 3

MR. MANASCO: Mr. Speaker, I call up House Concurrent Resolution 155, and I ask unanimous consent that House Concurrent Resolutions 154 and 151 be considered; that the debate be limited on the three resolutions to 3 hours, the time to be divided equally between myself and the ranking minority member of the Committee on Expenditures in the Executive Departments; that after 3 hours of general debate on the resolutions, the resolutions be voted on separately.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, reserving the right to object, as I understand it, in these 3 hours a Member may talk about any one of the three resolutions.

THE SPEAKER:[13] That is correct.

MR. MARTIN of Massachusetts: And that at the end of general debate the resolutions will be voted on separately.

MR. MANASCO: Each resolution separately.

Mr. Speaker, I ask unanimous consent also that the plans be voted on in

12. 92 CONG. REC. 7886, 79th Cong. 2d Sess.

13. Sam Rayburn (Tex.).

their order, plan 1 first; plan 2, second; and plan 3, third.

MR. [WILLIAM A.] PITTENGER [of Minnesota]: Mr. Speaker, reserving the right to object, it is the resolutions that must be voted on.

MR. MANASCO: That is correct.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Reserving the right to object, the gentlemen have agreed on time, which is very satisfactory. The only suggestion I have to make is that I hope they do not use the entire 3 hours.

THE SPEAKER: The gentleman from Alabama ask unanimous consent that there be 3 hours of general debate on these resolutions, at the end of which time the resolutions are to be voted on separately in this order: Plan No. 1, plan No. 2, and plan No. 3.

Is there objection?

There was no objection.

Consideration Without Debate

§ 7.21 A resolution disapproving a reorganization plan was considered in the House as in the Committee of the Whole by unanimous consent and agreed to by voice vote without debate.

On July 15, 1956,[14] Mr. William L. Dawson, of Illinois, asked unanimous consent that House Resolution 534 disapproving Reorganization Plan No. 1 be considered in the House as in the Committee as the Whole.

THE SPEAKER:[15] Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE SPEAKER: The question is on the resolution.

The question was taken.

THE SPEAKER: In the opinion of the Chair, the resolution having received an affirmative vote of a majority of the authorized membership of the House, the resolution is agreed to.[16]

Control of Time in Opposition

§ 7.22 The Member calling up a resolution disapproving a reorganization plan announced that the majority and minority members of the Committee on Government Operations (both in favor of the plan) would yield half of their time to Members opposed to the resolution, who would in turn control the time in opposition.

On Aug. 9, 1967,[17] the House resolved itself into the Committee of the Whole House on the state of

14. 102 CONG. REC. 11886, 84th Cong. 2d Sess.

15. Sam Rayburn (Tex.).

16. A similar procedure was employed to adopt a resolution (H. Res. 541) disapproving Reorganization Plan No. 2 of 1956. See 102 CONG. REC. 11886, 84th Cong. 2d Sess., July 5, 1956.

17. 113 CONG. REC. 21941, 90th Cong. 1st Sess.

the Union for the consideration of House Resolution 512 disapproving Reorganization Plan No. 3 of 1967. The Chairman[18] then made the following announcement:

> Under the unanimous-consent agreement of Thursday, August 3, 1967, general debate on the resolution will continue for not to exceed 4 hours, to be equally divided and controlled by the gentleman from Minnesota [Mr. Blatnik] and the gentlewoman from New Jersey [Mrs. Dwyer].
>
> The Chair recognizes the gentleman from Minnesota. . . .
>
> MR. [PORTER] HARDY [Jr., of Virginia]: I wonder if we could have an understanding now so that there will not be any confusion as to how the time will be divided. I am sure the gentleman from Minnesota has already indicated what he plans to do, but I think it might be well if we had that cleared up now, if the gentleman would not mind?
>
> MR. [JOHN A.] BLATNIK: I will be pleased to do so and I think the gentleman has made a very proper request.
>
> What we have done by agreement of the leadership on both sides of the House, and by agreement with the majority and minority leadership of the House Committee on Government Operations and of the Committee on the District of Columbia is that we have agreed to divide the time equally between the proponents and the opponents as follows:
>
> The minority will divide their time with 1 hour allocated to the opponents and 1 hour for the proponents.
>
> The majority on our side have done the same thing, to allocate 1 hour to the proponents and 1 hour to the opponents.
>
> The time for the opponents on the majority side will be handled by the gentleman from Virginia [Mr. Hardy], and I shall handle the time for the proponents.
>
> I understand the gentleman from Illinois [Mr. Erlenborn] will handle the time on the minority side for the proponents on their side and the gentleman from Minnesota [Mr. Nelsen] will handle the time for the opponents.[19]

Amendment of Resolution

§ 7.23 A motion that the Committee of the Whole rise and report a resolution to disapprove a reorganization plan back to the House, with the recommendation that the enacting clause be stricken out, was held not in order on the ground that there would be no amendment stage during which to offer the motion.

On June 27, 1953,[20] during consideration in the Committee of the Whole of a resolution (H. Res.

18. William L. Hungate (Mo.).

19. Under the law debate on a resolution disapproving a reorganization plan is divided equally between the proponents and opponents of the resolution. 5 USC § 912(b).

20. 99 CONG. REC. 7482, 83d Cong. 1st Sess.

295) disapproving Reorganization Plan No. 6, Mr. W. Sterling Cole, of New York, made the following motion:

> Mr. Chairman, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Cole of New York moves that the Committee do now rise with the recommendation that the enacting clause be stricken.
>
> MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Chairman, I make the point of order that the motion is not in order.
>
> THE CHAIRMAN:[1] The Chair is compelled to agree with the gentleman from Michigan. The resolution is not amendable and, therefore, the preferential motion is not in order.[2]

House Consideration of Report of Committee of the Whole

§ 7.24 When the Committee of the Whole has reported back to the House its recommendation regarding the adoption or rejection of a resolution disapproving a reorganization plan, the question in the House recurs on the adoption of the resolution of disapproval and not on concurring in the committee's recommendation.

On Feb. 21, 1962,[3] the Committee of the Whole House on the state of the Union considered a resolution (H. Res. 530) disapproving Reorganization Plan No. 1 transmitted to the Congress by the President on Jan. 30, 1962, and reported the resolution back to the House with the recommendation that it not be agreed to.

The Speaker[4] ordered the resolution read by the Clerk and announced that the question was on the adoption of the resolution.

Voting on Resolutions of Disapproval

§ 7.25 An affirmative vote of a majority of the authorized membership of the House is required to adopt a resolution disapproving a reorganization plan of the President, and such vote may be had by viva voce, by division, or by the yeas and nays.

On Aug. 11, 1949,[5] during consideration in the House of a resolution (H. Res. 301) disapproving Reorganization Plan No. 2 of 1949 and adversely reported from the Committee on Expenditures in the Executive Departments, Mr. Charles A. Halleck, of Indiana, raised a parliamentary inquiry:

> Further, Mr. Speaker, do I understand correctly that under the terms of

1. Leslie C. Arends (Ill.).

2. See 5 U.S.C. 912(b).

3. 108 CONG. REC. 2679, 2680, 87th Cong. 2d Sess.

4. John W. McCormack (Mass.).

5. 95 CONG. REC. 11314, 81st Cong. 1st Sess.

the Reorganization Act under which we are operating the proponents of the resolution who by that resolution would seek to disapprove Reorganization Plan No. 2 would have to have 218 votes actually present and voting in order to carry the resolution?

THE SPEAKER:[6] That is correct; that is the law, and the Chair will take this opportunity to read the law:

> Sec. 6. (a) Except as may be otherwise provided pursuant to subsection (c) of this section, the provisions of the reorganization plan shall take effect upon the expiration of the first period of 60 calendar days of continuous session of the Congress, following the date on which the plan is transmitted to it; but only if, between the date of transmittal and the expiration of such 60-day period there has not been passed by either of the two Houses by the affirmative vote of a majority of the authorized membership of that House, a resolution stating in substance that that House does not favor the reorganization plan.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. BROWN of Ohio: How will the Chair determine whether there are 218 votes cast in favor of the resolution?

THE SPEAKER: By the usual method: Either by a viva voce vote, division vote, or a vote by the yeas and nays.

The question is on the resolution.

The question was taken.

THE SPEAKER: In the opinion of the Chair the resolution not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

Rejection by House as Affecting Senate Action

§ 7.26 Where the House disagrees to a reorganization plan submitted by the President, it notifies the Senate of its action, and the Senate may indefinitely postpone further consideration of a resolution disapproving the same reorganization plan.

On July 20, 1961,[7] there was received in the Senate a message from the House announcing that the House had agreed to a resolution (H. Res. 328) disapproving Reorganization Plan No. 5 transmitted to Congress by the President on May 24, 1961.

Senator Mike Mansfield, of Montana, subsequently moved that Senate Resolution 158, disapproving Reorganization Plan No. 5, be indefinitely postponed.

The motion was agreed to.[8]

§ 7.27 The House having agreed to a resolution disapproving a reorganization plan, the Senate Committee on Government Operations

6. Sam Rayburn (Tex.).

7. 107 CONG. REC. 13017, 87th Cong. 1st Sess.

8. *Id.* at p. 13027.

ordered reported, without recommendation, a resolution to the same effect.

On June 16, 1961,[9] Senator John L. McClellan, of Arkansas, made the following statement in the Senate:

> Mr. President, on June 13, 1961, the Committee on Government Operations, in executive session, ordered reported, without recommendations, S. Res. 142, expressing disapproval of Reorganization Plan No. 2 of 1961.
>
> Under section 6 of the Reorganization Act of 1949, as amended, a reorganization plan may not become effective if a resolution of disapproval is adopted by a simple majority of either House. On June 15, 1961, the House of Representatives adopted House Resolution 303, to disapprove Reorganization Plan No. 2 of 1961. Since this action results in the final disposition of the matter, it is no longer necessary either for the Committee on Government Operations to file a report on S. Res. 142, or for the Senate to take any further action.
>
> I call attention to the fact, however, that hearings on that resolution have been held and will be available shortly for the information of Members of the Senate. Legislation to enact certain provisions of Reorganization Plan No. 2 is now pending before the Senate Committee on Commerce—S. 2034—and the House Committee on Interstate and Foreign Commerce—H.R. 7333—and the House committee has now completed hearings on H.R. 7333.
>
> I thought it proper to make this announcement in view of the fact that the committee had voted to report the resolution as I have indicated.

§ 8. Resolutions of Inquiry

The resolution of inquiry[10] is a simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch. The practice is nearly as old as the Republic,[11] and is based on principles of comity between the executive and legislative branches rather than on any specific provision of the Constitution that a federal court may be called upon to enforce.

The resolution of inquiry is privileged, i.e. it may be considered at any time after it is properly reported or discharged from committee.[12]

The resolution must be directed to the President or the head of an executive department,[13] and it

9. 107 CONG. REC. 10628, 87th Cong. 1st Sess.

10. See also Ch. 15, Investigations and Inquiries, supra.

11. See 3 Hinds' Precedents Sec. 1856 et seq.

12. See 8.6, infra.

13. 3 Hinds' Precedents §§ 1861–1864; and 6 Cannon's Precedents § Sec. 406.

must call for the reporting of facts within their knowledge or control. If it calls for an opinion (14) or an investigation,(15) the resolution does not enjoy a privileged status.

Committee Jurisdiction

§ 8.1 When introduced, resolutions of inquiry are referred to the committee having jurisdiction over the type of information or program at which the resolution is directed.

Resolutions of inquiry directing the Secretary of State to transmit information touching the ratification of certain trade agreements come within the jurisdiction of the Committee on Ways and Means.

On June 3, 1935,(16) Mr. Harold Knutson, of Minnesota, introduced a resolution of inquiry (H. Res. 236) directing the Secretary of State to transmit to the House of Representatives information touching upon the failure of the Republics of Brazil and Columbia to ratify certain trade agreements.

The resolution was referred to the Committee on Ways and Means.

Scope of Inquiry; Soliciting Opinions

§ 8.2 A resolution of inquiry seeking an opinion rather than a recital of facts from the head of an executive department is not privileged and is therefore not subject to a motion to discharge.

On July 7, 1971,(17) Ms. Bella S. Abzug, of New York, moved to discharge the Committee on Armed Services from further consideration of House Resolution 491, a privileged resolution of inquiry:

> *Resolved*, That the President, the Secretary of State, Secretary of Defense, and the Director of the Central Intelligence Agency be, and they are hereby, directed to furnish the House of Representatives within fifteen days after the adoption of this resolution with full and complete information on the following—
>
> the history and rationale for United States involvement in South Vietnam since the completion of the study entitled "United States—Vietnam Relationships, 1945–1967", prepared by the Vietnam Task Force, Office of the Secretary of Defense;

14. See § 8.3, infra.

15. 3 Hinds' Precedents §§ 1872–1874; and 6 Cannon's Precedents §§ 422, 427, 429, 432.

16. 79 CONG. REC. 8604, 74th Cong. 1st Sess.

17. 117 CONG. REC. 23810, 23811, 92d Cong. 1st Sess.

the known existing plans for residual force of the United States Armed Forces in South Vietnam;

the nature and capacity of the government of the Republic of Vietnam including but not limited to analyses of their past and present military capabilities, their capacity for military and economic self-sufficiency including but not limited to analyses of the political base of the Republic, the scope, if any, of governmental malfunction and corruption, the depth of popular support and procedures for dealing with nonsupport; including but not limited to known existing studies of the economy of the Republic of South Vietnam and the internal workings of the government of the Republic of South Vietnam;

the plans and procedures, both on the part of the Republic of South Vietnam and the United States Government for the November 1971 elections in the Republic of South Vietnam, including but not limited to analyses of the United States involvement, covert or not, in said elections.

Mr. F. Edward Hebert, of Louisiana, raised a point of order:

Mr. Speaker, the resolution calls for opinions and under the rule the resolution of inquiry must seek facts, not opinions. The resolution obviously requires an opinion when it asks for "the nature and capacity of the Government of the Republic of Vietnam." It also asks for opinion when it seeks analyses of the past and present military capabilities of the Republic of Vietnam. It clearly asks for opinion when it seeks "the depth of popular support," of the South Vietnamese Government.

Any resolution asking for a determination of "capacity" and asking for "analyses" of past and present military capabilities asks for opinions, and thus destroys the privileged nature of the resolution. I refer to volume 3, Cannon's Precedents, section 1873.

And finally, Mr. Speaker, there can be no question that a resolution which asks for the "rationale" for U.S. involvement in South Vietnam most assuredly seeks an opinion. Webster's Dictionary defines the word rationale as:

> An explanation of controlling principles of opinion, belief, practice or phenomena.

I make the further point of order, Mr. Speaker, that the resolution is not confined to heads of departments or the President but also includes the head of an agency and, therefore, the resolution is not privileged.

Mr. Speaker, I press the point of order.

THE SPEAKER:[18] The Chair is prepared to rule. . . .

It has been consistently held that to retain the privilege under the rule, resolutions of inquiry must call for facts rather than opinions—Cannon's precedents, volume VI page 413 and pages 418 to 432. Speaker Longworth, on February 11, 1926, held that a resolution inquiring for such facts as would inevitably require the statement of an opinion to answer such inquiry was not privileged—Record, page 3805.

Among other requests, House Resolution 491 calls for the furnishing of one, the "rationale" for U.S. involvement in South Vietnam since the com-

18. Carl Albert (Okla.).

pletion of the study; two, the nature and "capacity" of the Government of the Republic of Vietnam, including "analyses" of their military "capabilities"; their capacity for self-sufficiency which would include analyses of the Government's political base, the scope of malfunction and corruption, the depth of popular support; and three, analyses of U.S. involvement in 1971 elections in South Vietnam.

In at least these particulars, executive officials are called upon—not for facts—but to furnish conclusions, which must be, essentially, statements of opinion.

The Chair therefore holds that House Resolution 491 is not a privileged resolution within the meaning of clause 5, rule XXII, and that the motion to discharge the Committee on Armed Services from its further consideration is not in order.

Reporting Resolutions of Inquiry

§ 8.3 Resolutions of inquiry must be reported back to the House by committee within the time period specified in the rule (Rule XXII clause 5), and if the resolution is not reported by the committee within the time limit, it may be called up in the House as a matter of privilege.

Parliamentarian's Note: From the inception of the rule in 1879, the time period for committee action was set at seven legislative days. In the 98th Congress, the period was set at 14 days.

On Feb. 9, 1950,[1] the Committee on Foreign Affairs reported unfavorably a resolution of inquiry (H. Res. 452) requesting certain information from the President regarding American foreign policy in the Far East. The committee had received responses to the resolution from the Department of State which it determined sufficient for purposes of the resolution. The Chairman of the committee, John Kee, of West Virginia, moved that the resolution be laid on the table.

The replies of the Department of State were to be printed in the committee report accompanying the resolution, but the report had not yet been printed at the time the resolution was being considered in the House. Mr. John Phillips, of California, raised a question pending the motion to lay on the table as to why the committee report was not available:

> That is a proper question. When are the replies going to be printed? Why were they not printed before the resolution was brought up and, as the gentleman from Illinois said, why were they not printed before the discussion of the Korea-Formosa aid?
>
> MR. KEE: Under the rule, we have to report these resolutions to the House, with the action of the committee on them, within 7 days. It took quite some

1. 96 CONG. REC. 1755, 81st Cong. 2d Sess.

time for us to get the answers back from the Department. We reported them at the earliest possible time. They would have been reported on yesterday had that day not been Calendar Wednesday.

MR. PHILLIPS of California: That does not reply to my question, or, rather, it is a reply, but it is not, perhaps, a satisfactory reply because the committee did not have to bring up this resolution until after they were printed.

THE SPEAKER:[2] A parliamentary question is involved there with which the gentleman is perhaps not familiar.

MR. PHILLIPS of California: Would the Speaker care to enlighten me on the parliamentary question?

THE SPEAKER: It is that if the committee does not report the resolution within 7 days, the gentleman from Connecticut may call it up.

MR. PHILLIPS of California: Is the Speaker saying that the report had to be acted upon in 7 days?

THE SPEAKER: By the committee or by the House. If the committee does not report it within seven legislative days, the gentleman from Connecticut can call it up. The committee has considered it, so the gentleman from West Virginia has said. The committee has the answers. It considered them, and it took action. The gentleman has now reported this resolution unfavorably and is going to move to lay it on the table. That is the usual course. It is done many times every year.[3]

2. Sam Rayburn (Tex.).

3. See §§ 8.12–8.14, infra, regarding the applicability of Rule XI clause 27(d)(4) (the three-day availability rule, which is found in Rule XI clause 2(l)(6) Sec. 715 in the 1981 *House Rules and Manual*) to committee reports on resolutions of inquiry.

Extension of Reporting Date

§ 8.4 The House has by unanimous consent extended the time in which a resolution of inquiry must be reported to the House.

On Feb. 11, 1952,[4] Mr. John W. McCormack, of Massachusetts, asked unanimous consent that notwithstanding the provisions of Rule XXII clause 5, requiring a report within one week on a resolution of inquiry, the Committee on Foreign Affairs may have until Wednesday, Feb. 20, 1952, to file a report on House Resolution 514.

There was no objection.

Privileged Status

§ 8.5 Parliamentarian's Note: A resolution of inquiry reported from a committee is called up as a privileged matter and is debatable under the hour rule.

On Sept. 16, 1965,[5] Mr. James H. Morrison, of Louisiana, offered a privileged resolution (H. Res.

4. 98 CONG. REC. 960, 82d Cong. 2d Sess.

5. 111 CONG. REC. 24030, 89th Cong. 1st Sess.

574) reported from the Committee on Post Office and Civil Service directing the Postmaster General to furnish the House of Representatives with the names of all persons employed by the Post Office Department as temporary employees at any time during the period beginning on May 23, 1965, and ending on Sept. 6, 1965. Mr. Morrison asked for the immediate consideration of the resolution, and the Chair recognized him for one hour.

The House subsequently agreed to a motion offered by Mr. Morrison to lay this resolution on the table.[6]

Calendars

§ 8.6 Resolutions of inquiry, when reported from committee, may be referred to the appropriate calendar rather than be considered immediately.

On July 1, 1971,[7] four resolutions of inquiry (H. Res. 492, 493, 494, and 495) directing the Secretary of State to furnish the House with information regarding American activity in Southeast Asia were reported adversely from the Committee on Foreign Affairs and referred to the House Calendar and ordered to be printed.[8]

§ 8.7 Consideration of a resolution of inquiry does not take precedence over the call of the Private Calendar.

On Aug. 3, 1971,[9] F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, raised the following parliamentary inquiry shortly after the convening of the House on that day:

> It is my intention to send to the desk a privileged resolution, and I intend to make a motion to table the resolution, which has an adverse report from the Committee on Armed Services. The parliamentary inquiry that I desire to make is, am I permitted, after sending the privileged resolution to the desk for consideration, to allow its introducer to speak without losing my privilege to move immediately to table?

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6. *Id.* at p. 24033.

7. 117 CONG. REC. 23211, 92d Cong. 1st Sess.

8. *Parliamentarian's Note:* Rule XXII clause 5 provides that resolutions of inquiry shall be reported to the House within one week after presentation. If the committee does not report within that time, a motion to discharge the committee from further consideration of the resolution becomes privileged. Once the committee reports, however, the committee chairman is recognized over all other members to call up the resolution even though the committee has reported adversely in order to prevent a motion to discharge.

9. 117 CONG. REC. 29060, 92d Cong. 1st Sess.

THE SPEAKER:[10] The gentleman will be recognized on the resolution. The gentleman will be privileged to yield.

MR. HÉBERT: I shall be able to yield without losing my right?

THE SPEAKER. The gentleman can yield for debate purposes.

MR. HÉBERT: At any time after I yield I can move to table?

THE SPEAKER: The gentleman is correct.

MR. HÉBERT: Then, Mr. Speaker, I shall send to the desk a privileged resolution and ask for its immediate consideration.

THE SPEAKER: Will the gentleman withhold that request inasmuch as the Private Calendar must be called ahead of legislative business?

MR. HÉBERT: Certainly, sir.

§ 8.8 A motion to lay on the table a resolution of inquiry is not debatable, and if such motion, when offered by the Member in charge, is decided adversely, the right to prior recognition passes to the Member leading the opposition to the motion.

On Feb. 20, 1952,[11] Mr. James P. Richards, of South Carolina, by direction of the Committee on Foreign Affairs, called up a privileged resolution (H. Res. 514) directing the Secretary of State to transmit to the House information relating to any agreements made by the President of the United States and the Prime Minister of Great Britain during their recent conversations. Mr. Richards then moved that the resolution be laid on the table.

Mr. Charles A. Halleck, of Indiana, raised a parliamentary inquiry:

> Mr. Speaker, this is a matter of very considerable importance. Does the making of this motion at this time preclude all debate, or may we expect that the chairman of the Committee on Foreign Affairs will yield time to those who may want to discuss this matter?
>
> THE SPEAKER:[12] The motion to lay on the table is not debatable. The gentleman from South Carolina cannot yield time after he has made a motion to lay on the table.

The motion to lay on the table was defeated.

Mr. John M. Vorys, of Ohio, having voted against the motion to lay on the table on a yea and nay vote, then asked recognition to speak in opposition. The Chair recognized him for one hour. Mr. Richards then raised a parliamentary inquiry:

> Would the Speaker explain the parliamentary situation as to who is in charge of the time?
>
> THE SPEAKER: The gentleman from Ohio is in charge of the time, the gentleman being with the majority in this

10. Carl Albert (Okla.).

11. 98 CONG. REC. 1205–16, 82d Cong. 2d Sess.

12. Sam Rayburn (Tex.).

instance, and on that side of the issue which received the most votes. The gentleman from Ohio is recognized.

Application of 40-minute Rule for Debate

§ 8.9 When a motion to discharge a committee from further consideration of a resolution of inquiry has been agreed to and the previous question has been ordered on the resolution without intervening debate, the 40-minute rule may be invoked, allotting 20 minutes each to those supporting and opposing the resolution.

On Aug. 2, 1971,[13] the House voted to discharge the Committee on Education and Labor from further consideration of a resolution of inquiry (H. Res. 539) directing the Secretary of Health, Education, and Welfare to provide the House with documents listing the public school systems in the United States that receive federal money and that would be engaged in busing to achieve racial balance during the school year 1971–72.

Upon the adoption of the motion to discharge, Mr. James M. Collins, of Texas, moved the previous question on the resolution, and the previous question was ordered. Mr. Thomas P. O'Neill, Jr., of Massachusetts, then raised a parliamentary inquiry:

> Mr. Speaker, a parlimentary inquiry: In view of the fact that there was no debate on this, is a Member entitled to 20 minutes if he asks for time?
>
> THE SPEAKER:[14] He is.
>
> MR. O'NEILL: Mr. Speaker, I am asking for the 20 minutes. I have some questions I would like to ask on this and have the chairman of the Committee on Education and Labor explain it.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, has not the previous question been moved and accepted?
>
> THE SPEAKER: Yes, it has.
>
> MR. O'NEILL: Mr. Speaker, I was on my feet seeking recognition.
>
> MR. HALL: Regular order, Mr. Speaker.
>
> THE SPEAKER: Inasmuch as there has been no debate on the resolution, the 40-minute rule applies, 20 minutes to each side. The gentleman from Texas is entitled to 20 minutes and the gentleman from Massachusetts is entitled to 20 minutes.

Publication of Answers to Inquiries

§ 8.10 When a resolution of inquiry is referred to a committee, the committee may proceed immediately to direct the inquiries contained therein to the President or to

13. 117 CONG. REC. 28863, 28864, 92d Cong. 1st Sess.

14. Carl Albert (Okla.).

the head of the executive agency named in the resolution, and when the committee receives a reply that satisfies the terms of the resolution, it may report the resolution unfavorably to the House and publish the unclassified responses obtained according to the terms of the resolution in the committee report accompanying the resolution and permit Members access to classified responses in possession of the committee.

On Feb. 9, 1950,[15] John Kee, of West Virginia, Chairman of the Committee on Foreign Affairs, reported from the committee and was granted immediate consideration of a privileged resolution of inquiry (H. Res. 452) requesting of the President, "if not incompatible with the public interest," information on American foreign policy in the Far East.

Mr. Kee made the following remarks regarding the resolution:

> Mr. Speaker, when this resolution was referred to the Committee on Foreign Affairs we immediately put it into proper channels in order that the various inquiries made in the resolution might be answered. We have received through the Department of State a full and complete answer to all the questions in the resolution. These answers will all be published in the report which the committee has brought in with the resolution, with the exception of two supplemental answers which it is deemed to be incompatible with the public interest to publish. But the two supplemental answers will be kept on file with the committee and be available for the information of members of the committee.
>
> Accompanying the resolution is an adverse report by the committee.
>
> Mr. Speaker, I now yield to the gentleman from Connecticut [Mr. Lodge], a member of our committee and the author of the resolution, 5 minutes in which he desires to make a statement.

Mr. John Davis Lodge, of Connecticut, then proceeded to summarize his recollections of the contents of the response to the resolution received by the committee from the Department of State.

At the conclusion of Mr. Lodge's remarks, Mr. Kee made the following statement and motion:

> Mr. Speaker, a few words only in reply to the gentleman from Connecticut. The resolution together with the reply of the Department of State, was submitted to the committee, read to the committee, was passed upon by the committee, deemed satisfactory, and the committee reported out the resolution adversely.
>
> I therefore move that the resolution be laid on the table.

The motion was agreed to.

Referral of Executive Responses to Committee

§ 8.11 Communications from heads of executive depart-

15. 96 CONG. REC. 1753–55, 81st Cong. 2d Sess.

ments in reply to resolutions of inquiry adopted in the House are laid before the House, and referred to the committee having jurisdiction.

On Mar. 5, 1952,[16] the Speaker[17] laid before the House the following communication from the Secretary of State in response to a resolution of inquiry (H. Res. 514) adopted by the House directing the Secretary of State to transmit to the House information relating to any agreement made by the President of the United States and the Prime Minister of Great Britain during their recent conversations:

DEPARTMENT OF STATE,
Washington, D.C., March 4, 1952.
The Honorable SAM RAYBURN,
Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: I have been directed by the President to acknowledge receipt of House Resolution 514, and to call attention to his statement of February 20, when, at his press conference, he responded to the question "Have any commitments been made to Great Britain on sending troops anywhere?" by a categorical "No."

Sincerely yours,
DEAN ACHESON.

The letter was read and referred to the Committee on Foreign Affairs and ordered to be printed.[18]

Discharge by Committee

§ 8.12 Where a resolution of inquiry had been pending before a committee for more than seven legislative days and that committee had then ordered the resolution adversely reported but had not filed a written report thereon, the committee was "discharged" from consideration of the resolution upon its presentation to the House as privileged when no point of order was raised.

16. 98 CONG. REC. 1892, 82d Cong. 2d Sess.

17. Sam Rayburn (Tex.).

18. For other examples, (1) report from Department of State on effect on domestic fisheries of increased imports in response to H. Res. 147, referred to the Committee on Merchant Marine and Fisheries, 95 CONG. REC. 6372, 81st Cong. 1st Sess., Mar. 17, 1949; (2) report from the Department of the Interior on national energy supplies and suggested government conservation programs in response to H. Res. 385, referred to the Committee on Public Lands, 94 CONG. REC. 5163, 80th Cong. 2d Sess., Apr. 30, 1948; and (3) report from the Department of Commerce on total U.S. exports in reponse to H. Res. 366, referred to the Committee on Interstate and Foreign Commerce, 94 CONG. REC. 39, 80th Cong. 2d Sess., Jan. 8, 1948.

On Aug. 3, 1971,[19] F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services sent to the desk from that committee a resolution of inquiry (H. Res. 557) directing the Secretary of Defense to furnish to the House ". . . any documents regarding all forms of United States military aid extended to the so-called Forward-Defense . . ." nations. No written report was filed with the resolution. Mr. Hébert's subsequent motion to table the resolution was agreed to.

Parliamentarian's Note: The Journal (H. Jour. 960 [1971]) correctly indicates the discharge of the Committee on Armed Services from consideration of House Resolution 557, there being no written report thereon. The provisions of Rule XI clause 2(l)(6), *House Rules and Manual* § 715 (1981) requiring the availability of committee reports for three calendar days are applicable to *reported* resolutions of inquiry. It is apparent, since this resolution was not technically reported, that a committee can maintain control over a resolution of inquiry after seven legislative days, even though it does not meet to consider the resolution, by its chairman offering a privileged motion to discharge and then, if the motion is successful, moving to lay the resolution on the table. This procedure also avoids the three-day requirement which is likewise applicable only to reported resolutions.

Time for Consideration of Report

§ 8.13 Parliamentarian's Note: A resolution of inquiry reported by a committee would ordinarily be subject to the provisions of the rule that a resolution is not privileged until the report has been available for three calendar days; when no point of order is raised, however, the House may proceed to consider such a resolution on the day reported.

On June 30, 1971,[20] F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, reported from the committee and called up as privileged a resolution of inquiry (H. Res. 489) directing the President to present to the House a copy of the report entitled "United States-Vietnam Relationships, 1945–1967" prepared by the Vietnam Task Force, office of the Secretary of Defense.

Mr. Hébert immediately moved to lay the resolution on the table,

19. 117 CONG. REC. 29060, 29063, 92d Cong. 1st Sess.

20. 117 CONG. REC. 23030, 92d Cong. 1st Sess.

and the motion was agreed to without objection being made that consideration of the resolution was not privileged for failure to comply with Rule XI clause 27(d)(4) (Rule XI clause 2(l)(6) § 715 in the 1981 *House Rules and Manual*).

Consideration by Unanimous Consent

§ 8.14 The Chairman of the Committee on Armed Services reported adversely a privileged resolution of inquiry, then obtained unanimous consent for its immediate consideration [thereby waiving the three-day availability requirement for committee reports under Rule XI clause 2(l)(6), House Rules and Manual § 715 (1981)] and then moved to lay the resolution on the table.

On May 9, 1973,[21] F. Edward Hébert, of Louisiana, Chairman of the Committee on Armed Services, reported adversely from the committee a privileged resolution of inquiry (H. Res. 379) directing the Secretary of Defense to supply the House with information regarding American military activity in Laos. Mr. Hébert asked and was granted unanimous consent for the immediate consideration of the resolution.

Mr. Hébert proceeded to outline the information received by the committee in response to the resolution. He then moved to lay the resolution on the table, and the motion was agreed to.

Inspection of Reports

§ 8.15 Inspection of reports from governmental departments submitted in connection with a resolution of inquiry was formerly within the discretion of the committee having possession. Currently, all Members are given access to committee files.

On Feb. 7, 1939,[1] Mr. Sol Bloom, of New York, called up as a privileged matter a resolution of inquiry (H. Res. 78) reported by the Committee on Foreign Affairs requesting information of the State Department on Mexican relations with the recommendation that it do not pass since "Such information available to the Department of State as is consistent with the public interest has been furnished your committee and is on file."

Mr. Hamilton Fish, Jr., of New York, raised a parliamentary in-

21. 119 CONG. REC. 14990–94, 93d Cong. 1st Sess.; H. Jour. 657 (1973).

1. 84 CONG. REC. 1181, 1182, 76th Cong. 1st Sess.

quiry as to whether the information supplied by the Secretary of State was open to inspection by all Members of Congress. The Speaker[2] responded:

> . . . [T]he Chair states that disposition of the report, what should be done with it, whether it should be thrown open to all Members of Congress, is a matter within the discretion of the Foreign Affairs Committee.

Parliamentarian's Note: Under Rule XI clause 2(e)(2), *House Rules and Manual* § 706c (1981), all Members are given access to committee files, with specified exceptions relating to the Committee on Standards of Official Conduct.

§ 9. Titles and Preambles

Purpose of Title

§ 9.1 Titles in legislation are for purposes of identification, and do not affect the obvious meaning of a statute.

On Dec. 20, 1941,[3] during consideration of S. 2082, the following exchange took place:

> MR. [SAM] HOBBS [of Alabama]: Mr. Speaker, I should like to invoke the ruling of the Chair on that point. I may say, Mr. Speaker, that this bill was identical in the House and the Senate versions, but in the House committee an amendment was made in the body of the bill to include other officers than originally were named in the House bill, namely, the members of alien-enemy hearing boards. The House committee conceived it to be wise to amend the title to show that the amendment had been put in the bill, but the Senate, in passing the bill, although it adopted the House amendment, did not amend the title.
>
> MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a point of order.
>
> THE SPEAKER:[4] The gentleman will state it.
>
> MR. MICHENER: The gentleman from Alabama has not submitted a parliamentary inquiry. He has asked the Chair for a legal opinion on what the gentleman himself admits is debatable. Under the rules of the House, the Speaker of the House is not required to render legal opinions, at least without notice.
>
> MR. HOBBS: I am not contending that the Speaker is required to do so. I am asking as a matter of the grace and indulgence of the Chair that he do so, and advise us if the Senate version be adopted, the limited reference in the title would be sufficient to carry the full bill as amended.
>
> THE SPEAKER: The Chair thinks that the title of the bill is identification more than anything else. Mr. Justice Brewer in the case of *Patterson* v. *Bank Eudora* (190 U.S. 169) held—
>
> > That the title is no part of the statute and cannot be used to set at naught its obvious meaning.

2. William B. Bankhead (Ala.).

3. 87 CONG. REC. 10079, 77th Cong. 1st Sess.

4. Sam Rayburn (Tex.).

Titles as Related to Germaneness

§ 9.2 The germaneness of an amendment to a bill is not determined by the title of the bill; it is the body of the bill that is controlling.

On Aug. 2, 1949,[5] during consideration in the Committee of the Whole of a bill (H.R. 29) to provide price supports for tung nuts, a committee amendment was reported applying the provisions of the act to honey. Mr. Wayne L. Hays, of Ohio, raised a point of order:

> Mr. Chairman, since the committee amendment has no greater standing than any other amendment, the title of this bill is to amend the Agricultural Adjustment Act of 1938, as amended, to provide parity for tung nuts and for other purposes. I make the point of order that the inclusion of honey is not related to the bill and is, therefore, not in order.
>
> MR. [WALTER K.] GRANGER [of Utah]: Mr. Chairman, will the gentleman yield?
>
> MR. HAYS of Ohio: I yield to the gentleman from Utah.
>
> MR. GRANGER: I trust the gentleman will not press his point of order. We are willing to concede the point would apply, but what we will have to do is take out the part of the bill that the gentleman I am sure is interested in. . . .
>
> THE CHAIRMAN:[6] The Chair is ready to rule. The title of the bill does not control. It is the body of the bill that controls. When an individual proposition is added to another individual proposition by amendment, even though they are in the same class, they are not germane. The Chair sustains the point of order.

Amendment of Title

§ 9.3 Amendments to the title of a bill or joint resolution may be considered after its passage.

On Jan. 30, 1962,[7] several committee amendments, including one to the title of a bill (H.R. 4879), were offered en bloc. The Chairman of the Committee of the Whole reminded the proponent of the amendments that title amendments are properly considered in the House following passage.

§ 9.4 Amendment to titles of bills are properly presented after the bill is passed and are not debatable.

On Dec. 11, 1947,[8] during consideration in the House of a foreign aid bill (H.R. 4604) the following exchange took place:

> MR. [CHARLES J.] KERSTEN of Wisconsin: Mr. Speaker, I have an amend-

5. 95 CONG. REC. 10639, 10640, 81st Cong. 1st Sess.

6. John McSweeney (Ohio).

7. 108 CONG. REC. 1183, 87th Cong. 2d Sess.

8. 93 CONG. REC. 11307, 80th Cong. 1st Sess.

ment to change the title of the bill, which I understand is proper.

THE SPEAKER:[9] That will come after the passage of the bill.

MR. KERSTEN of Wisconsin: I should like to inform the membership that this is an important amendment and I should like to speak on it.

THE SPEAKER: It is not debatable.

Parliamentarian's Note: Rule XIX, "Of Amendments", specifies that "Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate." House Rules and Manual § 822 (1981).

Preambles Generally

§ 9.5 Where no action is taken to strike out the preamble of the bill and the bill is passed, the preamble remains as a part of the bill.

On Mar. 22, 1935,[10] during consideration of a bill (H.R. 3896) providing for payment of world war adjusted service certificates, Mr. Thomas L. Blanton, of Texas, raised a point of order:

> Mr. Speaker, I wish to make a point of order with respect to the present parliamentary situation of one part of the bill, and in connection therewith I ask permission of the Chair to make a parliamentary inquiry.

THE SPEAKER:[11] The gentleman will state it.

MR. BLANTON: On yesterday, after the first section of the Vinson bill was read, as shown on page 4216, the gentleman from Texas [Mr. Patman] moved to strike out the first section and to insert his own bill as a substitute therefor, giving the usual notice that, in case his amendment carried, he would move to strike out the remaining sections of the Vinson bill.

MR. [FRED M.] VINSON of Kentucky: Mr. Speaker, a point of order.

MR. BLANTON: I am making the point of order now.

MR. VINSON of Kentucky: Mr. Speaker, I am making a point of order to the gentleman's point of order. My point of order is that the bill to which the gentleman's motion applies has been concluded and is history.

MR. BLANTON: In connection with my point of order, I am asking the Chair a parliamentary inquiry.

THE SPEAKER: The Chair will hear the point of order of the gentleman from Texas.

MR. BLANTON: Mr. Speaker, the Chair will find on this page 4216 of the Record for yesterday that the gentleman from Texas [Mr. Patman] moved to strike out the first section of the Vinson bill and offered his bill as an amendment in the way of a substitute, giving proper notice that if his amendment were adopted he would thereafter move to strike out all the remaining paragraphs of the Vinson bill. Nothing was said about striking out the preamble of the bill which preceded the first section, and it was not

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

10. 79 CONG. REC. 4314, 4315, 74th Cong. 1st Sess.

11. Joseph W. Byrns (Tenn.).

stricken out, although the gentleman from Texas [Mr. Patman] objected to the reading of the preamble.

The procedure I have outlined was followed. After the substitute of the gentleman from Texas [Mr. Patman] was voted upon and adopted by teller vote in the Committee of the Whole House on the state of the Union, as shown on page 4231 of the Record, the gentleman from Texas [Mr. Patman], asked unanimous consent that the remaining sections of the Vinson bill that [followed] section 1 be stricken out, and that request was granted, and the remaining sections of the Vinson bill were stricken out, but the preamble, which preceded the enacting clause, was left undisturbed, and remained in the bill just preceding the enacting clause. No action whatever was taken by the House, or by the Committee of the Whole House on the state of the Union with respect to the preamble except, as before stated, the gentleman from Texas objected to its being read, as a preamble is never read. And, of course, unanimous consent is usually requested for the preamble to be stricken out, but as to this bill no such request was made.

The parliamentary inquiry I desire to make is this: although it is not usual to leave preambles in a bill that is finally passed, yet the preamble to this bill is so apropos and was so well written in the bill introduced by our friend, the gentleman from Kentucky [Mr. Vinson], and it so well applies to the Patman bill that it should stay in, and not be stricken out, and I wish to ask the Chair whether or not the preamble could be stricken out except by unanimous consent, or by a motion passed by the House.

THE SPEAKER: The Chair will state to the gentleman from Texas that the only way it can be done is by action of the House. No action was taken by the House with respect to striking out the preamble, so it still remains.

Preambles in Committee of the Whole

§ 9.6 In the Committee of the Whole the body of a concurrent resolution is first considered and after the resolving clauses have been read for amendment, the preamble is considered and perfected.

On Oct. 5, 1962,[12] the Committee of the Whole, pursuant to a special rule (H. Res. 827), undertook consideration of a concurrent resolution (H. Con. Res. 570) expressing the sense of the Congress with respect to certain problems that had arisen in Berlin, Germany. The Committee first considered amendments to the body of the resolution before considering amendments to the preamble thereof.

§ 9.7 Amendments to the preamble of a concurrent resolution are considered and voted on in the Committee of the Whole after amendments

12. 108 CONG. REC. 22637, 22638, 87th Cong. 2d Sess.

to the body of the resolution, and such amendments are voted on in the House after the resolution has been adopted.

On Oct. 30, 1945,[13] a concurrent resolution (H. Con. Res. 80) expressing the sense of the Congress regarding the size of the post-war Navy was considered in the Committee of the Whole. After the reading of the resolution the Clerk read the amendments to the resolution proposed by the committee that reported it. Mr. W. Sterling Cole, of New York, raised a parliamentary inquiry:

Mr. Chairman, I wonder if we are going to consider the amendments to the preamble first?

THE CHAIRMAN:[14] The amendments to the preamble are considered after amendments to the body of the resolution.

The following committee amendment to the preamble was considered:

In the preamble, page 1, fourth paragraph, strike out "giving due consideration to the security of the United States and its Territories and insular possessions, the protection of our commerce, and the necessity for cooperating with other world powers in the maintenance of peace; and" and insert in lieu thereof "in order to insure our national integrity, support our national policies, guard the continental United States and our overseas possessions, give protection to our commerce and citizens abroad, and to cooperate with other world powers in the maintenance of peace; and.". . .

THE CHAIRMAN: The question is on the committee amendment to the preamble.

The amendment was agreed to.

After consideration of the resolution the Committee rose and reported it back to the House:

THE SPEAKER:[15] Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

THE SPEAKER: The question is on the adoption of the resolution.

MR. [CARL] VINSON [of Georgia]: Mr. Speaker, on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 347, nays 0, answered "present" 1, not voting 83, as follows: . . .

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE SPEAKER: The question is on the amendment to the preamble.

The amendment to the preamble was agreed to.

Preambles in the House

§ 9.8 In response to a parliamentary inquiry, the

13. 91 CONG. REC. 10202, 10203, 10205, 10206, 79th Cong. 1st Sess.

14. Butler B. Hare (S.C.).

15. Sam Rayburn (Tex.).

Speaker stated that an amendment to the preamble of a resolution is considered in the House after the adoption of the resolution.

On June 8, 1970,[16] a resolution (H. Res. 976) authorizing a select committee to study recent developments in Southeast Asia was being considered in the House. Mr. Hugh L. Carey, of New York, raised a parliamentary inquiry after certain committee amendments had been agreed to:

> Mr. Speaker, at what point did the Speaker put the committee amendment which appears on page 1 to strike out the preamble?
>
> THE SPEAKER:[17] That question will come after the adoption of the resolution.

§ 9.9 The preamble of the simple resolution is amendable in the House following the adoption of the resolution unless the previous question is ordered thereon. The previous question is ordered separately on the preamble of a resolution after adoption of the resolution.

On Mar. 1, 1967,[18] after the adoption of a resolution (H. Res. 278) relating to the right of a Representative-elect Adam C. Powell, of New York, to be sworn, Mr. Thomas B. Curtis, of Missouri, moved the previous question on the adoption of the preamble of the resolution. Mr. Phillip Burton, of California, raised a point of order:

> The gentleman from Missouri is urging a motion that duplicates an action already taken by the House. The House already has had a motion to close debate on the preamble and on the resolution as amended.
>
> We have already had that vote. I make the point of order that the gentlemen's request and/or motion is out of order. I think the record of the proceedings of the House will indicate that the point being advocated reflects accurately the proceedings as they have transpired.
>
> THE SPEAKER:[1] The Chair will state that the previous question was ordered on the amendment and the resolution but not on the preamble.

§ 9.10 A motion to strike all after the resolving clause of a concurrent resolution does not affect the preamble thereof; and a motion to strike out the preamble is properly offered after the resolution has been agreed to.

On Feb. 21, 1966,[2] the House considered a concurrent resolution

16. 116 CONG. REC. 18656, 18658, 91st Cong. 2d Sess.
17. John W. McCormack (Mass.).
18. 113 CONG. REC. 5038, 90th Cong. 1st Sess.

1. John W. McCormack (Mass.).
2. 112 CONG. REC. 3473, 89th Cong. 2d Sess.

(H. Con. Res. 552) recognizing the 50th anniversary of the chartering of the Boy Scouts of America. Mr. Arch A. Moore, Jr., of West Virginia, asked and received unanimous consent to consider a similar Senate resolution (S. Con. Res. 68) in lieu of the House concurrent resolution. Mr. Moore then offered an amendment to the Senate resolution striking out all after the resolving clause and inserting the provisions of House Concurrent Resolution 552:

THE SPEAKER PRO TEMPORE:[3] Is the purpose of the gentleman from West Virginia to strike out the preamble?

MR. MOORE: My amendment would strike out the language of the Senate concurrent resolution and substitute in lieu thereof the language of the concurrent resolution just passed by the House.

THE SPEAKER PRO TEMPORE: Would the amendment of the gentleman from West Virginia strike out the preamble or all after the enacting clause and substitute the language of the House concurrent resolution just passed?

MR. MOORE: It would strike out all after the enacting clause.

THE SPEAKER PRO TEMPORE: That would not eliminate the preamble.

MR. MOORE: Then, Mr. Speaker, I move to strike the preamble.

The Senate concurrent resolution was agreed to and a motion to reconsider was laid on the table.

THE SPEAKER PRO TEMPORE: The Clerk will report the amendment of the gentleman from West Virginia.

The Clerk read as follows:

Mr. Moore moves to strike out the preamble.

The amendment was agreed to.

A similar House concurrent resolution was laid on the table.

Preamble of Joint Resolution

§ 9.11 The preamble of a joint resolution is properly amended after the engrossment and pending the third reading of the resolution.

On Apr. 2, 1962,[4] the House considered and agreed to a House joint resolution (H.J. Res. 628) along with a committee amendment to strike out the preamble.

The House Journal records that the joint resolution was ordered engrossed, that the preamble was amended or stricken out, and that the resolution was then ordered read the third time, was read the third time, and passed.[5]

§ 10. Petitions and Memorials

A petition is a plea to the Congress to take some action, or refrain from action, on a subject of legislative concern. The term "me-

3. Carl Albert (Okla.).

4. 108 CONG. REC. 5516, 87th Cong. 2d Sess.

5. H. Jour. 231 (1962).

morial" is ordinarily used to describe a petition from a state legislature.(6)

Petitions and memorials, when brought to the attention of the House by a Member or the Speaker, are referred to the committees having appropriate jurisdiction. They are not legislative measures, but may provide the initiative for legislative action. Thus, they are not reported from committee and voted on in the House in the manner of bills and resolutions.(7)

Introduction by Request

§ 10.1 When a citizens' petition is introduced "by request" under Rule XXII, these words are entered on the Journal and printed in the Record following the name of the Member who introduces the petition.

On Apr. 13, 1961,(8) the following was recorded in the Record:

> Under clause 1 of rule XXII, petitions and papers were laid on the Clerks' desk and referred as follows:
>
> 118. By Mr. [Perkins] Bass of New Hampshire (by request): Petition of 67 faculty members of Dartmouth College seeking the elimination of the House Committee on Un-American Activities as a standing committee; to the Committee on Rules.

Presentation by Petitioners

§ 10.2 The Speaker declined to entertain a unanimous-consent request that certain petitioners be permitted to present a petition on the floor of the House.

On May 24, 1972,(9) the following proceedings took place:

> MRS. [BELLA] ABZUG [of New York]: Mr. Speaker, we have petitioning us today outstanding citizens of this country, social leaders, leaders of the arts, sciences, and professions. They have come here to petition us to act immediately to cut off funds for the war and end our military activity in Indochina. . . .
>
> Mr. Speaker, I renew my request in the form of asking unanimous consent that a representative of those citizens come in and have the opportunity to present a petition and that we hear what those people, who are the conscience of this country and who represent a majority of the American people, have to say. . . .
>
> THE SPEAKER:(10) The time of the gentlewoman from New York has expired.

6. See *House Rules and Manual* §§ 389, 849 (1981).

7. The introduction and reference of petitions and memorials is governed by Rule XXII clauses 1, 3, 4, *House Rules and Manual* §§ 849, 853, 854 (1981).

8. 107 CONG. REC. 5900, 87th Cong. 1st Sess.

9. 118 CONG. REC. 18679–81, 92d Cong. 2d Sess.

10. Carl Albert (Okla.).

The gentlewoman's request is not in order.

Parliamentarian's Note: Under Rule XXXII clause 1, the Speaker does not have the authority to entertain a request to waive the rule pertaining to the privilege of admission to the floor.

B. GENERAL PROCEDURES ASSOCIATED WITH PASSAGE OF LEGISLATION

§ 11. Readings

The reading of a bill or joint resolution is an essential step leading to passage. It is read the first time by title (which requirement is now complied with upon introduction of the bill or joint resolution by printing the title in the Journal and Record), the second time in full, and the third time by title. The applicable rule, Rule XXI clause 1, was amended in 1965 [11] to eliminate the right of any Member to demand the reading in full of the engrossed copy.

The second reading, which is a reading in full, may be dispensed with only by unanimous consent.[12] It may not be dispensed with by motion.[13] And when a bill is read in full for the first time the text of the bill as originally introduced is read. Proposed committee amendments are not reported at that time.[14]

The three readings referred to in Rule XXI clause 1 do not include the actual procedure for reading for amendment. Reading for amendment is actually yet another reading that, although not specifically provided for in that rule, is conducted pursuant to a practice of the House derived from an earlier version of the present Rule XXIII clause 5,[15] or pursuant to the terms of a special order or rule which may be adopted to govern the consideration of a particular bill.

Cross Reference

Reading bills for Amendment and reading of amendments, Ch. 27, infra.

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11. H. Res. 8, 111 CONG. REC. 21–25, 89th Cong. 1st Sess., Jan. 4, 1965.

12. See § 11.1, infra.

13. Compare 4 Hinds' Precedents § 4738 where Chairman Albert Hopkins (Ill.), ruled that a bill that had been read in full in the House may be again read in full on the demand of a Member in the Committee of the Whole ". . . unless its reading is dispensed with by the action of the Committee."

14. See 75 CONG. REC. 8139, 72d Cong. 1st Sess., Apr. 13, 1932.

15. *House Rules and Manual* § 872 (1981).

Reading in Full

§ 11.1 A motion to dispense with the full reading of a bill in the Committee of the Whole is not in order.

On June 4, 1951,[16] the House resolved itself into the Committee of the Whole for the consideration of the District of Columbia Law Enforcement Act of 1951 (H.R. 4141). The Chairman[17] stated that without objection the first (full) reading of the bill would be dispensed with. Objection was heard from Mr. Herman P. Eberharter, of Pennsylvania, and the Chairman ordered the Clerk to read the bill.

During the reading of the bill a parliamentary inquiry was raised:

MR. [W. STERLING] COLE of New York (interrupting the reading of the bill): Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. COLE of New York: Mr. Chairman, is it possible under the rules of the Committee of the Whole to by motion dispense with the further reading of a bill?

THE CHAIRMAN: The Chair will say that it requires unanimous consent to suspend the further reading of the bill.

MR. COLE of New York: It is not possible to do that by motion?

THE CHAIRMAN: That motion is not privileged.[18]

Interruption by Point of No Quorum

§ 11.2 A point of no quorum may interrupt the reading of a resolution.

For example, on Mar. 1, 1967,[1] Mr. Porter Hardy, Jr., of Virginia, interrupted the reading of a House resolution (H. Res. 278) relating to the seating of Representative-elect Adam C. Powell, of New York, to make the point of order that a quorum was not present.

Noting that evidently a quorum was not present, the Speaker [2]

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16. 97 CONG. REC. 6099–101, 82d Cong. 1st Sess.

17. Herbert C. Bonner (N.C.).

18. *Parliamentarian's Note:* In this instance the Committee of the Whole directed the reading in full of the bill on its first reading. The bill was read by title only on the next day when the Committee of the Whole reconvened to resume consideration of it. Although the procedure followed was somewhat unorthodox, it illustrates the point that any Member may demand a full reading of a bill before general debate thereon begins, provided the bill has not previously been read in full.

The House can dispense with the first reading in Committee of the Whole by motion if the motion is made privileged, as when reported from the Committee on Rules. A special order reported by the Committee on Rules can also *waive* the first reading.

1. 113 CONG. REC. 4997, 90th Cong. 1st Sess.

2. John W. McCormack (Mass.).

recognized a Member to move a call of the House.

Reading as Related to Motion to Recommit

§ 11.3 A motion to recommit is properly made in the House after the third reading of a bill.

On Aug. 13, 1959,[3] during consideration in the House of the Labor-Management Reporting and Disclosure Act of 1959 (H.R. 8342) the previous question was ordered on an amendment agreed to in the Committee of the Whole. Mr. Frank Thompson, Jr., of New Jersey, raised a parliamentary inquiry:

> Is it my understanding that the vote about to be taken is on whether or not the substitute will be accepted, and that it is not a vote on final passage?
>
> THE SPEAKER:[4] It will be a vote on the amendment adopted in the Committee of the Whole.
>
> MR. [THOMAS P.] O'NEILL [of Massachusetts]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. O'NEILL: Will a vote to recommit then be in order?
>
> THE SPEAKER: After the third reading.
>
> MR. O'NEILL: And then a vote would be in order on the final passage?
>
> THE SPEAKER: That is correct.
>
> MR. [JAMES] ROOSEVELT [of California]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER: The gentleman will state it.
>
> MR. ROOSEVELT: If the amendment is defeated, what is then the parliamentary situation?
>
> THE SPEAKER: Then the question is on the engrossment and third reading of the so-called committee bill.

Parliamentarian's Note: The "so-called committee bill" would be the original text as introduced.

§ 11.4 A motion to recommit was held not to be in order before the engrossment and third reading of the bill.

On June 11, 1959,[5] after debate on the bill (H.R. 7246) to amend the Agricultural Act of 1949 the Speaker announced:

> The question is on the engrossment and third reading of the bill.
>
> The bill was ordered to be engrossed and read a third time. . . .
>
> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[6] The gentleman will state it.
>
> MR. HALLECK: Mr. Speaker, would it be in order to vote on the motion to recommit at this time?
>
> THE SPEAKER: It would not be in order until after the reading of the engrossed copy. . . .

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3. 105 CONG. REC. 15859, 86th Cong. 1st Sess.

4. Sam Rayburn (Tex.).

5. 105 CONG. REC. 10561, 86th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. COOLEY: As I understand the situation, the gentleman from Oklahoma [Mr. Belcher] had submitted a motion to recommit. Why should we not vote on that this afternoon?

THE SPEAKER: It is not time to vote on it. We have got to have the engrossed copy of the bill here before the motion to recommit can be offered.

Parliamentarian's Note: This precedent reflects the earlier practice regarding the engrossed copy of a bill, which had to be available and was subject to a demand for full reading. Under the new rule, bills on their passage are read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker states the question to be: Shall the bill be engrossed and read a third time? If the question is decided in the affirmative, the bill is read the third time by title and the question then put upon its passage. Rule XXI clause 1, *House Rules and Manual* (1981). (The provision permitting a Member to demand a third reading in full was eliminated from the rule in 1965.)

Reading in the Senate

§ 11.5 In the Senate a bill messaged from the House may not be read twice in the same legislative day without unanimous consent, but the Senate may adjourn for a brief period (thus creating a new legislative day) and then proceed to the second reading of the bill.

On Mar. 24, 1960,[7] there was received in the Senate the civil rights bill of 1960 (H.R. 8601) messaged from the House of Representatives. When the bill had been read the first time, Senator Lyndon B. Johnson, of Texas, asked unanimous consent that the bill be read the second time. Senator Richard B. Russell, of Georgia, objected. Senator Johnson then moved that the Senate adjourn for three minutes, and the motion was agreed to.

Thus, the Senate adjourned for three minutes from 1:32 p.m. to 1:35 p.m. of the same day, and upon reconvening the civil rights bill was read a second time and referred to committee.

§ 11.6 In the Senate, by unanimous consent, a bill may be

7. 106 CONG. REC. 6451, 6452, 6454, 6455, 86th Cong. 2d Sess.

Under Senate Rule XIV clause 2, every bill and joint resolution receives three readings prior to its passage, which readings must be on three different days, unless the Senate unanimously directs otherwise.

read the second time on the same day it is received by message from the House.

On Mar. 14, 1962,[8] the proceedings below were recorded in the Senate:

MR. [EVERETT MCKINLEY] DIRKSEN [of Illinois]: Mr. President, I ask unanimous consent that H.R. 10079, which came over from the House and is now on the table——

MR. [JOHN C.] STENNIS [of Mississippi]: A point of order, Mr. President. Is the Senate in the morning hour?

MR. DIRKSEN: Yes, it is.

I ask that the bill be advanced to a second reading and be permitted to lie on the desk.

THE VICE PRESIDENT:[9] Is there objection to the request of the Senator from Illinois?

There being no objection, the bill was ordered to a second reading, and was read the second time.

THE VICE PRESIDENT: Without objection the bill will be printed, and will lie on the table.

§ 12. Engrossment

Engrossment is the process by which a bill or resolution or a House amendment to a Senate measure is printed on special paper by direction of the enrolling clerk under supervision of the Clerk of the House or the Secretary of the Senate. After House action, House bills and resolutions are engrossed on a distinctive blue paper, as are House amendments to measures received from the Senate. This blue paper indicates that it is the official copy of the measure as passed by the House.[10] Senate bills and Senate amendments to House bills are engrossed on white paper. The engrossed copies of the bill, when signed by the Clerk of the House (in the case of a bill originating in the House) or by the Secretary of the Senate (on a Senate bill), become the nucleus of the official papers which go from one house to the other during the various actions on a bill. A Senate bill cannot be acted on in the House, e.g., until the House is in possession of the signed copy of the engrossed Senate bill.

Star Prints

§ 12.1 The engrossed copy of a bill may be "star printed" (that is, reprinted with a star to indicate the reprinting) to rectify clerical errors; and an

8. 108 CONG. REC. 4097, 87th Cong. 2d Sess.

9. Lyndon B. Johnson (Tex.).

10. *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 5.1.

engrossed "star print" of a House bill, substituted for the original engrossed copy containing a clerical error when messaged to the Senate, is properly before that body.

On July 9, 1957,[11] Senator William F. Knowland, of California, moved that the Senate proceed to the consideration of the House bill 6127:

> Mr. President, on yesterday the Senator from Georgia [Mr. Russell] stated that the star-print bill which is now proposed to be taken up upon my motion is not the same bill which was heretofore read twice and ordered to be placed on the calendar. This colloquy appears on pages 10986–10987 of the Record of July 8, 1957. It was stated that the star print bill had not been read twice.
>
> I desire to submit a parliamentary inquiry, as to whether, if my motion prevails, the bill then before the Senate will be the engrossed bill, star print, and as to whether the validity of any proceedings the Senate may now or hereafter take on the star-print bill may be questioned.
>
> THE VICE PRESIDENT:[12] A study of the precedents indicates that the question as to the validity of a star print has not been previously raised in the Senate. . . .
>
> A star print, so called, of an engrossed bill, whether it is either a House or Senate bill, is simply a bill that has been reprinted for the purpose of correcting an error or errors, usually of a clerical or typographical nature, made by some person whose duty it was to see that such bill, when printed, was in conformity in all respects with and truly and accurately reflected the action of the particular House in its passage. It is designed to substitute for a bill in which an error has been discovered a reprinted bill correcting such error or errors and showing the exact form in which such bill was actually passed by the original House. The practice of star printing bills has been followed by both Houses of Congress, in a more or less routine manner, for a long period of time. The Parliamentarian has found instances going back almost 50 years ago. It is somewhat analogous to the method of correcting by a concurrent resolution errors discovered in an enrolled bill after it has passed through the legislative processes beyond the stage of amendment; indeed, in some cases, after an enrolled bill has been signed by the two presiding officers and presented to the President, it is recalled, the errors are corrected, and the bill again signed and presented to the President for his action thereon.
>
> An engrossed bill is attested, in the Senate by the Secretary, and in the House by the Clerk, and transmitted to the other body by message. If an error in such a bill is not discovered until after its receipt by the other House, the usual procedure is for the enrolling clerk of the first House to have a star print made correcting such error and it is delivered to the enrolling clerk of the second House, who delivers to the first House the original signed bill con-

11. 103 CONG. REC. 11089, 85th Cong. 1st Sess.

12. Richard M. Nixon (Calif.).

taining the error. In such a case, a star print is made by the enrolling clerk of the second House of the bill on white paper showing the bill in its correct form, with the same action indicated thereon as appears on the original bill. All the original copies of the bill are withdrawn from the files and the star-print copies substituted therefor, whether the bill was referred to a committee or placed on the calendar.

The error in the engrossed bill H.R. 6127, the Civil Rights Act of 1957, was not discovered until after it had been transmitted by message to the Senate, read twice, and placed upon the calendar.

During the consideration of the bill in the House on June 17, 1957, as shown on pages 9378–9384 of the Congressional Record, Mr. Whitener, of North Carolina, offered an amendment embracing the language of the proviso shown in the original engrossed bill beginning on page 8 line 19, and extending down to and including line 9, page 9. A point of order was made and sustained by the Chairman, Mr. Forand, that it was not germane specifically to the section to which it was offered, but it was stated by the Chairman that it would be germane to the bill as a separate section. Mr. Whitener then obtained unanimous consent that he might offer it as an amendment in the form of a separate section, to be known as subsection (e) of section 131, and to be inserted immediately following line 13, on page 12. An amendment to the amendment was offered by Mr. Hoffman, of Michigan, which was ruled out on a point of order as not being germane to Mr. Whitener's amendment. Mr. Whitener, by unanimous consent, then made a slight modification of his amendment, and the amendment as modified was agreed to. By inadvertence, the amendment as adopted was inserted in the bill at the same point where it was originally offered instead of at the place where it was offered the second time.

When the error was discovered, the enrolling clerk of the House had a star print made of the engrossed bill, in which the language of the amendment was transposed from the erroneous place in the bill to the place specifically indicated by him when he offered the amendment the second time, which now appears on page 12, as lines 10 to 23, inclusive, of the Senate Calendar print of the bill.

It was simply a transposition of the language of the amendment to the correct and proper place, as indicated by the proceedings in the Congressional Record. No word was changed in this transposition. It was placed in the star printed bill in exactly the same language as proposed and adopted by the House.

The transposition necessitated a change in the pages and lines of the star print after the place in which the amendment was incorrectly inserted, and it was therefore necessary to have a star print made in the Senate of the original calendar print, in view of the fact that any amendment offered after page 8, line 19, would not correspond to the language in the star printed engrossed bill.

When this star print was delivered to the Secretary's Office of the Senate, following the custom, undeviated from, the original erroneous engrossed bill was returned to the enrolling clerk of the House, and a copy of the Senate

Calendar print of the bill was sent to the Government Printing Office for a star print.

The proceedings in connection with the star printing of the bill in the Senate followed the usual routine procedure customary in the correction of errors in engrossed bills.

MR. [RICHARD B.] RUSSELL: Mr. President, a parliamentary inquiry.

THE VICE PRESIDENT: The Senator will state it.

MR. RUSSELL: The Chair did not so state specifically, but I understood the distinguished Senator from California to propound a parliamentary inquiry as to the validity of this procedure. Did I correctly understand the Chair to rule that this remarkable procedure was valid under rule XIV?

THE VICE PRESIDENT: The Chair did so rule.

House, Not Committee of the Whole, Controls Engrossment

§ 12.2 A request that the Clerk, in the engrossment of a bill, make corrections in section numbers and cross references in the bill, is properly made in the House, following passage of the bill and is not in order in the Committee of the Whole.

On Apr. 29, 1969,[13] during consideration in the Committee of the Whole on the bill (H.R. 4153) authorizing procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard, Mr. Frank T. Bow, of Ohio, offered an amendment. Mr. Hastings Keith, of Massachusetts, then raised a parliamentary inquiry:

> Mr. Chairman, if the amendment is adopted and I hope and trust it will be; would that not require the renumbering of the lines in which the earlier amendments have been incorporated into the existing legislation?
>
> THE CHAIRMAN:[14] The gentleman may request that the Clerk be authorized to renumber accordingly.
>
> MR. KEITH: I would so request.
>
> THE CHAIRMAN: The gentleman may make the request that the Clerk be authorized to renumber the sections accordingly after the Committee rises and we are in the House.

After the Committee of the Whole had arisen and reported back to the House and the Speaker[15] had announced the question as being the engrossment and third reading of the bill, Mr. Keith raised a parliamentary inquiry:

> Mr. Speaker, while we were in Committee of the Whole I raised a question, the answer to which indicated that I should ask permission that certain sections be renumbered.
>
> THE SPEAKER: The Chair will state in response to the parliamentary inquiry that the gentleman's request will be in order and the gentleman will be

13. 115 CONG. REC. 10753, 91st Cong. 1st Sess.

14. Jacob H. Gilbert (N.Y.).

15. John W. McCormack (Mass.).

recognized to make such a request after the bill is passed.[16]

The Clerk May be Directed by Resolution to Correct Engrossment

§ 12.3 The House agreed to a resolution, in the form shown below, authorizing and directing the Clerk of the House to make certain changes in the engrossment of a joint resolution.

On May 10, 1945,[17] the House, by unanimous consent, considered and agreed to the following resolution (H. Res. 254):

Resolved, That the Clerk of the House in the engrossment of the joint resolution (H.J. Res. 60) proposing an amendment to the Constitution of the United States relative to the making of treaties, is authorized and directed, in the last sentence of section 1 of the proposed article of amendment to the Constitution, to insert after the word "against" the following: "advising and consenting to the", so that such sentence shall read as follows: "In all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against advising and consenting to the ratification of the treaty shall be entered on the Journal of each House respectively."

Senate Request for Return of Bill From House, Privileged in House

§ 12.4 The Speaker laid before the House a resolution of the Senate, in the form shown below, requesting the House to return to that body an engrossed bill together with accompanying papers.

On June 16 (legislative day June 14), 1938,[18] the following proceedings took place in the House:

THE SPEAKER:[19] The Chair desires to make an announcement with reference to a request sent to the House this morning by the Senate of the United States. The Clerk will report the order of the Senate of the United States.

The Clerk read as follows:

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the engrossed bill (H.R. 7084) to provide that all cabs for hire in the District of Columbia be compelled to carry insurance for the protection of passengers, and for other purposes, together with all accompanying papers.

THE SPEAKER: The Chair thinks it is proper to state that as a matter of comity between the two branches, when a request of this character comes over from the other body to this body,

16. See also *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 §§ 5.4, 5.5.

17. 91 CONG. REC. 4434, 79th Cong. 1st Sess.

18. 83 CONG. REC. 9681, 75th Cong. 3d Sess.

19. William B. Bankhead (Ala.).

it is the duty of the House to comply with such order and it is under the precedents a matter of privilege.

MR. [THOMAS D.] O'MALLEY [of Wisconsin]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. O'MALLEY: What will be the status of the measure when it returns to the Senate?

THE SPEAKER: The Chair cannot answer that question. We are simply returning the bill to the Senate.

MR. O'MALLEY: It does not go to conference by reason of this order?

THE SPEAKER: It does not. Without objection, the request of the Senate will be complied with.

There was no objection.

§ 12.5 The House, by unanimous consent, considered a resolution requesting the Senate to return a House bill and authorizing the Clerk to reengross the bill with a correction.

On Apr. 16, 1951,[20] the following House resolution (H. Res. 195) was before the House by unanimous consent:

Resolved, That the Senate be requested to return to the House the bill (H.R. 3587) making supplemental appropriations for the fiscal year ending June 30, 1951, and for other purposes, and that the Clerk be authorized to reengross the said bill with the following correction:

Page 11, line 11, strike out "$18,350,000" and insert in lieu thereof "$19,100,000."

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, this is because the enrolling clerk made a mistake in indicating that the Heselton amendment was carried instead of being defeated on roll call; is that correct?

MR. [JAMIE L.] WHITTEN [of Mississippi]: That is correct. The engrossed copy showed the earlier action but failed to change back on final roll call.

A Concurrent Resolution is Used to Effect Change in Engrossment When Both Houses Have Acted

§ 12.6 The House, by unanimous consent, considered a concurrent resolution authorizing the Secretary of the Senate to re-engross the amendments of the Senate to a House bill and make a correction in such reengrossment.

On June 27, 1951,[1] the concurrent resolution shown below was before the House.

20. 97 CONG. REC. 3918, 82d Cong. 1st Sess. H.R. 3587 had not yet been reported in the Senate. This situation differs from that in Sec. 12.6, infra, in which the Senate had acted on the bill and requested a conference which had been agreed to by the House.

1. 97 CONG. REC. 7254, 82d Cong. 1st Sess. As noted above (see § 12.5,

INDEPENDENT OFFICES APPROPRIATION BILL, 1952

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (S. Con. Res. 35) ordering the reengrossment of the Senate amendment to H.R. 3880, the independent offices appropriation bill for 1952.

The Clerk read the concurrent resolution, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed to reengross the amendments of the Senate to the bill (H.R. 3880) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, corporations, agencies, and offices for the fiscal year ending June 30, 1952, and for other purposes; and to reengross Senate amendment numbered 79 so as to read as follows:

On page 35, line 23, strike out "$875,163,335" and insert "$873,105,770."

THE SPEAKER:[2] Is there objection to the request of the gentleman from Texas?

MR. [JOHN] Phillips [of California]: Mr. Speaker, reserving the right to object, will the gentleman from Texas [Mr. Thomas] please explain the reason for the request on the part of the other body?

MR. THOMAS: Mr. Speaker, this resolution authorizes reengrossment of amendment No. 79 of the independent offices appropriation bill. It all adds up to this: Apparently the other body has made a mistake in printing or engrossing this amendment. Amendment No. 79 deals with salaries and expenses for the Veterans' Administration. What happened was that they show a reduction in that appropriation of about $1,200,000 more than the figure actually agreed upon by the Senate.

Correction in Engrossed Bill Prior to Disagreement to Senate Amendment

§ 12.7 A concurrent resolution authorizing the Clerk of the House to make certain corrections in the engrossed copy of a House bill was considered and agreed to before the House disagreed to a Senate amendment to the bill.

On July 16, 1968,[3] Mr. Wayne N. Aspinall, of Colorado, asked unanimous consent for the consideration of a concurrent resolution (H. Con. Res. 798) authorizing the Clerk of the House of Representatives to make certain changes in the engrossed copy of the bill (H.R. 9098) to revise the boundaries of the Bad Lands National Monument in the State of South Dakota.

The resolution read in part as follows:

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supra), the Senate had requested and the House had agreed to a conference on the bill H.R. 3880.

2. Sam Rayburn (Tex.).

3. 114 CONG. REC. 21538, 90th Cong. 2d Sess.

In lieu of the language appearing on page 4, lines 9 through 21 of the House engrossed bill and the Senate amendment thereto, insert the following:

"(b) Any former Indian or non-Indian owner of a tract of land, whether title was held in trust or fee, may purchase such tract from the Secretary of the Interior. . . ."

The concurrent resolution was agreed to.

Mr. Aspinall then asked unanimous consent to take from the Speaker's table the same bill messaged back to the House from the Senate with a Senate amendment. Mr. Aspinall asked unanimous consent to consider such bill and disagree to the Senate amendment.

There was no objection.

Effecting Changes by Unanimous Consent

§ 12.8 By unanimous consent, the Clerk was authorized to include an amendment striking out a preamble in the engrossment of amendments to a Senate joint resolution passed in the House.

On Nov. 16, 1943,[4] Mr. Robert Ramspeck, of Georgia, made the following unanimous-consent request:

Mr. Speaker, I ask unanimous consent that in the engrossment of the amendments to Senate Joint Resolution 47, providing for the appointment of a National Agricultural Jefferson Bicentenary Committee to carry out under the general direction of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson appropriate exercises and activities in recognition of the services and contributions of Thomas Jefferson to the farmers and the agriculture of the Nation, the Clerk of the House be authorized to include therein an amendment striking out the preamble.

THE SPEAKER:[5] Is there objection to the request of the gentleman from Georgia?

There was no objection.

§ 12.9 Where the House amended the text of a Senate bill but neglected to make a conforming change in the title thereof, the Clerk was authorized and directed, by unanimous consent, to correct the oversight by inserting the correct title in the engrossment of the House amendments to the Senate bill.

On May 15, 1968,[6] Mr. William R. Poage, of Texas, made the following unanimous-consent request:

Mr. Speaker, I ask unanimous consent that in the engrossment of the

4. 89 CONG. REC. 9587, 78th Cong. 1st Sess.

5. Sam Rayburn (Tex.).

6. 114 CONG. REC. 13400, 90th Cong. 2d Sess.

amendment to the Senate bill (S. 2986) to extend Public Law 480, 83d Congress, to which the House agreed yesterday, that the Clerk of the House be authorized and directed to make a conforming amendment to the title of the bill. The title of the Senate bill provided for a 3-year extension of the law, but the House only extended the law until December 31, 1969.

The title should be amended to read as follows:

> To extend the Agricultural Trade and Assistance Act of 1954, as amended, and for other purposes.

THE SPEAKER:[7] Is there objection to the request of the gentleman from Texas?

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, reserving the right to object, that means then specifically that it is limited to 1 year?

MR. POAGE: That is right; it just gets it in the title.

MR. GROSS: Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

§ 12.10 The Clerk may be authorized by unanimous consent to make certain changes in section numbers, cross references, and other technical changes during the engrossment of a House-passed bill.

On Oct. 11, 1967,[8] Mr. Thaddeus J. Dulski, of New York, made the following unanimous-consent request:

> Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make the appropriate conforming changes in, and omissions of, section numbers and references in the bill (H.R. 7977).
>
> THE SPEAKER:[9] Is there objection to the request of the gentleman from New York?
>
> There was no objection.

Similarly, on July 24, 1968,[10] after the House passed H.R. 17735, Mr. Emanuel Celler, of New York, made the following unanimous-consent request:

> Mr. Speaker, because of the number of amendments adopted to the bill just passed, I ask unanimous consent that the Clerk, in the engrossment of the bill, be authorized and directed to make such changes in section numbers, cross-references, and other technical and conforming corrections as may be required to reflect the actions of the House. . . .
>
> There was no objection.

§ 12.11 The Clerk was authorized, by unanimous consent, to make clerical corrections in the engrossment of a House amendment to a Senate bill.

On Sept. 12, 1967,[11] Mr. Wright Patman, of Texas, made

7. John W. McCormack (Mass.).

8. 113 CONG. REC. 28672, 90th Cong. 1st Sess.

9. John W. McCormack (Mass.).

10. 114 CONG. REC. 23096, 90th Cong. 2d Sess.

11. 113 CONG. REC. 25230, 90th Cong. 1st Sess.

the following unanimous-consent request:

Mr. Speaker, I ask unanimous consent that the Clerk may make any necessary corrections in punctuation, section numbers, and cross references in the amendment of the House to the bill, S. 1862.

THE SPEAKER:[12] Is there objection to the request of the gentleman from Texas?

There was no objection.

§ 12.12 A unanimous-consent request was made authorizing the Clerk in the engrossing of a revenue bill to make changes in the table of contents, to make clerical changes, and to amend or strike out cross references.

On Apr. 28, 1936,[13] Mr. Robert L. Doughton, of North Carolina, submitted the following unanimous-consent request:

I ask unanimous consent that in the engrossing of the pending bill (H.R. 12395), the Clerk of the House be authorized:

(1) To make such changes in the table of contents as may be necessary to make such table conform to the action of the House in respect of the bill;

(2) To make such clerical changes as may be necessary to the proper numbering and lettering of the various portions of the bill, and to secure uniformity in the bill in respect of typography and indentation; and

(3) To amend or strike out cross-references that have become erroneous or superfluous, and to insert cross-references made necessary by reason of changes made by the House.

§ 12.13 The Clerk of the House was directed, in the engrossment of House Resolution 7 (re the adoption of rules for the 90th Congress), to make certain corrections in the text of the resolution and the amendment thereto to reflect the intention of the House.

On Jan. 12, 1967,[14] Mr. Carl Albert, of Oklahoma, asked unanimous consent that in the engrossment of House Resolution 7 the Clerk of the House be authorized and directed to make certain corrections:

MR. GERALD R. FORD [of Michigan]: Mr. Speaker, reserving the right to object, as I understand it, the request of the distinguished majority leader is solely for the purpose of perfecting what the House intended to do on Tuesday last; is that correct?

MR. ALBERT: Mr. Speaker, will the distinguished minority leader yield?

MR. GERALD R. FORD: I yield to the gentleman from Oklahoma.

MR. ALBERT: Mr. Speaker, the gentleman from Michigan is correct. Most of them are obvious. Obviously, we

12. John W. McCormack (Mass.).

13. 80 CONG. REC. 6299, 74th Cong. 2d Sess.

14. 113 CONG. REC. 430, 431, 90th Cong. 1st Sess.

were working last year under the rules of the 89th Congress, but there were two or three clerical errors and the only purpose is to correct clerical errors.

MR. GERALD R. FORD: Mr. Speaker, I withdraw my reservation of objection.

THE SPEAKER:[15] Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

§ 13. Transmission of Legislative Messages Between House and Senate

Messages From House

§ 13.1 Customarily, sundry enrolled bills, signed by the Speaker, are announced as a group (but seldom by individual title or with reference to number or content) at the Senate door when they are messaged from the House, although this procedure has provoked discussion.

On May 20, 1963,[16] Senator Bourke B. Hickenlooper, of Iowa, raised a parliamentary inquiry:

> Mr. President, I wanted to make a parliamentary inquiry. For the record, may I ask if H.R. 4997, which is the feed grain bill, has been messaged over from the House to the Senate?

THE PRESIDING OFFICER:[17] That bill has come over from the House and has been signed by the President pro tempore.

MR. HICKENLOOPER: May I ask at what time it came over from the House?

THE PRESIDING OFFICER: About 7 or 8 minutes after 12 o'clock.[18]

MR. HICKENLOOPER: Was it presented through the so-called front door of the Senate and was any public announcement made of the message from the House at the time is was sent over?

THE PRESIDING OFFICER: It was not officially announced when it was received.

MR. HICKENLOOPER: So there was no public announcement, at the time the bill was coming from the House, of this having been signed by the Speaker. Is that correct?

THE PRESIDING OFFICER: That is correct.

MR. HICKENLOOPER: Therefore, there was no opportunity or knowledge on the part of anyone who might have wanted to raise parliamentary issues with regard to that bill because there was no opportunity as the result of any notice.

THE PRESIDING OFFICER: Apparently there was none.

MR. HICKENLOOPER: May I ask if that is the usual procedure, or the unusual procedure, for a bill to be messaged over surreptitiously and secretly from the House of Representatives, in that manner?

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15. John W. McCormack (Mass.).

16. 109 CONG. REC. 9006, 88th Cong. 1st Sess.

17 Edward M. Kennedy (Mass.).

18. Recorded in the Record at 109 CONG. REC. 8978, 88th Cong. 1st Sess.

THE PRESIDING OFFICER: The usual procedure is for a bill to be announced at the door.

MR. HICKENLOOPER: It was not followed in this case.

THE PRESIDING OFFICER: That is correct.

MR. HICKENLOOPER: I thank the Chair for explaining this very interesting and unusual procedure in connection with this bill.[19]

Messages From Senate

§ 13.2 The Speaker lays before the House letters from the Clerk advising him that pursuant to authority granted, the Clerk had, during adjournment, received messages from the Senate relative to the passage of House bills.

On Apr. 12, 1965,[20] the Speaker[21] laid before the House the following communication from the Clerk of the House of Representatives:[22]

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 10, 1965.

The Honorable the SPEAKER,
House of Representatives.

SIR: Pursuant to authority granted on April 8, 1965, the Clerk received from the Secretary of the Senate today the following message:

That the Senate passed H.R. 2362, entitled "An act to strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools."

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

Revenue and Appropriation Measures

§ 13.3 The House has agreed to privileged resolutions providing for the return to the Senate of joint resolutions passed by that body and held to infringe on the revenue-raising powers of the House under the Constitution.

On Mar. 12, 1953,[1] the House considered and agreed to the fol-

19. *Parliamentarian's Note:* H.R. 4997, the Feed Grain Act of 1963, was signed by the Speaker shortly after noon on May 20. Since there was some urgency about getting the bill to the White House as quickly as possible, the messenger from the House took the bill directly to the Senate where he was instructed, by the Secretary of the Senate, to take the bill directly to the desk for signature by the President pro tempore. The bill was then taken immediately to the White House by a representative of the Secretary of the Senate.

20. 111 CONG. REC. 7771, 89th Cong. 1st Sess.

21. John W. McCormack (Mass.).

22. See also 111 CONG. REC. 14845, 89th Cong. 1st Sess. June 28, 1965; and 111 CONG. REC. 9115, 89th Cong. 1st Sess. May 3, 1965.

For a more extensive discussion of House-Senate messages and House-Senate relations generally, see Ch. 32, infra.

1. 99 CONG. REC. 1897, 1898, 83d Cong. 1st Sess.

lowing privileged resolution (H. Res. 176):

> *Resolved,* That Senate Joint Resolution 52, making an appropriation out of the general fund of the District of Columbia, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

Again, on July 2, 1960,[2] the House considered and agreed to the following resolution (H. Res. 598):

> That Senate Joint Resolution 217 [extending Sugar Act of 1948] in the opinion of this House contravenes the first clause of the seventh section of the first article of the Constitution of the United States, and is an infringement of the privileges of this House, and that the said resolution be respectfully returned to the Senate with a message communicating this resolution.

Similarly, on Oct. 10, 1962,[3] the House considered and agreed to the following resolution (H. Res. 831):

> *Resolved,* That Senate Joint Resolution 234, making appropriations for the Department of Agriculture and the Farm Credit Administration for the fiscal year 1963, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said joint resolution be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.

The jurisdiction and authority of the House over revenue bills is treated more extensively in the chapter on the general powers and prerogatives of the House. See chapter 13, supra.

§ 14. Enrollment; Correcting Bills in Enrollment

Enrollment Procedure

§ 14.1 A bill is enrolled by the House in which it originated. Under the enrollment procedure, the bill is printed at the Government Printing Office on distinctive paper under special supervision.[4]

§ 14.2 Under Rule X clause 4(d)(1),[5] **the Committee on**

2. 106 CONG. REC. 15818, 15819, 86th Cong. 2d Sess.

3. 108 CONG. REC. 23014, 23015, 87th Cong. 2d Sess.

4. *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 6.1.

5. *House Rules and Manual* § 697b (1981).

House Administration has the function of "examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House."

§ 14.3 The Committee on House Administration reports to the House when it carries out its functions of certifying the correct enrollment of bills and joint resolutions.

On Mar. 24, 1947,[6] Mr. Karl M. Le Compte, of Iowa, from the Committee on House Administration reported that that committee had examined and found truly enrolled and signed by the Speaker the joint resolution of the House (H.J. Res. 27) proposing an amendment to the Constitution of the United States relating to the terms of office of the President. Mr. Le Compte announced further that that committee had presented to and filed with the Secretary of State such joint resolution.

Parliamentarian's Note: Constitutional amendments, having passed both Houses of Congress, are now presented to the Administrator of General Services for transmission to the several states for ratification. See 1 USC Sec. 106b; 1 USC Sec. 112.

§ 14.4 In the Senate, the responsibility for the correct enrollment of bills and joint resolutions is vested in the Secretary of the Senate.

On Jan. 30, 1945,[7] the Senate considered and agreed to the following resolution (S. Res. 64):

> *Resolved,* That the Secretary of the Senate shall examine all bills, amendments, and joint resolutions before they go out of the possession of the Senate, and shall examine all bills and joint resolutions which shall have passed both Houses, to see that the same are correctly enrolled, and, when signed by the Speaker of the House and the President of the Senate, shall forthwith present the same, when they shall have originated in the Senate, to

6. 93 CONG. REC. 2482, 80th Cong. 1st Sess.

7. 91 CONG. REC. 591, 592, 79th Cong. 1st Sess.

the President of the United States, and report the fact and date of such presentation to the Senate.

Parliamentarian's Note: The provisions of this resolution are now part of the standing rules of the Senate. See Rule XIV, paragraph 5, Senate Manual § 14.5 (1975).

Authorizing Numerical Corrections

§ 14.5 The House agreed to a concurrent resolution providing that in the enrollment of general appropriation bills enacted during the remainder of a session, the Clerk of the House could correct chapter, title, and section numbers.

On July 4, 1952,[8] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 239):

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of general appropriation bills enacted during the remainder of the second session of the Eighty-second Congress the Clerk of the House may correct chapter, title, and section numbers.

The Senate also agreed to this resolution (see H. Jour. 761, 82d Cong. 2d Sess., July 5, 1952).

8. 98 CONG. REC. 9440, 82d Cong. 2d Sess.

Changing Items in Appropriation Bill

§ 14.6 Items in an appropriation bill not in disagreement between the two Houses, and hence not committed to the conferees, were, by unanimous consent, changed through adoption of a concurrent resolution directing the changes in the enrollment of the bill.

On July 23, 1962,[9] Mr. Albert Thomas, of Texas, called up for consideration under a previous unanimous-consent agreement a concurrent resolution (H. Con. Res. 505) making 29 changes in a supplemental appropriation bill (H.R. 11038). Had the items been included in the conference agreement, the report would have been subject to a point of order. In explanation of the concurrent resolution Mr. Thomas stated:

Mr. Speaker, it will be recalled this deals with what we call the second supplemental appropriation bill for 1962. When the supplemental left the House it had 55 items carrying about $447 million, which was a reduction, in round figures, of $100 million under the budget, a reduction of about 20 percent.

It went to the other body and that body added some 29 items, increasing

9. 108 CONG. REC. 14400, 87th Cong. 2d Sess.

the amount over the House by $112 million, which made a round figure of about $560 million.

We bring to you two items, one a concurrent resolution and the other a conference report. First, why the concurrent resolution? We put in the concurrent resolution some 29 items which were originally in the supplemental, but those 29 items are a reduction—follow me now—below the figure that was in the supplemental when it left the House and the figure when it left the Senate.

It is a complete reduction and a change. It is in the concurrent resolution because it could not be in the conference report, and the reason it could not be in the conference report is because it is a reduction in those amounts.

The concurrent resolution was agreed to.[10]

Correcting Printing Errors

§ 14.7 The House agreed to a concurrent resolution authorizing the Clerk of the House, in the enrollment of a House bill, to correct certain printing errors in the bill as reported from conference to reflect the true intention of the conferees and the two Houses.

On Oct. 17, 1966,[11] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 1039):

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 15857) to amend the District of Columbia Police and Fireman's Salary Act of 1958 to increase salaries of officers and members of the Metropolitan Police force and the Fire Department, and for other purposes, is authorized and directed to make the following corrections in the salary schedule for teachers, school officers, and certain other employees of the District of Columbia Board of Education, which is provided in section 202(1) of the bill:

(1) In class 3, step 2, strike out "$16,856" and insert in lieu thereof "$16,865".

(2) In class 3, step 6, strike out "18,115" and insert in lieu thereof "18,105".

(3) In class 6, group C, principal level III, step 5, strike out "14,905" and insert "14,095".[12]

Return of Original Papers to Senate

§ 14.8 By concurrent resolution the Senate requested return of a House bill erro-

10. *Id.* at p. 14403.

11. 112 CONG. REC. 27152, 89th Cong. 2d Sess.

12. *Parliamentarian's Note:* Printing errors in the conference report were not discovered until after the Senate had acted on the report. These errors could have been corrected by a star print had they been caught before the two Houses had acted.

neously messaged to the House as having passed the Senate without amendment; the Secretary of the Senate was authorized, upon its return, to transmit the bill to the House with a Senate amendment, and provided for the return to the House of an incorrectly enrolled bill, signed by the Speaker, and that the Speaker's signature be rescinded.

On Aug. 8, 1957,[13] the Speaker, Sam Rayburn, of Texas, laid before the House the following concurrent resolution (S. Con. Res. 46):

Resolved by the Senate (the House of Representatives concurring), That the House of Representatives return to the Senate the engrossed bill (H.R. 5707) for the relief of the A. C. Israel Commodity Co., Inc., erroneously messaged to the House on August 6, 1957, as having passed the Senate on the preceding day without amendment; that upon its return to the Senate the Secretary shall transmit to the House the said bill, together with the amendment made by the Senate thereto; that the enrolled bill, signed by the Speaker of the House and transmitted to the Senate on yesterday, be returned to the House, and that the action of the Speaker in signing said enrolled bill be thereupon rescinded.

Rescinding Enrollment

§ 14.9 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker and President of the Senate in signing an enrolled bill and directing the Clerk of the House to reenroll the bill with certain changes.

On Apr. 21, 1938,[14] the House agreed to the following concurrent resolution (S. Con. Res. 30) which had passed the Senate on Mar. 30, 1938:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and the President of the Senate in signing the enrolled bill (H.R. 5793) for the relief of Josephine Fontana be, and it is hereby, rescinded, and the Clerk of the House be, and he is hereby, authorized and directed to reenroll the bill with the following amendments, viz: . . . strike out "Josephine Fontana, . . . $600 in full satisfaction of her claim" and . . . insert . . . "Nathaniel M. Harvey, as administrator of the estate of Josephine Fontana. . . ."

§ 14.10 The House, by unanimous consent, agreed to a Senate concurrent resolution rescinding the signatures of the two presiding officers on

13. 103 CONG. REC. 14102, 85th Cong. 1st Sess.

14. 83 CONG. REC. 5640, 75th Cong. 3d Sess.

an enrolled bill and providing for its return to the Senate.

On May 24, 1956,[15] the House considered and agreed to the following concurrent resolution (S. Con. Res. 80):

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker pro tempore of the House of Representatives and of the President of the Senate in signing the enrolled bill (H.R. 4656) relating to the Lumbee Indians of North Carolina be, and it is hereby, rescinded, and that the engrossed bill be returned to the Senate.

§ 14.11 The House, by unanimous consent, agreed to a Senate concurrent resolution rescinding the action of the Speaker and President of the Senate in signing an enrolled bill and requesting the House to return the engrossed copy to the Senate.

On Apr. 5, 1938,[16] the House considered and agreed to the following concurrent resolution (S. Con. Res. 29):

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and of the President of the Senate in signing the enrolled bill (H.R. 7158) to except yachts, tugs, towboats, and unrigged vessels from certain provisions of the act of June 25, 1936, as amended, be, and it is hereby, rescinded; and that the House of Representatives be, and it is hereby, requested to return to the Senate the engrossed bill.

§ 14.12 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker and Vice President in signing an enrolled bill and requesting the House to return to the Senate its message announcing its agreement to an amendment of the House.

On June 4, 1935,[17] the House considered the following concurrent resolution (S. Con. Res. 16):

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives and the Vice President of the United States, respectively, in signing the enrolled bill (S. 2105) to provide for an additional number of cadets at the United States Military Academy, and for other purposes, be, and the same is hereby, rescinded; and that the House of Representatives be, and it is hereby, requested to return to the Senate the message announcing its agreement to the amendments of the House to the said bill.

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15. 102 CONG. REC. 8945, 84th Cong. 2d Sess.

16. 83 CONG. REC. 4775, 75th Cong. 3d Sess.

17. 79 CONG. REC. 8645, 74th Cong. 1st Sess.

Reenrollment With a Correction

§ 14.13 The House, by unanimous consent, agreed to a concurrent resolution rescinding the action of the Speaker in signing an enrolled bill and authorizing the Clerk to reenroll it with a correction.

On Aug. 17, 1954,(1) the House considered and passed the following concurrent resolution (S. Con. Res. 106):

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives in signing the enrolled bill (H.R. 1975) to amend section 2201 of title 28, United States Code, to extend the Federal Declaratory Judgments Act to the Territory of Alaska, be rescinded, and that the Clerk of the House be, and he is hereby authorized and directed, in the reenrollment of the bill, to make the following correction:

On page 1, line 6 of the engrossed House bill, strike out the word "section" and in lieu thereof insert the word "sentence."

§ 14.14 The House, by unanimous consent, agreed to a Senate concurrent resolution authorizing and directing the Clerk of the House to reenroll a House bill with a correction.

On Oct. 13, 1966,(2) the House considered and agreed to the following concurrent resolution (S. Con. Res. 113):

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives of the United States be authorized to correct an enrolling error in H.R. 698, to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes, and that section 3(a) of H.R. 698, shall when corrected read as follows:

"When title to all privately owned land within the boundary of the park, subject to such outstanding interests, rights, and easements as the Secretary determines are not objectionable. . . ."(3)

Reenrollment With a Change

§ 14.15 The House agreed to a concurrent resolution rescinding the action of the Speaker in signing an enrolled bill and authorizing the Secretary of the Senate to reenroll the bill with a change.

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1. 100 CONG. REC. 14877, 83d Cong. 2d Sess.

2. 112 CONG. REC. 26639, 26640, 89th Cong. 2d Sess.

3. *Parliamentarian's Note:* The Senate originated this concurrent resolution since the error in the enrollment was in reality a Senate error reflecting a mistake in the engrossment of the Senate amendment to the House bill.

On June 16, 1954,[4] Speaker Joseph W. Martin, of Massachusetts, laid before the House a concurrent resolution (S. Con. Res. 87) which the House considered and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives in signing the enrolled bill (S. 2657), to amend the act entitled "An act to regulate the practice of the healing art to protect the public health in the District of Columbia," be, and the same is hereby, rescinded; and that the Secretary of the Senate be, and he is hereby, authorized and directed to reenroll the bill with the following change, namely: On page 2, line 6, after the word "or", insert the word "by".

§ 14.16 The House, by unanimous consent, agreed to a concurrent resolution authorizing and directing the Secretary of the Senate to make certain corrections in the enrollment of a Senate bill.

On Aug. 25, 1966,[5] the House considered and agreed to the following concurrent resolution (H. Con. Res. 990):

Resolved, That in the enrollment of the bill (S. 3105) to authorize certain construction at military installations, and for other purposes, the Secretary of the Senate is authorized and directed to make the following correction:

In section 612, strike out "$50,000" and insert "$150,000".

§ 14.17 The House, by unanimous consent, agreed to a concurrent resolution authorizing the Secretary of the Senate to make such corrections in title and section numbers and cross references as may be necessary by reason of the omission of a title in an enrolled bill.

On Mar. 23, 1942,[6] the House considered and agreed to the following concurrent resolution (S. Con. Res. 27):

Resolved by the Senate (the House of Representatives concurring), That in enrolling the bill (S. 2208) to further expedite the prosecution of the war, the Secretary of the Senate is authorized and directed to make all necessary corrections in title and section numbers and cross references as may be necessary by reason of the omission from the enrolled bill of title VIII.

§ 14.18 By unanimous consent, the House adopted a concurrent resolution authorizing and directing the Secretary of the Senate, in the enrollment of a bill, to make cer-

4. 100 CONG. REC. 8360, 83d Cong. 2d Sess.

5. 112 CONG. REC. 20688, 89th Cong. 2d Sess.

6. 88 CONG. REC. 2808, 77th Cong. 2d Sess.

tain conforming changes to the title of the bill, changes designed to make the title conform to amendments made to the text thereof.

On Oct. 1, 1968[7] the House considered and agreed to the following concurrent resolution (H. Con. Res. 838):

CORRECTION OF TITLE OF THE BILL S. 698, INTERGOVERNMENTAL COOPERATION ACT OF 1968

MR. [CHET] HOLIFIELD [of California]: Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 838) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate in the enrollment of the bill (S. 698) to achieve the fullest cooperation and coordination of activities among the levels of government . . . and for other purposes, is authorized and directed to correct the title of the bill so as to read: "An Act to achieve the fullest cooperation and coordination of activities among the levels of government . . . and for other purposes."

THE SPEAKER PRO TEMPORE:[8] Is there objection to the request of the gentleman from California?

There was no objection.

The concurrent resolution was agreed to.

7. 114 CONG. REC. 28863, 90th Cong. 2d Sess.

8. Carl Albert (Okla.).

Incomplete Enrollment

§ 14.19 Where in the enrollment of a bill a section thereof was omitted and the President signed the bill as presented to him, the Congress, by unanimous consent, immediately enacted an amendment to the law inserting the omitted section.

On July 1, 1954,[9] the House considered and agreed to a joint resolution (H.J. Res. 553) amending a law (Priv. L. No. 495) to include a section that had been inadvertently omitted from the enrolled bill sent to the President.[10]

Providing for Duplicate Enrollment

§ 14.20 Pursuant to a concurrent resolution brought up

9. 100 CONG. REC. 9566, 83d Cong. 2d Sess.

10. *Parliamentarian's Note:* In the enrollment of H.R. 7258, a private bill for the relief of the Willmore Engineering Company, a portion of the bill, section 2, which had been in the bill when it was passed by both the House and the Senate, was erroneously omitted. The erroneously enrolled bill was signed by the presiding officers of the two Houses and approved by the President on June 30, 1954. The omission of section 2 was discovered only after the bill had been approved by the President.

and agreed to by unanimous consent, the Clerk presented the duplicate copy of an enrolled bill to the President after the original copy had been lost.

On May 15, 1935,[11] the Speaker[12] laid before the House the following communication:

MAY 15, 1935.

THE SPEAKER,
House of Representatives,
Washington, D.C.

SIR: Pursuant to the provisions of House Concurrent Resolution 21, Seventy-fourth Congress, I have this day presented to the President of the United States the signed duplicate copy of the enrolled bill, H.R. 6084. . . .

Very truly yours,
SOUTH TRIMBLE,
Clerk of the
House of Representatives.

Parliamentarian's Note: For circumstances which required this duplicate enrollment, see § 15.16, infra.

§ 15 Signing

The practice of the two Houses of Congress in the signing of enrolled bills was formerly governed by joint rules, and has continued since those rules were abrogated in 1876.[13] A House-enrolled bill, having been approved as to form by the Committee on House Administration, and certified by the Clerk as having originated in the House, is reported to the House. Senate enrollments are delivered to the House after examination and certification by the Secretary of the Senate. All enrollments are signed first by the Speaker and then by the Vice President or President pro tempore of the Senate.[14]

Where the Record and Journal, through oversight, fail to indicate that the Speaker has signed a particular bill, the Speaker announces to the House the date on which he has signed the bill and asks that the permanent record and Journal be corrected accordingly.[15]

Authorization to Sign During Adjournments

§ 15.1 The House agreed to a concurrent resolution au-

11. 79 CONG. REC. 7633, 74th Cong. 1st Sess.

12. Joseph W. Byrns (Tenn.).

13. *House Rules and Manual* § 575 (1981).

14. *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 11.1.

15. *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 11.2.

thorizing the Vice President and the Speaker to sign enrolled bills and joint resolutions of the two Houses that have been duly passed notwithstanding an adjournment.

On Aug. 24, 1935,[16] the House considered and agreed to the following concurrent resolution (H. Con. Res. 39):

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the adjournment of the first session of the Seventy-fourth Congress, the President of the Senate and the Speaker of the House of Representatives be, and they are hereby, authorized to sign any enrolled bills or joint resolutions duly passed by the two Houses and which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

Similarly, on July 8, 1943,[17] the House considered and agreed to the following concurrent resolution (S. Con. Res. 18):

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the adjournment of the two Houses as authorized by Senate Concurrent Resolution 17, the President of the Senate and the Speaker of the House of Representatives be and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses which have been examined by the Committee on Enrolled Bills of each House and found truly enrolled.

Parliamentarian's Note: The earlier practice utilized a concurrent resolution to grant signing authority during an adjournment. Under a more recent practice, each House obtained its own unanimous-consent permission. Since Jan. 5, 1981, the Speaker has had permanent authority to sign enrollments whether or not the House is in session. See Rule I clause 4, *House Rules and Manual* § 624 (1981).

§ 15.2 The Senate agreed to a resolution authorizing the acting President pro tempore to sign enrolled bills and joint resolutions during adjournments and recesses for the remainder of the session.

On Dec. 12, 1963,[18] the Senate considered and agreed to the following resolution (S. Res. 235):

Resolved, That notwithstanding adjournments or recesses of the Senate during the remainder of the present session of the Congress, the Secretary be authorized to receive messages from the House, and the President pro tempore or the Acting President pro tempore be authorized to sign during such adjournments or recesses enrolled bills

16. 79 CONG. REC. 14583, 74th Cong. 1st Sess.

17. 89 CONG. REC. 7516, 78th Cong. 1st Sess.

18. 109 CONG. REC. 24329, 88th Cong. 1st Sess.

and joint resolutions passed by the two Houses and found truly enrolled.

Parliamentarian's Note: See Senate Rule 1, paragraph 3, dealing with the authority of the President pro tempore and the acting President pro tempore to sign enrolled bills. Signing authority during periods of adjournment is customarily granted by unanimous consent.

§ 15.3 The House agreed to a concurrent resolution authorizing the Speaker and President pro tempore of the Senate to sign enrolled bills, notwithstanding "any" adjournment of the two Houses to a day certain.

On July 2, 1964,[19] the House considered and agreed to the following concurrent resolution (H. Con. Res. 322):

> *Resolved*, That notwithstanding any adjournment of the two Houses until July 20, 1964, the Speaker of the House of Representatives and the President pro tempore of the Senate be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

§ 15.4 Under a more recent practice, the Speaker was usually authorized by unanimous consent to sign enrolled bills and joint resolutions passed by the two Houses, notwithstanding a sine die adjournment.

On Oct. 2, 1964,[20] Mr. Carl Albert, of Oklahoma, was granted the following unanimous-consent request:

> MR. ALBERT: Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.
>
> THE SPEAKER:[1] Without objection, it is so ordered.
>
> There was no objection.

Parliamentarian's Note: Since Jan. 5, 1981, permanent authority to receive messages from the Senate is carried in Rule III clause 5 [*House Rules and Manual* § 647a (1981)], and the Speaker is authorized to sign enrolled bills by Rule I clause 4 [*House Rules and Manual* § 624 (1981)].

§ 15.5 Notwithstanding any adjournment of the House between Friday and Monday, the Speaker was authorized by unanimous consent to

19. 110 CONG. REC. 15897, 15898, 88th Cong. 2d Sess.

20. 110 CONG. REC. 23788, 88th Cong. 2d Sess.

1. John W. McCormack (Mass).

sign enrolled bills and joint resolutions passed by the two Houses.

On Dec. 13, 1963,[2] Mr. Carl Albert, of Oklahoma, asked unanimous consent that notwithstanding any adjournment of the House until Monday next the Clerk may be authorized to receive messages from the Senate and the Speaker may be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.6 The Speaker pro tempore, who had been elected to serve in that capacity, was authorized to sign enrolled bills and joint resolutions notwithstanding an adjournment of the House for only one day.

On Sept. 21, 1961,[3] Mr. Carl Albert, of Oklahoma, asked unanimous consent that notwithstanding the adjournment of the House until the next day the Speaker pro tempore[4] be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.7 By unanimous consent, the Speaker was, on one occasion, authorized for the remainder of the session to sign enrolled bills and joint resolutions notwithstanding adjournments of the House.

On Aug. 10, 1961,[5] Mr. John W. McCormack, of Massachusetts, asked unanimous consent that notwithstanding any adjournment of the House during the present session of the 87th Congress the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

There was no objection.

§ 15.8 The House agreed to a unanimous-consent request that, notwithstanding sine die adjournment, the Speak-

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2. 109 CONG. REC. 24553, 88th Cong. 1st Sess.

3. 107 CONG. REC. 20572, 87th Cong. 1st Sess.

4. Mr. John W. McCormack, of Massachusetts, had been elected on Aug. 31, 1961, to serve as Speaker pro tempore (see H. Jour. 949, 87th Cong. 1st Sess.). See § 15.14, infra, as to necessity of House approval of designation of Speaker pro tempore to permit his authorization to sign enrolled bills.

5. 107 CONG. REC. 15320, 87th Cong. 1st Sess.

er be authorized to sign enrolled bills duly passed.

On Dec. 21, 1943,[6] Mr. John W. McCormack, of Massachusetts, made the following request:

> Mr. Speaker, I ask unanimous consent that, notwithstanding the sine die adjournment of the first session of the Seventy-eighth Congress, the Speaker be authorized to sign enrolled bills and joint resolutions, duly passed by the two Houses and examined by the Committee on Enrolled Bills and found truly enrolled.

There was no objection.

Announcements as to Bills Signed During Adjournment

§ 15.9 The Speaker informed the House when the elected Speaker pro tempore had, pursuant to authority granted, signed certain enrolled bills during adjournment.

On July 14, 1958,[7] the Speaker[8] made the following statement:

> The Chair desires to announce that, pursuant to the authority granted on Thursday, July 10, 1958, the Speaker pro tempore did on July 11, 1958, sign the following enrolled bills of the House:
>
> H.R. 7963. An act to amend the Small Business Act of 1953, as amended; and
>
> H.R. 11414. An act to amend section 314(c) of the Public Health Service Act.

§ 15.10 The Speaker announced the signing of enrolled bills after the House had adjourned to a day certain.

On July 26, 1948,[9] the Speaker[10] announced that pursuant to House Concurrent Resolution 219 of the 80th Congress he had made appointments to special committees and signed enrolled bills during an adjournment to a day certain.

§ 15.11 The Speaker announced that following the President's return of an enrolled bill and the reenrollment thereof with a correction, he (the Speaker) had thereafter signed the bill during a period of adjournment.

On July 20, 1964,[11] the Speaker[12] made the following announcement:

> The Chair desires to announce that after the President returned the bill,

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6. 89 CONG. REC. 10958, 78th Cong. 1st Sess.

7. 104 CONG. REC. 13675, 85th Cong. 2d Sess.

8. Sam Rayburn (Tex.).

9. 94 CONG. REC. 9363, 80th Cong. 2d Sess.

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

11. 110 CONG. REC. 16249, 88th Cong. 2d Sess.

12. John W. McCormack (Mass.).

H.R. 10053, the Clerk of the House, pursuant to the provisions of House Concurrent Resolution 323, 88th Congress, caused the bill to be reenrolled with a correction. The Speaker, pursuant to the authority granted him by House Concurrent Resolutions 322 and 323 [to sign enrolled bills during an adjournment], 88th Congress, did on July 8, 1964, sign the same.

Vacating Signatures

§ 15.12 The House agreed to a Senate concurrent resolution requesting that the action of the Speaker in signing an enrolled bill be rescinded and that the House return to the Senate the message announcing the Senate's agreement to certain House amendments.

On June 3, 1953,[13] the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 31):

Resolved by the Senate (the House of Representatives concurring), That the action of the Speaker of the House of Representatives in signing the enrolled bill (S. 1550) to authorize the President to prescribe the occasions upon which the uniform of any of the Armed Forces may be worn by persons honorably discharged therefrom be, and it is hereby, rescinded, and that the House be, and it is hereby, requested to return to the Senate its message announcing its agreement to the House amendments.

§ 15.13 The House agreed to a Senate resolution requesting the House to rescind the action of the Speaker in signing an enrolled bill of the House and that such bill be returned to the Senate.

On July 30, 1942,[14] the Speaker pro tempore[15] laid before the House the following resolution from the Senate:

Resolved, That the Secretary be directed to request the House of Representatives to rescind the action of the Speaker in signing the enrolled bill (H.R. 7297) entitled "An act authorizing the assignment of personnel from departments or agencies in the executive branch of the Government to certain investigating committees of the Senate and House of Representatives, and for other purposes," and that the House of Representatives be further requested to return the above-numbered engrossed bill to the Senate.

THE SPEAKER PRO TEMPORE: Without objection, it is so ordered.

There was no objection.

Signing of Bills by Speaker Pro Tempore

§ 15.14 The House approved the designation of a Speaker

13. 99 CONG. REC. 6000, 83d Cong. 1st Sess.

14. 88 CONG. REC. 6713, 77th Cong. 2d Sess.

15. Alfred L. Bulwinkle (N.C.).

pro tempore, thereby enabling him to sign enrolled bills.

On Feb. 24, 1949,(16) Mr. Mike Mansfield, of Montana, offered the following privileged resolution (H. Res. 116):

Resolved, That the designation of Hon. John W. McCormack, a Representative from the State of Massachusetts, as Speaker pro tempore be approved by the House, and that the President of the United States and the Senate be notified thereof. . . .

MR. [FRANCIS H.] CASE of South Dakota: As I understand, this is the customary resolution to meet a situation, so that bills may be duly enrolled and presented for signature?

MR. MANSFIELD: The gentleman is correct. . . .

The resolution was agreed to.

§ 15.15 The Speaker invited consideration of a resolution electing a Speaker pro tempore in order that enrolled bills might be signed in his absence.

On June 9, 1949,(17) the House considered and agreed to the following privileged resolution (H. Res. 243):

Resolved, That Hon. John W. McCormack, a Representative from the State of Massachusetts, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. John W. McCormack as Speaker pro tempore during the absence of the Speaker.

The Speaker (18) then offered the explanation below for the action taken:

This action is taken for two reasons: First, the Speaker will not be here Monday and Tuesday, and the immediate necessity is that there might be some enrolled bills that must be signed.

Signing of Duplicate Copy of Bill

§ 15.16 The House agreed to a concurrent resolution authorizing the Speaker and the Vice President to sign a duplicate copy of an enrolled bill and directing the Clerk of the House to transmit it to the President.

On May 15, 1935,(1) the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 21):

Resolved by the House of Representatives (the Senate concurring), That the

16. 95 CONG. REC. 1489, 81st Cong. lst Sess.

17. 95 CONG. REC. 7509, 81st Cong. lst Sess.

18. Sam Rayburn (Tex.).

1. 79 CONG. REC. 7598, 74th Cong. 1st Sess.

Speaker of the House of Representatives and the President of the Senate be, and they are hereby, authorized to sign a duplicate copy of the enrolled bill H.R. 6084, entitled "An act to authorize the city of Ketchikan, Alaska, to issue bonds . . ." and that, to issue bonds . . ." and that the Clerk of the House be directed to transmit the same to the President of the United States.[2]

§ 15.17 Where the Speaker signs a duplicate copy of an enrolled bill (the original having been lost) pursuant to a concurrent resolution authorizing such signing, he informs the House of that fact.

On May 27, 1938, [3] the Speaker [4] announced that pursuant to Senate Concurrent Resolution 37 the Chair had signed a duplicate copy of a Senate bill (S. 3532).

Suspension of Proceedings to Permit Signing

§ 15.18 Proceedings in the Committee of the Whole may be suspended to allow the Speaker to sign an enrolled bill.

On Feb. 26, 1964,[5] upon adoption of a motion to rise offered by Mr. Wright Patman, of Texas, the Committee of the Whole, at the request of the Speaker, suspended consideration of a bill (H.R. 9022) to amend the International Development Association Act.

The Speaker [6] then signed an enrolled bill (H.R. 8363) to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes.[7]

Mr. Patman then moved that the House resolve itself into the Committee of the Whole to continue consideration of H.R. 9022. The motion was agreed to.

Parliamentarian's Note: The Committee is not required to vote to rise, but may rise "informally," without motion, to allow the Speaker to receive messages from

2. This concurrent resolution was adopted following the receipt of a communication from the President advising the House that the original copy of the enrolled bill (H.R. 6084) presented to the President had been lost. The President recommended that a duplicate bill be sent to him pursuant to authorization by a concurrent resolution.

3. 83 CONG. REC. 7645, 75th Cong. 3d Sess.

4. William B. Bankhead (Ala.).

5. 110 CONG. REC. 3653, 3654, 88th Cong. 2d Sess.

6. John W. McCormack (Mass.).

7. *Parliamentarian's Note:* President Lyndon B. Johnson (Tex.) has scheduled a ceremony in connection with his signing of this bill, the Revenue Act of 1963, later in the day. The White House has informed the Parliamentarian of this fact and the Speaker has agreed to expedite the handling of the enrollment in the House.

the President or the Senate. Since the rules were amended in 1981 to permit the Speaker to sign enrolled bills, whether or not the House is in session (H. Res. 5, 97th Cong.), the concept of an "informal rising" of the Committee of the Whole has also been used to permit the Speaker to lay enrolled bills before the House. See *House Rules and Manual* § 625 (1983).

Senate Practice

§ 15.19 In the Senate, an acting President pro tempore, designated in writing by the elected President pro tempore, signs enrolled bills.

On June 20, 1963,[8] the legislative clerk of the Senate read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C, June 20,1963.
To the Senate:

Being temporarily absent from the Senate, I appoint Hon. Birch Bayh, a Senator from the State of Indiana, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

The acting President pro tempore, pursuant to the authority granted by Rule I, paragraph 3[9] of the Senate rules, then signed three enrolled bills (H.R. 131, H.R. 3574, and H.J. Res. 180) which had been signed by the Speaker and messaged to the Senate.

§ 16. Recalling Bills From the President

Recall by Concurrent Resolution

§ 16.1 The House agreed to a concurrent resolution requesting the President to return an enrolled bill.

On Feb. 5, 1932,[10] the House, by unanimous consent, considered and agreed to the following concurrent resolution (S. Con. Res. 13):

Resolved by the Senate (the House of Representatives concurring), That the

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8. 109 CONG. REC. 11253, 88th Cong. lst Sess.

9. Senate Rule I, paragraph 3 provides that "The President pro tempore shall have the right to name in open Senate or, if absent, in writing, a Senator to perform the duties of the Chair, including the signing of duly enrolled bills and joint resolutions but such substitution shall not extend beyond an adjournment, except by unanimous consent; and the Senator so named shall have the right to name in open session, or, if absent, in writing, a Senator to perform the duties of the Chair, but not to extend beyond an adjournment, except by unanimous consent."

10. 75 CONG. REC. 3449, 72d Cong. lst Sess.

President of the United States be, and is hereby, requested to return to the Senate the enrolled bill (S. 2199) entitled "An Act exempting building and loan associations from being adjudged bankrupts."

Recalling for Reenrollment

§ 16.2 The House agreed to a concurrent resolution requesting the President to return to the House an enrolled House joint resolution, rescinding the signatures of the two presiding officers and authorizing the Clerk of the House to reenroll it with corrections.

On July 26, 1956,[11] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 271):

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled House joint resolution (H.J. Res. 511). . . . If and when said resolution is returned by the President, the action of the presiding officers of the two Houses in signing said resolution shall be deemed rescinded, and the Clerk of the House is authorized and directed, in the enrollment of said resolution, to make the following correction: On the last line of the enrolled resolution strike out "waived" and insert "reserved."

§ 16.3 The House agreed to a concurrent resolution requesting the President to return an enrolled bill, rescinding the action of the Vice President and the Speaker in signing the bill, and directing the Secretary of the Senate in the reenrollment of the bill to make certain corrections.

On Apr. 12, 1937,[12] the House, by unanimous consent, agreed to the following concurrent resolution (S. Con. Res. 8):

Resolved by the Senate (the House of Representatives concurring), That the President of the United States be, and he is hereby requested to return to the Senate the enrolled bill (S. 1455) . . . that if and when the said bill is returned by the President, the action of the Speaker of the House of Representatives and of the President pro tempore of the Senate in signing the said bill be deemed to be rescinded; and that the Secretary of the Senate be, and is hereby, authorized and directed, in the reenrollment of the said bill, to make the following correction, viz: In the language inserted by the engrossed

11. 102 CONG. REC. 14770, 84th Cong. 2d Sess. The Senate acted on this resolution on July 26, 1956, 102 CONG. REC. 14648. The President returned the bill to the House on July 27, 1956, 102 CONG. REC. 15178.

12. 81 CONG. REC. 3397, 75th Cong. lst Sess. The President returned this bill to the Senate on Apr. 15, 1937, 81 CONG. REC. 3497, 3498.

House amendment no. 4, on page 2, at the end of line 11 of the engrossed bill, strike out the word "lieutenant" and insert the words "lieutenant colonel."

§ 16.4 The House agreed to a concurrent resolution requesting the President to return to the House an enrolled House bill, rescinding the signatures of the two presiding officers, and directing the Clerk to reenroll the bill to conform with a conference report adopted by the two Houses.

On Sept. 4, 1962,[13] the House, by unanimous consent, considered and agreed to the following concurrent resolution (H. Con. Res. 519):

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House of Representatives the enrolled bill (H.R. 10062) to extend the application of certain laws to American Samoa. If and when said bill is returned by the President, the action of the presiding officer of the two Houses in signing in said bill shall be deemed rescinded; and the Clerk of the House is authorized and directed to reenroll said bill in accordance with the conference report therein adopted by the two Houses.

13. 108 CONG. REC. 18405, 87th Cong. 2d Sess. The Senate concurred in this resolution on Sept. 4, 1962, 108 CONG. REC. 18482. The President acceded to this request on Sept. 11, 1962, 108 CONG REC 19092.

Recall and Postponement

§ 16.5 The House agreed to a concurrent resolution requesting the President to return an enrolled bill, rescinding the action of the two presiding officers in signing said bill, and postponing the bill indefinitely.

On May 13, 1953,[14] the House considered and agreed to the following concurrent resolution (H. Con. Res. 99):

Resolved by the House of Representatives (the Senate concurring), That the President of the United States is requested to return to the House the enrolled bill (H.R. 1101) for the relief of Daniel Robert Leary. If and when said bill is returned by the President, the action of the Presiding Officers of the two Houses in signing said bill shall be deemed rescinded, and the bill shall be postponed indefinitely.

Recall and Return to Senate

§ 16.6 The Senate considered and postponed indefinitely a concurrent resolution requesting the President to return to the House an enrolled joint resolution, and

14. 99 CONG. REC. 4895, 83d Cong. lst Sess. The Senate concurred in this resolution on May 14, 1953, 99 CONG. REC. 4915. The President returned the bill on May 19, 1953, 99 CONG. REC. 5139.

requesting the House to return the joint resolution to the Senate.

On Jan. 10, 1952,[15] the Vice resident[16] laid before the Senate the following concurrent resolution (S. Con. Res. 53):

> Resolved by the Senate (the House of Representatives concurring), That the President of the United States be, and he is hereby, requested to return to the House of Representatives the enrolled joint resolution (H. J. Res. 289) to terminate the state of war between the United States and the Government of Germany; that if and when returned the action of the Presiding Officers in signing the joint resolution be rescinded, and that the House be requested to return the engrossed joint resolution to the Senate.

Action on the concurrent resolution was indefinitely postponed.

Message to Senate When Enrolled Bill Returned to House, Engrossment Transmitted to Senate

§ 16.7 The House transmitted to the Senate an engrossed bill, the enrolled bill having been returned to the House by the President pursuant to a Senate concurrent resolution.

On July 3, 1947,[17] the following message was recorded in the Record as having been received in the Senate from the House:

> A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, informed the Senate that the President of the United States having returned to the House of Representatives the enrolled bill (H.R. 493) to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.)," in compliance with the request contained in Senate Concurrent Resolution No. 22; and returned the engrossed copy of said bill to the Senate.

§ 16.8 The President returned to the Senate an enrolled bill pursuant to a request contained in a concurrent resolution adopted by the two Houses.

On June 13, 1960,[18] the Vice President laid before the Senate

15. 98 CONG. REC. 71, 72, 82d Cong. 2d Sess.

16. Alben W. Barkley (Ky.).

17. 93 CONG. REC. 8203, 80th Cong. lst Sess. S. Con. Res. 22 was adopted by the Senate on June 30, 1947, 93 CONG. REC. 7876. The House concurred on July 1, 1947, 93 CONG. REC. 8012. Following a conference on the bill, the conference report was agreed to in the Senate on July 25, 1947, 93 CONG. REC. 10139, and in the House on July 26, 1947, 93 CONG. REC. 10494.

18. 106 CONG. REC. 12370, 12371, 86th Cong. 2d Sess. S. Con. Res. 109 was

the following message from the President of the United States:

To the Senate of the United States:

In compliance with the request contained in the resolution of the Senate (the House of Representatives concurring therein), I return herewith S. 1892 entitled "An Act to authorize Secretary of the Interior to construct, operate, and maintain the Norman project, Oklahoma, and for other purposes."

DWIGHT D. EISENHOWER,
THE WHITE HOUSE,
June 11, 1960.

§ 16.9 The President returned to the House an enrolled bill pursuant to a request contained in a concurrent resolution passed by the two Houses.

On July 3, 1947,[19] the Speaker[20] laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the request contained in the resolution of the Senate (the House of Representatives concurring therein), I return herewith H.R. 493, an act to amend section 4 of the act entitled "An act to control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia," approved July 8, 1932 (sec. 22, 3204 D.C. Code, 1940 ed.).

HARRY S TRUMAN,
THE WHITE HOUSE,
July 3, 1947.

C. VETO POWERS

§ 17. In General

The term "veto" is nowhere to be found in the Constitution. Rather, what is provided is a procedure, under article 1, section 7, whereby the President participates with the Congress in the enactment of laws. His power under article I to disapprove (veto) a bill presented to him was described by Alexander Hamilton as a "qualified negative" designed to provide a defense for the executive against the Congress and "to increase the chances in favour of the community against the passing of bad laws, through haste, inadvertence, or design."[1]

Article I, section 7, paragraph 2 of the Constitution provides:

adopted by the Senate on June 6, 1960, 106 CONG. REC. 11905, and concured in by the House on June 7, 1960, 106 CONG. REC. 12009.

19. 93 CONG. REC. 8260, 80th Cong. lst Sess. See also § 16.7, supra.

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

1. Alexander Hamilton, *The Federalist,* No. 73.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively.

If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Thus the President has a 10-day period (Sundays excepted), beginning at midnight on the day of presentation to him,[2] in which to approve or disapprove a bill. He can sign the bill into law or he can return it to the House of its origination with a message detailing why he chooses not to sign. If he fails to act during that period, the bill will become law automatically, without his signature. However, if before the end of that 10-day period the Congress adjourns *sine die* and thereby prevents the return of the bill, the bill does not become law if the President has taken no action (i.e., approval or disapproval) regarding it. This latter procedure is commonly referred to as a "pocket veto." The authority to "pocket veto" during intrasession and intersession adjournments has been the subject of litigation, which is discussed in § 18, infra.

Collateral Reference

For a chronological list of Presidential vetoes and congressional action thereon, from 1789 to 1968, see Senate Library, *Presidential Vetoes*, U.S. Government Printing Office, Washington, D.C. 1969.

Ten-day Period

§ 17.1 The 10-day period given the President under the Constitution in which to approve or reject a bill may be considered as beginning at midnight of the day on which the bill is presented to him.

On Sept. 14, 1959,[3] Mr. Kenneth B. Keating, of New York,

2. See § 17.1, infra.

3. 105 CONG. REC. 19553, 86th Cong. 1st Sess.

propounded a parliamentary inquiry in the Senate concerning the veto message of the President delivered to the House on a private bill (H.R. 2717). He inquired whether more than 10 days had expired since the bill was presented to the President under the provisions of article I, section 7, of the Constitution.[4]

The Presiding Officer[5] responded that the 10-day limitation begins to run as of midnight on the day on which a bill is presented to the President for his approval.

Parliamentarian's Note: The day on which the bill is presented to the President is not counted in the computation.

§ 17.2 A private bill sent to the White House on Aug. 31, 1959, but not presented to the President until after his return from Europe on Sept. 7, was returned without the President's approval on Sept. 14, 1959.

On Sept. 14, 1959,[6] the Speaker[7] laid before the House the veto message of the President received on that day of a private bill (H.R. 2717). The bill had been sent to the President on Aug. 31.

After the veto message had been read the Speaker declared:

> The objections of the President will be spread at large upon the Journal, and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.
>
> There was no objection.

§ 17.3 Whether a bill has been acted on by the President within the 10 days allowed him by the Constitution is a legal question and not open to determination by the Presiding Officer of the Senate.

On Sept. 14, 1959,[8] Senator Kenneth B. Keating, of New York, raised several parliamentary inquiries in the Senate regarding the purported veto by President

4. H.R. 2717 was presented at the White House on Aug. 31, 1959. However, it was not presented to the President until after his return from Europe on Sept. 7. The enrolled bill, when returned to the House with the veto message, carried a stamped notation added at the White House, reading as follows: "Aug. 31, 1959. Held for presentation to the President upon his return to the United States." The issue of whether the veto message was beyond the 10-day period is discussed in §§ 17.3 and 17.4, infra.

5. Howard W. Cannon (Nev.).

6. 105 CONG. REC. 19697, 86th Cong. 1st Sess.

7. Sam Rayburn (Tex.).

8. 105 CONG. REC. 19553, 19554, 86th Cong. 1st Sess.

Eisenhower of a private bill (H.R. 2717):

> Mr. President, I rise to propound a parliamentary inquiry: On March 17, 1959, the House of Representatives passed, and on August 27, 1959, the Senate passed, House bill 2717, for the relief of Eber Bros. Wine & Liquor Corp.
>
> The bill was sent to the White House on August 31, 1959. However, I am informed that it was not brought to the President's personal attention, by his staff, until approximately 5 days ago. The President has today disapproved the bill and returned it here. . . .
>
> My question is whether the status of a bill passed by the Congress is affected in any way by the President's purported veto of the bill this morning, more than 10 days after it was delivered at the White House.
>
> THE PRESIDING OFFICER:[9] The Chair states that if the President has vetoed the bill, it being a House bill, it will go back to the House for further action. If the House overrides the veto, it will be submitted to the Senate, and there will be an opportunity to act upon it. . . .
>
> MR. KEATING: My inquiry, which the Chair may be unwilling or should refrain from responding to, is this: Is any action by the Congress necessary if the President retains a bill for more than 10 days before he acts on it?
>
> THE PRESIDING OFFICER: According to the Constitution, the bill should become a law if it has not been acted upon within 10 days after it has been presented to the President. The matter of whether 10 days have elapsed is a question for legal determination, and not for the Chair to determine.

9. Howard W. Cannon (Nev.).

§ 17.4 The Court of Claims has ruled that where the President was on a trip abroad and, with congressional acquiescence, had requested that bills from Congress were to be received at the White House for presentation to him only upon his return to the United States, the President's veto of a bill more than 10 days after delivery to the White House but less than 10 days from his return to the country was timely.

On Oct. 16, 1964, the U.S. Court of Claims took up the question of the effectiveness of a Presidential veto in *Eber Brothers Wine & Liquor Corporation* v *U.S.*[10] On Aug. 31, 1959, the Congress had delivered at the White House a private bill (H.R. 2717) for the relief of the Eber Brothers Wine and Liquor Corporation. The President was not in the country at the time. He returned on Sept. 7, and on Sept. 14, he vetoed the bill and sent his veto message to the House of Representatives. The House did not reconsider the bill.

The Eber Bros. Corp. filed suit in the Court of Claims asking for

10. 337 F2d 624 (Ct. Cl.); cert. denied, 380 U.S. 950 (1964).

the relief provided in H.R. 2717, claiming that the bill had become law since the President had taken no action regarding it within 10 days of its presentation to him on Aug. 31.

The Court denied the plaintiff's contention. It ruled that the "presentation" to the President contemplated in article I, section 7 of the Constitution took place in this case on Sept. 7, when the President had properly vetoed the bill within 10 days after that date.

To reach this conclusion the Court reasoned that article I section 7 contemplates two important duties to be performed by the President and the Congress respectively: the President must consider a bill, and the Congress must reconsider it in the event it is vetoed by the President. The President has 10 days (Sundays excepted) to consider the bill after it is "presented" to him, and the Congress has an indefinite time to reconsider a veto provided it has not by its adjournment prevented its return.

"It is also important," the Court said, "that under the careful words of the Constitution, the President's limited time for considering a bill does not begin until the measure is *presented* to him. That period does not mechanically commence at the end of the passage of the bill through the Congress. A further step is necessary, and the initiation of that step—presentation to the President—lies with the Congress." (11)

The Court went on to say that the manner of presentation is a matter two sides are free to agree on between themselves. "[T]hough personal presentation to the President is not mandatory, either the Congress or the President can insist on such delivery [,]" in order to protect the duties of consideration and reconsideration assigned them by the Constitution. However, and most importantly, ". . . If personal delivery is not demanded by either side, presentation can be made in any agreed manner or in a form established by one party in which the other acquiesces [.]" (12)

The Court found that in this case, and in light of the practice during previous administrations regarding Presidential trips abroad, the Congress had acquiesced in President Eisenhower's wish that bills delivered to the White House not be "presented" to him until his return from abroad.(13)

§ 17.5 The 10 days provided in the Constitution during

11. *Id.* at p. 629.
12. *Id.*
13. *Id.* at pp. 630–34.

which the President may hold a bill without action runs from the day it is presented to him and not from the day noted in the Record as delivered at the White House.

On Dec. 1, 1943,[14] the Speaker[15] laid before the House the veto message of the President on the bill (H.R. 1155) for the relief of two military officers, where it appeared that, although the bill had been at the White House for more than 10 days, the President acted on the bill within 10 days of its presentation to him. In the veto message the President stated that the bill was presented to him on Nov. 25, 1943. The *Congressional Record* of Nov. 12, 1943, records that this bill was presented to the President for his approval on that date. The enrolled copy of the bill returned by the President along with his veto message bore a White House stamp dated Nov. 12, 1943, along with the handwritten notation "for forwarding."

The House did not vote on the returned bill but, by unanimous consent, referred the bill and message to the Committee on Claims.

Bill Signed in Prior Capacity as Presiding Officer of Senate

§ 17.6 The President has vetoed a bill he had previously signed as Presiding Officer of the Senate.

On Apr. 19, 1945,[16] the Speaker[17] laid before the House the veto message of President Harry Truman relating to a private bill (H.R. 2055).

Parliamentarian's Note: After Vice President Truman had signed the enrolled bill as President of the Senate, and after the enrolled bill had been sent to the White House, President Franklin D. Roosevelt died. The Vice President became President and the bill was presented to him for approval as President.

Approval of Bill Similar to One Previously Vetoed

§ 17.7 The President vetoed a Senate joint resolution but subsequently signed a similar House joint resolution modified by an amendment.

On May 22, 1935,[18] Mr. William M. Citron, of Connecticut, ob-

14. 89 CONG. REC. 10190, 78th Cong. 1st Sess.

15. Sam Rayburn (Tex.).

16. 91 CONG. REC. 3577, 79th Cong. 1st Sess.

17. Sam Rayburn (Tex.).

18. 79 CONG. REC. 8026, 74th Cong. 1st Sess.

tained unanimous consent to take from the table House Joint Resolution 107, authorizing the President of the United States to proclaim Oct. 11, of each year, General Pulaski's Memorial Day. The resolution was agreed to with a committee amendment limiting the memorial day to Oct. 11, 1935, rather than Oct. 11, of each year. The Senate on May 28 passed the House joint resolution and the President signed it on June 6.

Parliamentarian's Note: This resolution was similar to Senate joint resolution (S.J. Res. 21) which had previously passed both Houses and which provided for an annual commemorative day, each October, without limitation. The Senate joint resolution was vetoed by the President on Apr. 11, 1935.

§ 18. Effect of Adjournment; The Pocket Veto

The President is not restricted to signing a bill on a day when Congress is in session. He may sign within 10 days (Sundays excepted) after the bill is presented to him, even if that period extends beyond the date of the final adjournment of Congress. The President is said to "pocket veto" a bill where he takes no action on the bill during the 10-day period and where the Congress adjourns before the expiration of that time in such a manner as to prevent the return of the bill to the originating House.

The Supreme Court first considered the question of the pocket veto in 1929 in what is commonly referred to as the Pocket Veto Case.[19] In this case a Senate bill (S. 3185) authorizing certain Indian tribes to offer their claims to the Court of Claims was presented to the President on June 24, 1926. On July 3 of that year the first session of the 69th Congress adjourned *sine die.* The 10-day period for Presidential approval expired on July 6, by which time the President had neither signed the bill nor returned it to the Senate with his reasons for disapproval.

Taking the position that the bill had become law, the Indian tribes affected sought adjudication of their claims in the Court of Claims in accordance with the terms of the bill. The United States demurred to their petition on the ground that the bill had not become law. The Court of Claims sustained the demurrer and dismissed the petition. The Supreme Court granted certiorari in the case[20] to determine

19. *Okanogan, et al.* v *U.S.,* 279 U.S. 655 (1929).

20. 278 U.S. 597.

whether ". . . within the meaning of the last sentence [of art. I, § 7, paragraph 2] . . . Congress by the adjournment on July 3 prevented the President from returning the bill within 10 days, Sundays excepted, after it had been presented to him. . . ." [1] The Court answered this question in the affirmative, and held that the bill did not become law.[2]

Mr. H. William Sumners, of Texas, a member of the Committee on the Judiciary submitted a brief as *amicus curiae* in the case in which he argued that only a final adjournment of the Congress, terminating its legislative existence, would prevent the President from returning a bill for reconsideration within the meaning of the Constitution and that during interim adjournments the President could return a bill to an agent of the House in which the bill originated to be presented as unfinished legislative business when that House reconvened.

Counsel for the petitioners argued further that the term "ten days" in the Constitution should be construed as meaning 10 "legislative days" so that the period would cease running while the Congress was not in session.

The *amicus curiae* argued that the President has only a qualified negative over legislation which requires him to return vetoed bills to the Congress along with his written objections. Thus, ". . . the provision as to the return of a bill within a specified time is to be construed in a manner that will give effect to the reciprocal rights and duties of the President and of Congress and not enable him to defeat a bill of which he disapproves by a silent and 'absolute veto,' that is, a so-called 'pocket veto,' which neither discloses his objections nor gives Congress an opportunity to pass the bill over them. . . ." [3]

To this the Court responded that the President does indeed have only a qualified negative over legislation which requires the return of a disapproved bill along with his written objections. To carry out this "monumentous duty," however, the President must have the full amount of time allotted to him by the Constitution. ". . . And it is plain that when the adjournment of Congress prevents the return of a bill within the allotted time, the failure of the bill to become a law cannot properly be ascribed to the disapproval of the President . . . but is attributable solely to the action of Congress in adjourning before the time allowed the Presi-

1. 279 U.S. 655, 674.

2. *Id.* at p. 692.

3. *Id.* at p. 676.

dent for returning the bill had expired. . . ." (4)

The Court rejected the contention of the counsel for the petitioners that the 10-day limitation in the Constitution should be construed as 10 "legislative" days since it could find no precedent or reason to so modify the plain meaning of the words used. And for like reasons it rejected the contention of the *amicus curiae* that the term "adjournment" as used in article I section 7, paragraph 2 means the final adjournment of Congress. On the contrary, it found that the term adjournment as used in other parts of the Constitution is not limited to a final adjournment.

The Court then considered the contention that the President may return a vetoed bill to an agent of the House in which it originated when that House is not in session. The Court found that ". . . under the constitutional mandate [a vetoed bill] is to be returned to the 'House' when sitting in an organized capacity for the transaction of business and having authority to receive the return, enter the President's objections on its journal, and proceed to reconsider the bill; and that no return can be made to the House when it is not in session as a collective body and its members are dispersed. . . ." (5)

Finally, the Court found that the Congress had acquiesced in the "pocket vetoes" of Presidents since the administration of James Madison, and that, "long settled and established practice is a consideration of great weight in a proper interpretation of constitutional provisions of this character." (6)

The Supreme Court again considered the question of the "pocket veto," albeit indirectly, in 1938 in the case of *Wright* v *United States*.(7)

Senate bill No. 713 of the 74th Congress, having passed both Houses, was presented to the President on Friday, Apr. 24, 1936. On Monday, May 4, 1936, the Senate took a recess until noon, Thursday, May 7, 1936, while the House of Representatives remained in session. S. 713 was vetoed by the President and returned along with his message of disapproval to the Secretary of

4. *Id.* at pp. 678, 679.

5. As authority for its finding that the term "House" means a constitutional quorum assembled for the transaction of business, the Court cited *Missouri Pac. Ry. Co.* v *Kansas*, 248 U.S. 276, 280, 281, 283: and 1 Curtis' *Constitutional History of the United States*, 486, n. 1.

6. 279 U.S. 655, 689.

7. 302 U.S. 583.

the Senate on May 5.[8] When the Senate reconvened on May 7, the veto message of the President was laid before the Senate, recorded in the Journal, and referred to the Committee on Claims. No further action was taken on the bill.

The bill proposed to grant jurisdiction to the Court of Claims to hear the case of David A. Wright. Mr. Wright subsequently sought adjudication of his case in the Court of Claims, contending that S. 713 had become law. The Court of Claims denied his petition, and the Supreme Court granted certiorari.[9]

The Court held that S. 713 had not become law since the President had followed a valid veto procedure. The Court found that since the Senate was in recess for less than three days while the House of Representatives remained in session in accordance with article I, section 5, clause 4, of the Constitution,[10] this was not an "adjournment" of Congress within the meaning of article I, section 7, clause 2, that would have prevented the President from returning a vetoed bill with his objections. The Court found that the definition of "the Congress" in the Constitution is precise. Both the Senate and the House of Representatives constitute the Congress.[11]

The Court further answered the objection of the petitioner that a vetoed bill could not properly be returned to the Secretary of the Senate when that body was in recess:

> . . . The Constitution does not define what shall constitute a return of a bill or deny the use of appropriate agencies in effecting the return.
>
> Nor was there any practical difficulty in making the return of the bill during the recess. The organization of the Senate continued and was intact.
>
> The Secretary of the Senate was functioning and was able to receive, and did receive, the bill. . . . To say that the President cannot return a bill when the House in which it originated is in recess during the session of Congress, and thus afford an opportunity for the passing of the bill over the President's objections, is to ignore the plainest practical considerations and by implying a requirement of an artificial formality to erect a barrier to the exercise of a constitutional right.[12]

A third decision regarding the pocket veto was handed down by

8. The 10-day constitutional period for Presidential consideration would have expired on the next day, May 6.

9. 301 U.S. 681.

10. That is, "Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting."

11. U.S. Const. art. I, § 1.

12. 302 U.S. 583, 589, 590.

the U.S. Court of Appeals for the District of Columbia in 1974, in *Kennedy* v *Sampson*.[13] The Court there held that a bill—allegedly pocket-vetoed—did become a law, and an intrasession adjournment of Congress did not prevent the President from returning the bill where appropriate arrangements had been made for the receipt of Presidential messages during the adjournment.

Kennedy v *Sampson* involved S. 3418 of the 91st Congress (the Family Practice of Medicine Act), which passed both Houses and was presented to the President on Dec. 14, 1970. On Dec. 22, 1970, Congress adjourned by concurrent resolution for the Christmas holidays, the Senate until Dec. 28, and the House until Dec. 29. On Dec. 24, the last day of the 10-day period for Presidential consideration, the President issued a memorandum of disapproval on the bill which he did not deliver to the Senate, although the Secretary of the Senate had previously been authorized to receive such messages during the adjournment.[14]

Senator Edward M. Kennedy, of Massachusetts, a supporter of the bill in the Senate, sought a declaratory judgment in a U.S. district court that S. 3418 had become public law. The court granted the declaratory judgment based on his finding that the Congress by adjourning for the Christmas holidays did not prevent the return of the bill within the meaning of article I, section 7, and that the bill was, therefore, not subject to a pocket veto by the President.

Judge Waddy cited both the *Pocket Veto* and *Wright* cases to support his conclusion. From the *Pocket Veto* case he cited the following language as an underlying rationale for the court's decision in that case:

> "Manifestly it was not intended that instead of returning the bill to the House itself, as required by the constitutional provision, the President should be authorized to deliver it, during an adjournment of the House, to some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks, or perhaps months—not only leaving open possible questions as to the date on which it had been delivered to him, or

13. 364 F Supp 1075 (D.D.C. 1973), affirmed, 511 F2d 430 (C.A.D.C. 1974).

14. The Secretary of the Senate has been authorized by unanimous consent, on Dec. 22, 1970 [116 CONG. REC. 43221, 91st Cong. 2d Sess.], to receive messages from the President of the United States during the adjournment from Dec. 22 to Dec. 28. See also *Procedure in the U.S. House of Representatives* (97th Cong.), Ch. 24 § 12.1.

whether it had in fact been delivered to him at all, but keeping the bill in the meantime in a state of suspended animation until the House resumes its sitting, with no certain knowledge on the part of the public as to whether it had or had not been seasonably delivered, and necessarily causing delay in its reconsideration which the Constitution evidently intended to avoid." 279 U.S. at 684.

Judge Waddy then cited the opinion of the Court in the *Wright* case where a direct comment was made on this language:

"These statements show clearly the sort of dangers which the Court envisaged. However . . . they appear to be illusory when there is a mere temporary recess." 302 U.S. at 595.

Judge Waddy found this reasoning compelling, in spite of the fact that the case before him differed from the *Wright* case in that only one House was in recess in the latter while both Houses were in recess in the former when the 10-day period for Presidential consideration expired:

". . . The Senate returned on the third day after the final day for the President to act. The interim two days would have caused no long delay in delivery of the bill; not keeping it in suspended animation. In three days the public would have been promptly and properly informed of the President's objections, and the purposes of the constitutional provisions would have been satisfied."

In the 93d Congress, the President returned a House bill without his signature to the Clerk of the House, who had been authorized to receive messages from the President during an adjournment to a day certain, and the President asserted in his veto message that he had "pocket vetoed" the bill during the adjournment of the House to a day certain. The House regarded the President's return of the bill without his signature as a veto within the meaning of article 1, section 7 of the Constitution and proceeded to reconsider and to pass the bill over the President's veto, after postponing consideration to a subsequent day. Subsequently, on Nov. 21, 1974, the Senate also voted to override the veto and pursuant to 1 USC §106a the enrolling clerk of the Senate forwarded the bill to the Archives for publication as a public law. The Administrator of General Services at the Archives, upon instructions from the Department of Justice, declined to promulgate the bill as public law on the day received. The question as to the efficacy of the congressional action in passing the bill over the President's veto was mooted when the House and Senate passed on Nov. 26, 1974, an identical bill which was signed into law on Dec. 7, 1974 (Pub. L. No. 93–516). See also *Kennedy* v *Jones,* 412 F Supp 353 (D.D.C.

1976); and for a discussion of the constitutionality of intersession or intrasession pocket vetoes see Kennedy, "Congress, The President, and The Pocket Veto," 63 Va. L. Rev. 355 (1977). See also the most recent edition of the *House Rules and Manual* § 112 (annotation following Art. I, § 7 of the Constitution).

Form of Notification of Pocket Veto

§ 18.1 On the first meeting day of the Senate after the Congress has taken an adjournment to a day certain, the President notified that body of his approval of certain bills and, in the same message, his pocket veto of one bill.

On Apr. 12, 1944,[15] the Senate met after an adjournment that began on Apr. 2. A message from the President was presented announcing that he had approved a bill (S. 662) authorizing pensions for certain physically or mentally helpless children as well as a bill (S. 1243) authorizing the construction and operation of demonstration plants to produce synthetic liquid fuels. In the same message the President announced the pocket veto on Apr. 11, 1944, of the bill (S. 555) for the relief of Almos W. Glasgow.

Parliamentarian's Note: Announcement to the Congress of pocket vetoes have taken various forms. On Apr. 9, 1956, the President transmitted to Congress a copy of a press release announcing his "pocket veto" of a bill (H.R. 3963) for the relief of Ashot and Ophelia Knatzakanian. This press release was attached to a veto message of another bill, but it was not printed in the *Congressional Record*.

§ 18.2 The President pocket vetoed three bills during a two-month adjournment to a day certain, and wrote separate memorandums explaining his reasons for so doing in each instance.

On July 19, 1943,[16] there was recorded in the Journal memorandums of disapproval from the President of three bills he had pocket vetoed. They were: (1) H.R. 986, an act to define misconduct for compensation and pension purposes; (2) H.R. 1712, an act for the relief of Sarah Elizabeth Holliday Foxworth and Ethel Allene Brown Haberfeld; and (3)

15. 90 CONG. REC. 3408, 78th Cong. 2d Sess.

16. 89 CONG. REC. 7551, 78th Cong. 1st Sess.

H.R. 1396, an act making certain regulations with reference to fertilizers or seeds that may be distributed by agencies of the United States.

§ 18.3 The President informed the House that he had withheld his approval of numerous bills during an adjournment to a day certain.

On July 26, 1948,[17] there were received in the House during a period of adjournment several messages from the President announcing his disapproval of numerous bills.

The Congress had adjourned on June 19, 1948, pursuant to House Concurrent Resolution 218, until Dec. 31, 1948. The President's memoranda of disapproval of each of these bills were dated July 2, 1948, more than 10 days (excluding Sunday) after the Congress had adjourned.[18]

§ 19. Proposals for Item Veto

There is no express authority under the Constitution for the President to approve part of a bill and disapprove another part of the same measure. However, agitation for such authority occasionally has arisen when measures have been presented to the President for his approval which included unrelated provisions, some of which did not have the President's endorsement or support. Members have offered amendments attempting to include a clause in a bill granting the President a veto power with respect to an item in that bill,[19] though the constitutionality of such a proposal has not been determined, but general executive authority to disapprove only part of a bill does not exist. Numerous constitutional amendments have been introduced in the past to grant the President item veto authority, but these proposals have not been adopted.[20] Suggestions have also been made that the Congress address, legislatively, the definition of the term "bill" as used in the Constitution.

Item Veto and Executive Authority

§ 19.1 To an authorization bill for public works, an amend-

17. 94 CONG. REC. 9368–73, 80th Cong. 2d Sess.

18. See House bills 851, 1733, 1779, 3499, 1910, 4199, 4590, 6184, and 6818 in Calendars of the United States House of Representatives and History of Legislation, final edition, 80th Cong. (1947–1948).

19. See §§ 19.1, 19.2, infra.

20. Charles J. Zinn, The Veto Power of the President, House Committee on the Judiciary, 82d Cong. 2d Sess. (Committee Print 1951), p. 34.

ment vesting item veto power in the President was held to be germane and in order.

On Mar. 11, 1958,[1] Mr. Donald E. Tewes, of Wisconsin, offered an amendment to the bill (S. 497) authorizing certain public works on rivers and harbors for purposes of navigation. The amendment gave the President authority to veto certain items provided for in the bill, as follows:

> Sec. 211. For the purpose of disapproval by the President, each paragraph of each of the preceding sections, shall be considered a bill within the meaning of article I, section 7, of the Constitution of the United States, and each such paragraph which is disapproved shall not become law unless repassed in accordance with the provisions of section 7, article I, of the Constitution relating to the repassage of a bill disapproved by the President.

Mr. Frank E. Smith, of Mississippi, raised a point of order against the amendment on the ground that such language is entirely out of order on any type of legislation since there is no provision in the Constitution for an item veto. The Chair[2] responded:

> . . . The Chair does not pass upon constitutional questions. The amendment seems to be pertinent to the bill and relates to the bill. Therefore, the Chair overrules the point of order.

§ 19.2 To an appropriation bill, an amendment proposing to give the President item veto power was held to be legislation and not in order.

On May 14, 1953[3] Mr. Franklin D. Roosevelt, Jr., of New York, proposed an amendment to the Treasury and Post Office Appropriation Act of 1954 (H.R. 5174) giving the President item veto power over each separate appropriation in the bill.

Mr. Gordon Canfield, of New Jersey, raised the point of order against the amendment that it was legislation on an appropriation bill.

The Chairman[4] sustained the point of order on the grounds that the amendment was legislation upon an appropriation bill.

Mr. Roosevelt then offered an amendment stating that each section or item of appropriation in the bill shall be deemed a separate bill for purposes of approval or disapproval by the President.

Mr. Canfield then raised the same point of order that this point of order that this amendment was legislation on appropriation bill.

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1. 104 CONG. REC. 4020, 85th Cong. 2d Sess.

2. Howard W. Smith (Va.).

3. 99 CONG. REC. 4939, 4940, 83d Cong. Ist Sess.

4. Louis E. Graham (Pa.).

The Chairman sustained the point of order for that same reason.

§ 20. Return of Vetoed Bills

The Constitution provides, in article I, section 7, clause 2, that if the President does not sign a bill presented to him ". . . he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it."

It is the usual rule that when a vetoed bill is received in the House from the President, the House proceeds at once to consider it. When a veto message is laid before the House the question of passage is considered as pending[5] and a quorum is required to be present to consider the question.[6]

Presentation of Veto Message to the house

§ 20.1 When a bill is vetoed and returned to the House with the President's objections, the veto message is laid before the House, read by the Clerk, and the objections spread at large on the Journal.

On May 28, 1948,[7] the Speaker pro tempore[8] laid before the House the veto message of President Harry Truman on the bill (H.R. 1308) for the relief of H. C. Biering, the message having been received in the House on the previous day shortly before adjournment. The message was read by the Clerk and the President's veto spread on the Journal. By unanimous consent, the bill and the message were referred to the Committee on the Judiciary.

Announcement as to Receipt of Veto Message

§ 20.2 Parliamentarian's Note: Where there are veto messages on the Speaker's desk, he may announce that fact so that the Record and Journal will show the receipt of the messages and to notify the Members that consideration thereof is pending.

5. See 7 Cannon's Precedents §§ 1097–1099.
6. *Id.* at § 1094.
7. 94 CONG. REC. 6697, 80th Cong. 2d Sess.
8. Charles A. Halleck (Ind.).

On Aug. 2, 1946,[9] the Speaker[10] announced that the Chair had received veto messages on the bills H.R. 4660 and H.R. 6442 and that they would be laid before the House at the proper time.

Veto Messages Received During Adjournment

§ 20.3 When a veto message from the President is received by the Clerk of the House at a time when the House is not in session, the Clerk transmits the sealed envelope containing the message to the Speaker with a letter explaining the circumstances.

On Aug. 31, 1959,[11] the Speaker[12] laid before the House the following communication from the Clerk of the House:

AUGUST 28, 1959.

The Honorable SPEAKER,
House of Representatives.

SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office at 3:15 p.m. on August 28, 1959, and said to contain a veto message on H.R. 7509, "An act making appropriations for civil functions administered by the Department of the Army, certain agencies of the Department of the Interior, and the Tennessee Valley Authority for the fiscal year ending June 30, 1960, and for other purposes."

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

Parliamentarian's Note: H.R. 7509 had been transmitted to the President on Aug. 18, 1959. The 10-day constitutional limitation for a veto would have expired Aug. 29. The House had adjourned from Thursday, Aug. 27, to Monday, Aug. 31, and the Clerk, pursuant to *Wright* v *United States* (302 U.S. 583), had authority to receive and did receive the message during a time when the House was not in session.

Likewise, on July 24, 1961,[13] the Speaker[14] laid before the House the following communication:

JULY 21, 1961.

9. 94 CONG. REC. 10744, 79th Cong. 2d Sess.

10. Sam Rayburn (Tex.).

11. 105 CONG. REC. 17397, 86th Cong. Ist Sess.

12. Sam Rayburn (Tex.).

13. 107 CONG. REC. 13151, 87th Cong. 1st Sess.

For other instances see 111 CONG. REC. 14845, 89th Cong. 1st Sess., June 28, 1965; 110 CONG. REC. 21410, 88th Cong. 2d Sess., Sept. 2, 1964; 110 CONG. REC. 6095, 88th Cong. 2d Sess., Mar. 24, 1964; 96 CONG. REC. 9193, 81st Cong. 2d Sess., June 26, 1950; and 86 CONG. REC. 13601, 76th Cong. 3d Sess., Oct. 28, 1940.

14. Sam Rayburn (Tex.).

The Honorable the SPEAKER,
House of Representatives.

SIR: I have the honor to transmit herewith a sealed envelope addressed to the Speaker of the House of Representatives from the President of the United States, received in the Clerk's office at 11:15 a.m. on July 21, 1961, and said to contain a veto message on H.R. 4206, "An act for the relief of Melvin H. Baker and Frances V. Baker."

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

Parliamentarian's Note: H.R. 4206 had been transmitted to the President on July 11, 1961. The 10-day period within which the President could veto the bill would have expired on July 22. The House had adjourned from Thursday, July 20, to Monday, July 24, and the Clerk, pursuant to procedure recognized as valid in *Wright* v *United States* (302 U.S. 583), had authority to receive the message during a time when the House was not in session.

§ 20.4 Where the President vetoed several bills during an adjournment period in excess of 10 days, and sent his veto messages to the Clerk of the House, upon reconvening the Speaker laid the messages and bills before the House and referred them to the committees from which they originated.

On Sept. 5, 1945,[15] the Speaker[16] laid before the House the veto messages of the President on five bills[17] received in the House after an adjournment period in excess of 10 days. The Clerk had been authorized on July 21, 1945, to receive messages from the President during the adjournment of the House, which was scheduled to last from July 21 to Oct. 8, 1945. The Congress reconvened on Sept. 5 pursuant to a recall order of its leadership. The Speaker then laid the messages and bills before the House and, by separate motion on each bill, and by unanimous consent, referred them to the committees from which they had originated.

Delivery of Veto Message at Joint Session

§ 20.5 The President personally delivered a veto message

15. 91 CONG. REC. 8322–24, 79th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. The bills were: (1) H.R. 259 for the relief of George Gottlieb; (2) H.R. 3477 authorizing improvement of certain harbors in the interest of commerce and navigation; (3) H.R. 952 for the relief of the Morgan Creamery Company; (4) H.R. 1856 for the relief of Southwestern Drug Company; and (5) H.R. 3549 to provide for the conveyance of certain weather bureau property to Norwich University, Northfield, Vt. All of the veto messages were dated before Aug. 1, 1945, the date on which the Senate adjourned.

to a joint session of the Congress.

On May 22, 1935,[18] President Franklin D. Roosevelt personally addressed a joint session of the Congress in order to deliver his veto message of the bill (H.R. 3896), providing for the immediate payment to veterans of the face value of their adjusted-service certificates. The President addressed both Houses pursuant to House Concurrent Resolution 22. He said, "As to the right and propriety of the President in addressing the Congress in person, I am very certain that I have never in the past disagreed, and will never in the future disagree, with the Senate or the House of Representatives as to the constitutionality of the procedure. With your permission, I should like to continue from time to time to act as my own messenger."

The Senate had considered and passed the concurrent resolution (H. Con. Res. 22) authorizing this joint session on the preceding day.[19] Senator Frederick Steiwer, of Oregon, objected to the resolution, observing:

> My objection to the concurrent resolution is that it seeks to involve the Senate in this procedure. It proposes that the Senate shall meet with the House in joint session, and we are told that the veto message of the President, or the objections which the President proposes to make to a bill which Congress has passed shall not be returned to the House, the body in which the legislation was originated, but that it shall be returned to a joint session of both bodies. It is that procedure which I condemn. It is that procedure which I claim is not countenanced by the Constitution. It is in violation of the Constitution of the United States that this legislation should be returned to the joint body rather than to the body in which the legislation originated. It will be in violation of the Constitution if the objections shall be made to the joint body rather than that they should be entered in the Journal of the House by the normal and usual procedure which has been employed in this country for a century and a half.[20]

Senator J. W. Robinson, of Utah, responded:

> The discussion as to what message is to be heard appears to me to be more or less irrelevant. The concurrent resolution provides for a joint session of the two Houses of the Congress to hear such communications as the President shall be pleased to make.
>
> There is no limitation in the Constitution or in the rules of the two Houses on the occasion or the purposes for which joint sessions may be held. Therefore it is entirely within the discretion or judgment of the two Houses when joint sessions shall convene.[21]

Parliamentarian's Note: As its first business upon reconvening

18. 79 CONG. REC. 7993–96, 74th Cong. 1st Sess.

19. *Id.* at pp. 7896–902, 7943.

20. *Id.* at p. 7897.

21. *Id.* at p. 7900.

following the President's address, the House voted to override the Presidential veto on H.R. 3896.[22] The vote in the Senate on May 23 (legislative day of May 13) failed of a two-thirds majority, so that the veto was sustained.[1]

Notification of Senate Action on Vetoed Bill

§ 20.6 The Senate notifies the House when it passes a Senate bill over a Presidential veto.

On Aug. 13, 1958,[2] the Speaker[3] laid before the House the following message from the Senate:

IN THE SENATE OF THE
UNITED STATES,
August 12, 1958.

The Senate having proceeded to reconsider the bill (S. 2266) entitled "An act to provide a method for regulating and fixing wage rates for employees of Portsmouth, N.H., Naval Shipyard," returned by the President of the United States with his objections to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.[4]

Referral of Vetoed Bill Messaged From Senate

§ 20.7 The Senate passed a private bill over the President's veto and messaged it to the House, where it was referred to a committee.

On July 5, 1952,[5] the Speaker[6] laid before the House a bill (S. 827)—passed by the Senate over the President's veto—for the relief of Fred P. Hines.

Mr. Emanuel Celler, of New York, moved that the bill and veto message be referred to the Committee on the Judiciary and ordered printed.

The motion was agreed to.

Correcting Errors in Veto Messages

§ 20.8 The White House, having discovered an error in a veto message transmitted to the House, sent a further message to the House correcting the error.

On May 25, 1960,[7] the Speaker[8] laid before the House a com-

22. *Id.* at pp. 7996, 7997.

1. *Id.* at pp. 8066, 8067.

2. 104 CONG. REC. 17354, 85th Cong. 2d Sess.

3. Sam Rayburn (Tex.).

4. See also 94 CONG. REC. 8523, 80th Cong. 2d Sess., June 16, 1948; and 87 CONG. REC. 6886, 77th Cong. 1st Sess., Aug. 7, 1941.

5. 98 CONG. REC. 9608, 82d Cong. 2d Sess.

6. Sam Rayburn (Tex.).

7. 106 CONG. REC. 11060, 86th Cong. 2d Sess.

8. Sam Rayburn (Tex.).

munication from the President of the United States; this message (shown below) was read and referred to the Committee on Ways and Means.

MAY 23, 1960.

DEAR MR. SPEAKER: An error appears in my message of disapproval on H.R. 7947, a bill relating to the income tax treatment of nonrefundable capital contributions to Federal National Mortgage Association.

In the last sentence of the second paragraph of my message the word "purchases" should be inserted in lieu of the word "sells".

Sincerely,

DWIGHT D. EISENHOWER.

Return of Veto Message to President

§ 20.9 The House complied with the request of the President that a bill and veto message be returned to him.

On Aug. 1, 1946,[9] the Speaker[10] laid before the House the following message from the President:

To the House of Representatives:

I hereby request the return of H.R. 3420, a bill "to provide for refunds to railroad employees in certain cases so as to place the various States on an equal basis, under the Railroad Unemployment Insurance Act, with respect to contributions of employees," and my message of July 31 appertaining thereto.

HARRY TRUMAN,
THE WHITE HOUSE,
August 1, 1946.

THE SPEAKER: Without objection, the request of the President will be complied with, and the Clerk will transmit the papers requested.

There was no objection.

Parliamentarian's Note: The President transmitted to the House three veto messages shortly after the convening of the House on Aug. 1. The Speaker observed that included therewith was an apparent veto of H.R. 3420, although he believed that the President had intended to sign the bill. It was suggested that the President send a message to the House requesting the return of the bill before the veto was laid before the House. Such a message was received from the President, which was laid before the House and agreed to, and the bill H.R. 3420 was returned to the President without ever having been read to the House. It should be noted that if the veto message on H.R. 3420 had been laid before the House and read, then under the precedent established in the Senate on Aug. 15, 1876 (4 Hinds' Precedents § 3521) the message and bill could not have been returned to the President. The above bill was signed by the President on Aug. 2,

9. 92 CONG. REC. 10651, 79th Cong. 2d Sess.

10. Sam Rayburn (Tex.).

1946, and became Public Law No. 79–599 of the 79th Congress.

§ 21. Motions Relating to Vetoes

When a vetoed bill is laid before the House the question of passage, the objections of the President to the contrary notwithstanding, is pending, but motions to refer to committee,(11) to postpone to a day certain, or to lay on the table are in order. Motions of this nature are within the constitutional mandate that the House "shall proceed to reconsider" a vetoed bill.(12)

Motions to take from the table a vetoed bill, or to discharge a vetoed bill from a committee, are privileged.(13)

Precedence of Motion to Refer

§ 21.1 When a vetoed bill is laid before the House and read, a motion to refer to committee takes precedence over the question of passage over the veto.

On Oct. 10, 1940,(14) the Speaker(15) laid before the House the veto message of the President of the bill (H.R. 7179) providing for the naturalization of Louis D. Friedman. Mr. Samuel Dickstein, of New York, moved to refer the bill and veto message to the Committee on Immigration and Naturalization.

Mr. John E. Rankin, of Mississippi, reserved the right to object, saying:

> This bill can only be referred to a committee by unanimous consent.
>
> THE SPEAKER: No; a motion is in order.
>
> MR. RANKIN: I understand [but is it privileged?] Any Member can demand a vote on this at any time, on a President's veto.
>
> THE SPEAKER: A motion to refer to a committee takes preference, of course.
>
> MR. RANKIN: I did not think a motion to refer to a committee was privileged. My understanding is that any Member can demand a vote at any time.
>
> THE SPEAKER: A motion to refer at this stage is a privileged motion and has preference, under the rule.

Effect of Defeat of Motion to Postpone

§ 21.2 Where a motion to postpone further consideration

11. See § 21.1, infra.

12. See U.S. Const. art. I, § 7, clause 2, and 7 Cannon's Precedents §§ 1105, 1114.

13. See 4 Hinds' Precedents §§ 3532, 3550; and 5 Hinds' Precedents § 5439. See also § 21.8, infra.

14. 86 CONG. REC. 13522, 76th Cong. 3d Sess.

15. Sam Rayburn (Tex.).

of a veto message to a day certain is defeated, the question recurs, in the absence of any other motion, on passing the bill over the objections of the President.

On Jan. 24, 1936,[16] the Speaker[1] laid before the House the veto message of the President on the bill (H.R. 9870) to provide for the immediate payment of world war adjustment service certificates and for the cancellation of unpaid interest accrued on loans secured by such certificates.

Mr. William B. Bankhead, of Alabama, moved that consideration of the President's message be postponed until the next Monday. After short debate Mr. Bankhead then moved the previous question on his motion. Mr. John E. Rankin, of Mississippi, raised a parliamentary inquiry as to whether a vote on the veto message would be in order if the motion to postpone were defeated:

MR. RANKIN: And a preferential motion will be in order for an immediate vote on the veto?

THE SPEAKER: It will be the only motion before the House.

The question is on the motion of the gentleman from Alabama [Mr. Bankhead] on the previous question.

The previous question was ordered.

THE SPEAKER: The question now recurs upon the motion of the gentleman from Alabama that further consideration of the veto message be postponed until Monday.

The question was taken; and on a division (demanded by Mr. Bankhead) there were ayes 131 and noes 189.

MR. [JOHN J.] O'CONNOR [of New York]: Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused.

So the motion was rejected.

THE SPEAKER: The question is, Will the House on reconsideration agree to pass the bill, the objections of the President to the contrary notwithstanding?

Effect of Defeat of Motion to Refer

§ 21.3 When a motion to refer a vetoed bill to a committee is voted down, the question recurs on the passage of the bill over the objections of the President.

On Oct. 10, 1940,[2] the Speaker[3] laid before the House the veto message of the President of the bill (H.R. 7179) providing for the naturalization of Louis D. Friedman. Mr. Samuel Dickstein, of New York, moved that the bill and veto message be referred to

16. 80 CONG. REC. 975, 976, 74th Cong. 2d Sess.

1. Joseph W. Byrns (Tenn.).

2. 86 CONG. REC. 13534, 76th Cong. 3d Sess.

3. Sam Rayburn (Tex.).

the Committee on Immigration and Naturalization.

Mr. John E. Rankin, of Mississippi, raised a parliamentary inquiry as to whether the question before the House would be on the overriding of the veto if the motion to refer was voted down. The Speaker responded that the question of overriding the President's veto would recur if the motion to refer to committee was voted down.

Referral to Committee by Motion

§ 21.4 A veto message from the President may on motion be referred to the originating committee and ordered printed.

On Aug. 14, 1967,[4] the Speaker laid before the House the veto message of the President on the bill (H.R. 11089) to increase life insurance coverage for government employees, officials, and Members of Congress.

Mr. Dominick V. Daniels, of New Jersey, moved that the bill and message be referred to the Committee on Post Office and Civil Service and ordered to be printed.

The motion was agreed to.

4. 113 CONG. REC. 22438, 90th Cong. 1st Sess.

Referral to Committee by Unanimous Consent

§ 21.5 A veto message from the President was, by unanimous consent, referred to a committee.

On July 24, 1961,[5] the Speaker[6] laid before the House the veto message of the President on the bill (H.R. 4206) for the relief of Melvin H. Baker and Frances V. Baker. The Speaker stated:

> The objections of the President will be spread at large upon the Journal, and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.
>
> There was no objection.[7]

Objections to Referral

§ 21.6 Where an objection is raised to a unanimous-consent request to refer a veto message to a committee, and the House adjourns without other disposition of the message, the request for referral may be renewed.

5. 107 CONG. REC. 13151, 13152, 87th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

7. See also 111 CONG. REC. 21244, 21245, 89th Cong. 1st Sess., Aug. 23, 1965; and 105 CONG. REC. 19697, 86th Cong. 1st Sess., Sept. 14, 1959.

On Sept. 13, 1965,[8] the Speaker[9] laid before the House the veto message of the President of the United States on the bill (H.R. 3329) to incorporate the youth councils on civic affairs:

> Without objection, the bill and message will be referred to the Committee on the District of Columbia.
>
> MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I object.
>
> THE SPEAKER: To what does the gentleman object?
>
> MR. HALL: I object to the reference of the veto message to the committee.

The House then adjourned without further action on the message.

On Sept. 14, 1965,[10] the message and bill were, by unanimous consent, referred to the Committee on the District of Columbia and ordered to be printed.

§ 21.7 A veto message from the President on a bill relating to certain federal wages was referred to the Committee on Post Office and Civil Service.

On Jan. 2, 1971,[11] the Speaker[12] laid before the House the veto message of the President on the bill (H.R. 17809) to fix the pay practices applied to federal "blue collar" employees. After the Clerk read the veto message, it was, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed.

Parliamentarian's Note: No member of the Committee on Post Office and Civil Service was available to move that the bill and message be referred to that committee. The Speaker therefore ordered the bill referred on his own initiative.

Motion to Discharge

§ 21.8 A motion to discharge a committee from the consideration of a vetoed bill presents a question of privilege, and such motion is subject to a motion to table.

On Sept. 7, 1965,[13] Mr. Durward G. Hall, of Missouri, addressed the Chair:

> Mr. Speaker, I rise to a question of the highest privilege of the House, based directly on the Constitution and precedents, and offer a motion. . . .
>
> *Resolved*, That the Committee on Armed Services be discharged from further consideration of the bill H.R. 8439, for military construction, with the President's veto thereon, and that the same be now considered.

8. 111 CONG. REC. 23623, 89th Cong. 1st Sess.

9. John W. McCormack (Mass.).

10. 111 CONG. REC. 23628, 89th Cong. 1st Sess.

11. 116 CONG. REC. 44599, 91st Cong. 2d Sess.

12. John W. McCormack (Mass.).

13. 111 CONG. REC. 22958, 22959, 89th Cong. 1st Sess.

Mr. L. Mendel Rivers, of South Carolina, moved to lay that motion on the table.

Mr. Hall then raised a parliamentary inquiry:

> Is a highly privileged motion according to the Constitution subject to a motion to table?
>
> THE SPEAKER PRO TEMPORE:[14] It is.

Motion to Postpone

§ 21.9 By motion, the House may postpone to a day certain consideration of a Presidential veto message transmitted from the Senate.

On Apr. 29, 1959,[15] the Speaker[16] laid before the House the veto message of the President of the bill (S. 144) entitled "An Act to Modify Reorganization Plan No. 2 of 1939 and Reorganization Plan No. 2 of 1953," along with a message from the Senate that that body had passed the bill over the President's veto.

Mr. John W. McCormack, of Massachusetts, moved that further consideration of the President's message be postponed until the next day.

The motion was agreed to.[17]

§ 21.10 The motion to postpone further consideration of a veto message to a day certain is privileged and takes precedence over the pending question of passing the bill notwithstanding objections of the President.

On Jan. 27, 1970,[18] the Speaker pro tempore[19] laid before the House the veto message from the President on the bill (H.R. 13111) making appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1970. He then announced that the question before the House was "Will the House on reconsideration pass the bill H.R. 13111, the objections of the President to the contrary notwithstanding?"

Mr. George H. Mahon, of Texas, moved that further consideration of the veto message from the President be postponed until the next day. The Speaker pro tempore recognized him to proceed on his motion.

§ 21.11 Objection having been raised to a unanimous-con-

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14. Carl Albert (Okla.).

15. 105 CONG. REC. 7027, 86th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. See also 105 CONG. REC. 17397, 17398, 86th Cong. 1st Sess., Aug. 31, 1959 (postponement for two days by unanimous consent); and 94 CONG. REC. 4133, 80th Cong. 2d Sess., Apr. 6, 1948 (postponement by motion for eight days).

18. 116 CONG. REC. 1365, 91st Cong. 2d Sess.

19. Carl Albert (Okla.).

sent request that a veto message be referred to committee, further proceedings on the message were postponed pursuant to a previous order of the House that the matter be put over until Thursday.

On Tuesday, Oct. 5, 1965,[20] the Speaker pro tempore laid before the House the veto message from the President on the bill (H.R. 5902) for the relief of Cecil Graham:

THE SPEAKER PRO TEMPORE:[21] The objections of the President will be spread at large upon the Journal.

If there is no objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.

MR. [H.R.] GROSS [of Iowa]: Mr. Speaker, I object.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa objects.

Under the order of the House of October 1,[22] this matter will be pending business on Thursday, October 7.

20. 111 CONG. REC. 25940, 25941, 89th Cong. 1st Sess.

21. Carl Albert (Okla.).

22. On Oct. 1, 1965, the Majority Leader asked unanimous consent that any roll call votes, other than on questions of procedure, which might be demanded on either Tuesday or Wednesday, Oct. 5 or 6 (which were religious holidays), be put over until Oct. 7. There was no objection. See 111 CONG. REC. 25796, 25797, 89th Cong. lst Sess.

Debate on Motion

§ 21.12 Debate on a motion to refer a vetoed bill is under the hour rule, and if the Member recognized yields back a part of his time without moving the previous question another Member is recognized for an hour.

On Oct. 10, 1940,[1] Mr. Samuel Dickstein, of New York, was recognized to move to refer to committee a private bill (H.R. 7179) and the veto message thereon. He was recognized to debate his motion under the hour rule, and after he had consumed 10 minutes, during which he yielded to various other Members for comments and questions, he yielded back the balance of his time. The proceedings were as follows:

MR. [LEE E.] GEYER of California: Will the gentleman yield?

MR. DICKSTEIN: I yield to the gentleman from California.

MR. GEYER of California: Much has been said rather impugning certain things that the committee has done. It has been stated that the committee is probably too lenient. May I say that I have had bills before that committee involving definite hardship cases on American citizens, and I think the committee is entirely too stringent.

[Here the gavel fell.]

1. 86 CONG. REC. 13523, 13524, 76th Cong. 3d Sess.

MR. DICKSTEIN: Mr. Speaker, I ask unanimous consent to proceed for 2 additional minutes.

THE SPEAKER:[2] Is there objection to the request of the gentleman from New York [Mr. Dickstein]?

There was no objection.

MR. DICKSTEIN: Mr. Speaker, I want to say to the membership of the House that I have tried the best way I can, as chairman of that committee, to work with every Member of this House. I agree with my good friend from California that sometimes the committee is too strict, sometimes we may be a little lenient, but on the whole I think we are a strict committee. . . . May I say that we should be patient and reasonable. Let us look at it in the proper American light and not from any other point of view.

Mr. Speaker, I yield back the balance of my time.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I ask for recognition.

THE SPEAKER: The time is in control of the gentleman from New York [Mr. Dickstein]. Has the gentleman from New York [Mr. Dickstein] yielded the floor?

MR. DICKSTEIN: Yes.

THE SPEAKER: The gentleman from Mississippi [Mr. Rankin] is recognized for 1 hour.

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

THE SPEAKER: Does the gentleman from Mississippi yield for a parliamentary inquiry?

MR. RANKIN: I yield for a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. DICKSTEIN: The gentleman from Mississippi asked me to give him time, which I was good enough to do. I said I would be glad to do it. Had I known I was going to surrender the floor by that, I would not have done it. I did not surrender it. I simply yielded back the balance of my time, and the Record will bear me out.

THE SPEAKER: The Chair distinctly asked the gentleman from New York if he yielded the floor, and his answer was in the affirmative.

MR. DICKSTEIN: I did not understand.

THE SPEAKER: The gentleman from Mississippi is recognized for 1 hour, if he desires that time.

Parliamentarian's Note: Had Mr. Dickstein moved the previous question after using his 10 minutes, and if that motion had been agreed to, no further debate would have been in order.

§ 22. Consideration and Passage of Vetoed Bills; Voting

Under the Constitution, a vetoed bill becomes law when it is reconsidered and passed by the requisite two-thirds vote in each House.[3] The Supreme Court has held that an affirmative vote of two-thirds of the Members voting, a quorum being present, in each House, is sufficient to override the President's veto.[4]

2. Sam Rayburn (Tex.).

3. U.S. Const. art. I, § 7, clause 2.

4. *Missouri Pac. Ry. Co.* v *Kansas*, 248 U.S. 276 (1919), citing, at pp. 283,

The vote on the question of passage, the objections of the President to the contrary notwithstanding, must be by the yeas and nays under the express command of the Constitution.(5)

Consideration of a vetoed bill is privileged,(6) and when a vetoed bill is postponed to a day certain it comes up then as unfinished business.(7)

A vetoed bill is considered under the hour rule(8) and the previous question may be moved at any time.(9)

The motion to reconsider is not in order on the question of overriding a veto.(10)

284; see also 4 Hinds' Precedents §§ 3537, 3538 and 7 Cannon's Precedents § 1111 and *United States* v *Ballin*, 114 U.S. 1 (1892).

5. ". . . But in all such Cases [reconsideration of a veto] the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively." U.S. Const. art. I, § 7, clause 2.

6. U.S. Const., *House Rules and Manual* § 108 (1981); see also § 22.4, infra.

7. See §§ 22.1, 22.2, infra.

8. See §§ 22.7, 22.8, infra.

9. See § 22.9, infra.

10. 5 Hinds' Precedents § 5644; and 8 Cannon's Precedents § 2778.

Veto Message as Unfinished Business

§ 22.1 A veto message is the unfinished business before the House where the consideration of the message has been postponed from the previous day by motion.

On Apr. 30, 1959,(11) the Speaker(12) announced that the unfinished business was the further consideration of the veto of the President of the bill (S. 144), to modify Reorganization Plan No. 2 of 1939 and Reorganization Plan No. 2 of 1953. The question put was:

> Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

§ 22.2 When a veto message postponed to a day certain is announced as the unfinished business, no motion is required from the floor for the consideration of such veto, and the question "Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding" is pending.

11. 105 CONG. REC. 7200, 86th Cong. 1st Sess. See also 111 CONG. REC. 26242, 89th Cong. lst Sess., Oct 7, 1965.

12. Sam Rayburn (Tex.).

On Apr. 14, 1948,[13] the Speaker[14] announced that the unfinished business of the House was the further consideration of the veto message of the President on the bill (H.R. 5052) to exclude certain vendors of newspapers or magazines from provisions of the Social Security Act and the Internal Revenue Code. The proceedings were as follows:

> THE SPEAKER: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding? . . .
>
> The gentleman from California [Mr. Gearhart] is recognized.
>
> MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: Mr. Speaker, will the gentleman yield?
>
> MR. [BERTRAND W.] GEARHART: I yield to the gentleman from Pennsylvania.
>
> MR. EBERHARTER: Has the gentleman made a motion to call up the bill?
>
> MR. GEARHART: The Parliamentarian advises me that is not necessary. The Speaker has already stated the issue.
>
> MR. EBERHARTER: I just wanted the record to be certain. I did not hear the gentleman make a motion to call up the bill. . . .
>
> THE SPEAKER: The veto message was originally read on April 6, and the request of the gentleman from California was that it be reread for the information of the House. Previous to that request the Chair had stated that the question before the House was, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?
>
> The gentleman will proceed.

§ 22.3 Where the House adjourns prior to disposition of a veto message from the President, the bill comes up as unfinished business on the next legislative day.

On Sept. 14, 1965,[15] the Speaker[16] announced:

> The unfinished business is the further consideration of the veto message from the President on the bill H.R. 3329 [incorporating the Youth Councils on Civil Affairs]. Without objection the message and the bill will be referred to the Committee on the District of Columbia and ordered to be printed.
>
> There was no objection.

The preceding day, the President's veto message was laid before the House shortly before adjournment. Objection was made to referral of the message and bill to committee.[17] Thus, it was brought up the next day as unfinished business.

Consideration on Calendar Wednesday

§ 22.4 The consideration of a veto message was held to be

13. 94 CONG. REC. 4427, 4428, 80th Cong. 2d Sess.

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

15. 111 CONG. REC. 23628, 89th Cong. lst Sess.

16. John W. McCormack (Mass.).

17. 111 CONG. REC. 23623, 89th Cong. lst Sess.

in order on Calendar Wednesday.

On May 11, 1932,[18] it being Calendar Wednesday, the Speaker[19] laid before the House the veto message of the President of the bill (H.R. 6662) to amend the Tariff Act of 1930:

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Mr. Speaker, this being Calendar Wednesday, ought not further business be dispensed with before we consider any other business?

THE SPEAKER: Not necessarily.

MR. STAFFORD: This is Holy Wednesday.

MR. [CHARLES R.] CRISP [of Georgia]: Is there any other business under Calendar Wednesday?

MR. STAFFORD: No.

MR. CRISP: Mr. Speaker, to save any question, I move that further business under Calendar Wednesday be dispensed with.

The motion was agreed to.

THE SPEAKER: Let the Chair say, however, in connection with this Calendar Wednesday rule, that it does not suspend the Constitution of the United States, which provides that a veto message of the President shall have immediate consideration. The Clerk will read the message.

Effect of Committee Report

§ 22.5 After referral to the committee in which it originated, a vetoed bill may be reported to the House with the recommendation that it pass over the veto of the President.

On May 18, 1949,[20] Mr. Emanuel Celler, of New York, submitted a privileged report from the Committee on the Judiciary on the bill (H.R. 1036) for the relief of R. C. Owen, R. C. Owen, Jr., and Roy Owen. The bill had been vetoed by the President and referred to the Committee on the Judiciary after delivery of the President's veto message in the House. The Committee on the Judiciary then reported the bill with the recommendation that it pass over the President's veto. The bill did so pass, two-thirds of the House voting in favor thereof.[21]

Likewise, on Aug. 5, 1940,[1] Mr. Hatton W. Sumners, of Texas, submitted the report from the Committee on the Judiciary on the bill (H.R. 7737) providing for intervention by states in certain cases involving the validity of the exercise of federal power.

The bill had been vetoed by the President and on return to the

18. 75 CONG. REC. 10035, 72d Cong. lst Sess.

19. John N. Garner (Tex.).

20. 95 CONG. REC. 6426–30, 81st Cong. 1st Sess.

21. For an instance where vetoed bill favorably reported from a committee failed of passage, see 86 CONG. REC. 12615–22, 76th Cong. 3d Sess., Sept. 25, 1940.

1. 86 CONG. REC. 9878–84, 76th Cong. 3d Sess.

House referred to the Committee on the Judiciary. The committee in turn reported the bill with the recommendation that it pass the objections of the President to the contrary notwithstanding.

The House voted to override the President's veto, with 253 yeas and 46 nays.

Committee Report as Privileged

§ 22.6 Parliamentarian's Note: Reports from committees to which vetoed bills are referred, recommending passage of such bills over a veto, are privileged.

On Aug. 17, 1951,(2) Mr. John E. Rankin, of Mississippi, submitted a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193), to establish a pension rate, with the recommendation that such bill pass over the President's veto. The proceedings were as follows:

> MR. RANKIN: Mr. Speaker, I submit a privileged report from the Committee on Veterans' Affairs on the bill (H.R. 3193) to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended.
>
> The Clerk read as follows:
>
> Your Committee on Veterans' Affairs, to whom was referred the bill, H.R. 3193, entitled "A bill to establish a rate of pension for aid and attendance under part III of Veterans' Regulation No. 1 (a), as amended," together with the objections of the President thereto, having reconsidered said bill and the objections of the President thereto, reports the same back to the House with the unanimous recommendation that said bill do pass, the objections of the President to the contrary notwithstanding. . . .
>
> MR. RANKIN: Mr. Speaker, I ask for recognition.
>
> THE SPEAKER:(3) The gentleman from Mississippi is recognized.
>
> MR. RANKIN: Mr. Speaker, I ask unanimous consent to extend my remarks at this point and include letters which I have received . . . supporting this measure and urging the Congress to override the veto. . . .
>
> Mr. Speaker, I move the previous question.
>
> The previous question was ordered.
>
> THE SPEAKER: The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?
>
> Under the Constitution, this vote must be determined by the yeas and nays.
>
> Those in favor of passing the bill, the objections of the President to the contrary notwithstanding, will, when their names are called, vote 'aye,' those opposed "no."
>
> The Clerk will call the roll.
>
> The question was taken; and there were yeas 318, nays 45, not voting 69. . . .
>
> So, two-thirds having voted in favor thereof, the bill was passed, the objec-

2. 97 CONG. REC. 10197, 10202, 82d Cong. 1st Sess.

3. Sam Rayburn (Tex.).

tions of the President to the contrary notwithstanding.

Debate

§ 22.7 Debate on the question of passing a bill over the President's veto is under the hour rule and the Member in charge may yield to others for debate in his hour.

On May 17, 1951,[4] the Speaker[5] called up as unfinished business for further consideration a veto message from the President on a bill (H.R. 3096) relating to the acquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, was recognized by the Chair. Mr. Vinson raised a parliamentary inquiry:

> Mr. Speaker, do I understand correctly that under the rules of the House I am entitled to 1 hour, during which time I can yield to other Members without, however, yielding the floor?
>
> THE SPEAKER: The gentleman is correct.

§ 22.8 A Member recognized on the question of passage of a bill over the President's veto controls one hour of debate, and he may yield a portion of that time to another Member who may in turn control the allocation of that time to other Members.

On Apr. 10, 1973,[6] the House considered the question of overriding the President's veto on the bill (H.R. 3298), to restore certain water and sewer grant programs. Mr. William R. Poage, of Texas, was recognized for one hour. The proceedings were as follows:

> THE SPEAKER:[7] The gentleman from Texas (Mr. Poage) is recognized for 1 hour.
>
> MR. POAGE: Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oklahoma, the Speaker of the House of Representatives.
>
> MR. ALBERT: Mr. Speaker, I appreciate the fact that the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. Poage), has yielded to me. I appreciate the years that I served under his leadership on that committee.
>
> In a few minutes, as every Member of this House knows, we will cast one of the critical votes of this session of Congress—critical because of the importance of the subject matter with which we are dealing, and critical because of the challenge which we confront as a law-making body of the Nation. . . .
>
> MR. POAGE: Mr. Speaker, it is my desire to yield half of this time to the gentleman from California (Mr. Teague). I understand that I can only

4. 97 CONG. REC. 5435, 82d Cong. 1st Sess. See also 116 CONG. REC. 750, 91st Cong. 2d Sess., Jan. 22, 1970.
5. Sam Rayburn (Tex.).
6. 119 CONG. REC. 11679–91, 93d Cong. 1st Sess.
7. Carl Albert (Okla.).

yield to him one time. Is it in order for me at this time to yield him 30 minutes and let him apportion it?

THE SPEAKER PRO TEMPORE:[8] The gentleman has control of the time. He can yield his time.

MR. POAGE: I yield to the gentleman from California 30 minutes.

MR. [CHARLES M.] TEAGUE of California: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. TEAGUE of California: Does that mean that I must use all of my 30 minutes together?

THE SPEAKER: The gentleman may use his time as he sees fit, for purposes of debate only.

MR. TEAGUE of California: I thank the Speaker.

I yield myself 3 minutes.

Mr. Speaker, I rise in support of the President's veto of H.R. 3298.

It is not easy for me, and I know it is not easy for a great many of Members of the House, to vote to sustain the veto on this bill. I say that because the program that has been affected by the President's action is not, in my opinion, a bad program—it is in fact the best of the several agricultural programs for which the President has impounded funds. . . .

THE SPEAKER: Does the gentleman from California desire to yield further at this time.

MR. TEAGUE of California: Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. Harsha].

MR. [WILLIAM H.] HARSHA: Mr. Speaker, I believe we should make an attempt in this situation to separate rhetoric from the facts and I want to allude now to some of the facts. . . .

MR. POAGE: Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Massachusetts (Mr. O'Neill).

MR. [THOMAS P.] O'NEILL [Jr.]: Mr. Speaker, I am speaking today as a window box farmer, as I was referred to by a gentleman from the minority side the other day, but I want to remind my colleagues that this program, very interestingly, passed the House by 297 votes to 54 votes. And it passed the House because the rural water program is crucial for pollution control and health in rural America. . . .

MR. TEAGUE of California: Mr. Speaker, I yield 5 minutes to the gentleman from Kansas (Mr. Sebelius).

MR. [KEITH G.] SEBELIUS: Mr. Speaker, I appreciate this opportunity to discuss the Presidential veto of H.R. 3298, legislation to restore the rural water and waste disposal grant program.

I share the conviction that we must restore commonsense to our Federal spending and hold Federal outlays to the ceiling level of $250 billion. However, how we "spend" this limited budget is debatable. It is a matter of priorities. . . .

MR. POAGE: Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, there are two issues involved in our consideration of the President's veto.

The first is the issue of the constitutional division of powers under our tripartite form of Government. Can any President unappropriate funds—the appropriation of which he has previously approved? . . .

8. John J. McFall (Calif.).

Mr. Speaker, I move the previous question.

Two-thirds not having voted in favor of the override, the veto of the President was sustained and the bill was rejected.

Effect of Moving the Previous Question

§ 22.9 The demand for the previous question precludes further debate on the question of passing a bill over a Presidential veto.

On June 16, 1948,[9] the House had under consideration the veto message of the President on a bill (H.R. 6355) making supplemental appropriations for the Federal Security Agency. Mr. Frank B. Keefe, of Wisconsin, was recognized to control the debate for one hour. After brief remarks, he immediately moved the previous question. Mr. John J. Rooney, of New York, then raised a parliamentary inquiry:

> Mr. Speaker, under the rules is not the majority granted the privilege of discussing this message?
>
> THE SPEAKER:[10] If the gentleman from Wisconsin withdraws his moving of the previous question it would be in order. Otherwise it is not in order.

9. 94 CONG. REC. 8473, 80th Cong. 2d Sess.

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

Voting by Yeas and Nays

§ 22.10 Under the Constitution, the vote on passage of a bill over the President's veto must be by the yeas and nays.

On May 17, 1951,[11] the House had under consideration the question of overriding the President's veto on a bill (H.R. 3096), relating to the acquisition and disposition of land by the armed forces. Mr. Carl Vinson, of Georgia, moved the previous question. The Chair[12] declared that under the Constitution, the question would have to be determined by the yeas and nays.[13]

Vote Recapitulations and Changes

§ 22.11 Where a yea and nay vote has been announced and a recapitulation is ordered on the question of overriding a Presidential veto, a Member may correct his vote only and may not change it; and corrections in a vote on recapitulation are made after the yeas have

11. 97 CONG. REC. 5444, 82d Cong. 1st Sess.

12. Sam Rayburn (Tex.).

13. U.S. Const. art. I, § 7. See also 97 CONG. REC. 13745, 82d Cong. 1st Sess., Oct. 20, 1951.

been read by the Clerk and then after the nays are read.

On June 17, 1947,(14) the House considered the question of overriding the President's veto on a bill (H.R. 1), to reduce individual income tax payments. After debate a roll call vote was taken pursuant to the constitutional requirement. Mr. Charles A. Halleck, of Indiana, sought a recapitulation of the vote, and the Chair ordered the recapitulation.

Mr. Adolph J. Sabath, of Illinois, raised a parliamentary inquiry:

> Mr. Speaker, a Member having voted one way or the other cannot change his vote on the capitulation?
>
> THE SPEAKER:(15) A Member may correct his vote, but cannot change it.
>
> The Clerk will call the names of those voting "yea."
>
> The Clerk called the names of those voting "yea."
>
> THE SPEAKER: Are there any corrections to be made where any Member was listening and heard his name called as voting "yea" who did not vote "yea?" . . . The Chair hears none.
>
> The Clerk will call the names of those voting "nay."
>
> The Clerk called the names of those voting "nay."
>
> THE SPEAKER: Is there any Member voting "nay" who is incorrectly recorded? . . . The Chair hears none.

Parliamentarian's Note: Since the vote on overriding a veto is now taken by the electronic voting device, a recapitulation is not in order. The Speaker could, of course, order the vote taken by the call of the roll if circumstances warranted.

Pairing of Votes

§ 22.12 Pairs on the question of passage of a bill over a Presidential veto are recorded in the Congressional Record and are arranged in a two to one ratio.

On Aug. 5, 1940,(16) after a roll call vote which sustained the veto of the President of a bill (H.R. 3233) to repeal certain acts of Congress, the Clerk announced the pairing of certain Members on the vote. The *Congressional Record* disclosed the pairs, as follows:

> Mr. McDowell and Mr. Ball (to override with Mr. Schwert (to sustain).
>
> Mr. Wolfenden of Pennsylvania and Mr. Osmers (to override) with Mr. Cullen (to sustain).
>
> Mr. Culkin and Mr. Jennings (to override) with Mr. Hook (to sustain).
>
> Mr. Kilburn and Mr. Reece of Tennessee (to override) with Mr. Buckley of New York (to sustain).

14. 93 CONG. REC. 7143, 7144, 80th Cong. 1st Sess.

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

16. 86 CONG. REC. 9889, 9890, 76th Cong. 3d Sess.

§ 23. Disposition of Vetoed Bills After Reconsideration

When a vetoed House bill is reconsidered and passed in the House, the House sends the bill and veto message to the Senate and informs that body that it passed by the constitutional two-thirds vote.[17] When the House fails to pass a bill over the President's veto, the bill and veto message are referred to committee, and the Senate is informed of the action of the House.[18]

A bill enacted over a Presidential veto is sent by the Presiding Officer of the House which last considered it to the Administrator of General Services who receives it for deposit.[1]

Referral to Committee

§ 23.1 Where the House fails to override the President's veto, the veto message and the bill are referred to the committee which originally reported the bill.

On Jan. 28, 1970,[2] the House considered overriding the President's veto of the bill (H.R. 13111) making appropriations for the Departments of Labor and Health, Education, and Welfare for fiscal year 1970. The President's veto was sustained, two-thirds not having voted in favor of overriding it.

The Speaker[3] then announced:

> The message and the bill are referred to the Committee on Appropriations.
>
> The Clerk will notify the Senate of the action of the House.

Note: the form of message sent to the Senate in this situation is as follows:

"The House of Representatives having proceeded to reconsider the bill (H.R. ____) entitled . . . returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was *Resolved*, that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same."

Similarly, on June 11, 1946,[4] the Speaker,[5] laid before the House the veto message of the President of the bill (H.R. 4908) to provide additional facilities for the

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17. See § 23.2, infra.

18. See § 23.1, infra.

1. 1 USC § 106a (1970 ed.).

2. 116 CONG. REC. 1552, 1553, 91st Cong. 2d Sess., Jan. 28, 1970. See also 89 CONG. REC. 7051–55, 78th Cong. 1st Sess., July 2, 1943.

3. John W. McCormack (Mass.).

4. 92 CONG. REC. 6774–78, 79th Cong. 2d Sess.

5. Sam Rayburn (Tex.).

mediation of labor disputes. The House sustained the President's veto and the Speaker ordered the bill and accompanying papers referred to the Committee on Labor.

§ 23.2 By message the House informed the Senate of the passage of a bill in the House to reduce income taxes over the President's veto.

On Apr. 2, 1948,[6] the following message from the House of Representatives was laid before the Senate:

IN THE HOUSE OF
REPRESENTATIVES, U.S.,
April 2, 1948.

The House of Representatives having proceeded to reconsider the bill (H.R. 4790) entitled "An act to reduce individual income-tax payments, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated; it was

"*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same."

Attest:

JOHN ANDREWS,
Clerk.

D. VACATING LEGISLATIVE ACTIONS

§ 24. Procedure

Passage of Bills

§ 24.1 By unanimous consent, the proceedings whereby a bill had been passed were vacated, so that an error in an amendment to the bill could be corrected.

On Feb. 12, 1951,[7] it was announced to the House that during a previous day's proceedings incident to the passage of a bill[8] the Committee of the Whole and the House by separate vote had agreed to a two-page amendment, the second page of which erroneously had not been read by the Clerk. Mr. Wilbur D. Mills, of Arkansas, asked unanimous consent that the proceedings whereby the bill had been passed be vacated and that an amendment to the bill be agreed to.

There was no objection.

Thereupon, the Speaker[9] announced that without objection

6. 94 CONG. REC. 4018, 80th Cong. 2d Sess.

7. 97 CONG. REC. 1233, 1234, 82d Cong. 1st Sess.

8. H.R. 1612, to extend the authority of the President to enter into trade agreements under § 310 of the Tariff Act of 1930.

9. Sam Rayburn (Tex.).

the proceedings whereby the bill had been passed would be vacated, the amendment read by Mr. Mills agreed to, the bill be considered as engrossed, read a third time and passed, and that a motion to reconsider be laid on the table.

There was no objection.

§ 24.2 By unanimous consent, the House may vacate the proceedings whereby a bill was passed so that the Chair can entertain a motion to recommit.

On Mar. 23, 1970,[10] immediately after a voice vote by the House whereby a bill[11] was passed, the following proceedings occurred:

PARLIAMENTARY INQUIRY

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[12] The gentleman will state it.

MR. FRASER: I was on my feet seeking recognition for the purpose of making a motion to recommit at the time the Speaker was beginning to move to the point of putting the question.

THE SPEAKER: The Chair wants to be absolutely fair. The Chair believes the Members know that.

Without objection, the action taken on the question of the passage of the bill will be vacated.

There was no objection.

Thereupon, a motion to recommit the bill was offered by Mr. Silvio O. Conte, of Massachusetts. The motion was rejected.

§ 24.3 In the situation where the House and Senate have passed similar bills, an action sometimes taken by the House is to amend the Senate bill to conform to the provisions of the House bill, and then to vacate, by unanimous consent, those proceedings whereby the House bill was passed.

On May 18, 1961,[13] Mr. Oren Harris, of Arkansas, asked unanimous consent for the immediate consideration of a Senate bill[14] and then moved to strike out of all its provisions after the enacting clause, and to insert the provisions of a previously passed House bill[15] in lieu thereof. There being no objection, both the bill and an amendment subsequently offered by Mr. Harris were read to the House.

The amendment was agreed to.

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10. 116 CONG. REC. 8568, 91st Cong. 2d Sess.

11. H.R. 15728, to authorize the extension of certain naval vessel loans and for other purposes.

12. John W. McCormack (Mass.).

13. 107 CONG. REC. 8367, 8368, 87th Cong. 1st Sess.

14. S. 610, providing for the establishment of a U.S. Travel Service within the Department of Commerce and a Travel Advisory Board.

15. H.R. 4614.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

By unanimous consent the proceedings by which the House bill (H.R. 4614) was passed were vacated, and that bill was laid on the table.

§ 24.4 By unanimous consent, the proceedings whereby a Senate bill had been considered in the House, amended (to include the provisions of a similar House-passed bill), and passed, were vacated, and the bill was indefinitely postponed.

On May 12, 1970,[16] Mr. Don Fuqua, of Florida, asked unanimous consent that the proceedings whereby the House considered, amended, and passed a bill of the Senate[17] be vacated and that further proceedings on that bill be indefinitely postponed. There was no objection.

Parliamentarian's Note: After passage of the Senate bill it was found that it contained a tax provision and therefore could not under the Constitution originate in the Senate. After vacating the House passage of the Senate bill, the House passed its own bill (H.R. 17138) and sent it to the Senate.

Tabling of Bills

§ 24.5 By unanimous consent, proceedings whereby a House bill had been laid on the table were vacated and the bill was again considered, amended, and passed.

On May 4, 1959,[18] Mr. Oren Harris, of Arkansas, asked unanimous consent that the proceedings whereby a bill[19] was laid on the table be vacated for the purpose of offering an amendment. There was no objection. Thereupon, Mr. Harris moved to strike out all after the enacting clause and insert in lieu thereof an amendment which he sent to the Clerk's desk. The amendment was read to the House, whereupon the following proceedings took place:

> MR. HARRIS: Mr. Speaker, for the information of the Members of the

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16. 116 CONG. REC. 15150, 91st Cong. 2d Sess.; see also 116 CONG. REC. 14951–60, 91st Cong. 2d Sess., May 11, 1970, for proceedings incident to the passage of the bill. For a further example see 108 CONG. REC. 18300, 18301, 87th Cong. 2d Sess., Aug. 31, 1962; and 105 CONG. REC. 7313, 86th Cong. 1st Sess., May 4, 1959.

17. S. 2694, to amend the District of Columbia Police and Firemen's Salary Act of 1958 and the District of Columbia Teacher's Salary Act of 1955.

18. 105 CONG. REC. 7310–13, 86th Cong. 1st Sess.

19. H.R. 5610, to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits and for other purposes.

House, I have asked unanimous consent that the proceedings whereby the bill H.R. 5610 was laid on the table, the amendment agreed to, the bill engrossed and read a third time and passed, be vacated, for the purpose of offering an amendment.

The unanimous-consent request was agreed to, and I have offered an amendment, which has just been read.

The amendment to the bill H.R. 5610 which I have just offered strikes out all after the enacting clause and inserts the provisions of the bill that passed the Senate last week. . . .

The necessity for this action is that last week after the House had taken the action it did, we, as usual, when we have a bill from the other body on the same subject on the Speaker's table, asked that that bill be taken from the Speaker's desk, that all after the enacting clause be stricken out, and that the House-passed bill be inserted. That was the usual procedure we followed, and I made the request after the House had taken its action last week. It later developed that that was not the correct action that should have been taken because there are tax provisions in this legislation. The Constitution provides, as you know, that all legislation relating directly to tax measures, revenues, must originate in the House of Representatives. Therefore, this action to vacate that proceeding is in order to comply with the constitutional provision by passing this legislation in order to accomplish what the House intended last week after it considered this matter rather extensively. . . .

THE SPEAKER [Sam Rayburn, of Texas]: The question is on the amendment.

The amendment was agreed to.

THE SPEAKER: The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

THE SPEAKER: The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

MR. HARRIS: Mr. Speaker, I ask unanimous consent that the proceedings whereby S. 226, an act to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act, so as to provide increases in benefits, and for other purposes, as amended, was read a third time, and passed, be vacated, and the bill be indefinitely postponed.

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

There was no objection.

Parliamentarian's Note: There is no motion in the House to take a measure from the table. A unanimous-consent request to vacate proceedings whereby a measure was laid on the table is the available procedure.

Order That Bill Be Reported

§ 24.6 By unanimous consent, the House vacated proceedings whereby a committee had ordered a bill reported to the House, prior to

actual reporting of the bill, so that the committee could consider proposed amendments thereto.

On Dec. 5, 1944,[20] Mr. Schuyler Otis Bland, of Virginia, asked unanimous consent that the proceedings in the Committee on Merchant Marine and Fisheries by which a bill (H.R. 5387) was ordered to be reported to the House be vacated, for the purpose of considering proposed amendments. The following exchange took place:

MR. [JOSEPH W.] MARTIN of Massachusetts: Mr. Speaker, reserving the right to object, what is the request of the gentleman?

MR. BLAND: It is a bill amending section 101(a) of the Merchant Marine Act of 1936. The purpose is to vacate certain proceedings of the committee, which ordered the bill reported.

THE SPEAKER:[1] As the Chair understands, the committee ordered the bill reported, but it has not yet been reported, and the gentleman from Virginia desires it to go back to the committee for further consideration by the committee. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Adoption of Amendments

§ 24.7 By unanimous consent, proceedings in the Committee of the Whole, whereby an amendment to a bill had been adopted, were vacated, and the Chair again asked if any Member desired to debate it.

On Mar. 27, 1947,[2] after the adoption by the Committee of the Whole of an amendment to a pending bill,[3] Mr. John W. McCormack, of Massachusetts, asked unanimous consent that the proceedings by which the amendment had been adopted be vacated. There was no objection to the gentleman's request. Thereupon, the Chairman[4] invited any Member, who so desired, to speak on the amendment. Some debate ensued, at the conclusion of which, the amendment was agreed to.

Agreements to Simple Resolutions

§ 24.8 At the request of the Minority Leader, by unanimous consent, the House agreed to vacate the proceedings whereby it had agreed to a resolution electing minority members to committees of

20. 90 CONG. REC. 8863, 78th Cong. 2d Sess.

1. Sam Rayburn (Tex.).

2. 93 CONG. REC. 2773, 80th Cong. 1st Sess.

3. H.R. 1, to reduce individual income tax payments.

4. Francis H. Case (S.D.).

the House, then reconsidered the resolution and agreed to it with an amendment changing the order of names (and thus the seniority on a committee) in the resolution.

On Feb. 3, 1969,[5] the following proceedings occurred in the House:

> MR. GERALD R. FORD [of Michigan]: Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House agreed to House Resolution 176[6] on January 29, and ask for its immediate consideration with an amendment which I send to the desk.
>
> THE SPEAKER:[7] Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.

A reading of both the resolution and the amendment offered by Mr. Ford ensued, at the conclusion of which the amendment and the resolution as amended were agreed to. A motion to reconsider was laid on the table.

§ 24.9 By unanimous consent, the House vacated the proceedings whereby it had agreed, on a previous day, to a resolution, reconsidered the resolution, and then again agreed to the resolution with a corrective amendment.

On Feb. 3, 1969,[8] Mr. Carl Albert, of Oklahoma, asked unanimous consent to vacate the proceedings whereby the House agreed to a resolution[9] and asked for its immediate reconsideration with an amendment which he sent to the desk. There was no objection to the gentleman's request. Thereupon, both the resolution and the amendment offered by Mr. Albert were read to the House. The amendment and the resolution as amended were agreed to.

Agreement to Concurrent Resolution

§ 24.10 By unanimous consent, the House vacated the proceedings whereby it had agreed to a concurrent resolution with an amendment, again considered the resolution, and agreed to it without an amendment.

5. 115 CONG. REC. 2433, 91st Cong. 1st Sess.
6. H. Res. 176, establishing the order of names on a resolution electing Members to various committees of the House.
7. John W. McCormack (Mass.).
8. 115 CONG. REC. 2433, 91st Cong. 1st Sess.
9. H. Res. 177, correcting the name of the Resident Commissioner to correspond with that on the Clerk's official roll.

On June 22, 1965,[10] Mr. Dante B. Fascell, of Florida, asked unanimous consent that the proceedings whereby a Senate concurrent resolution[11] was amended and agreed to be vacated and that the resolution be considered as agreed to without amendment. There being no objection, it was so ordered.

Passage of Joint Resolution

§ 24.11 A motion to take a matter from the table is not in order in the House; and when a joint resolution has been engrossed, read a third time and passed, and the motion to reconsider laid on the table, the matter can be reopened only by a unanimous-consent request that the proceedings be vacated.

On Feb. 8, 1973,[12] Mr. Harley O. Staggers, of West Virginia, asked for and was granted unanimous consent for the immediate consideration of a joint resolution.[13]

A reading of the resolution to the House ensued, at the conclusion of which the joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Thereafter, Mr. Staggers, who had been recognized to continue his remarks after passage, yielded for a parliamentary inquiry:

> MR. [SAMUEL L.] DEVINE [of Ohio]: Mr. Speaker, a parliamentary inquiry.
>
> THE SPEAKER:[14] The gentleman will state it.
>
> MR. DEVINE: It was the understanding of the minority, and I think of a majority of the people on the floor of the House, that when the gentleman from West Virginia made his unanimous-consent request that this bill be brought up, the question was whether or not it could be brought up for immediate consideration without objection. There was no objection, but I am not sure whether I heard the Speaker correctly. The Speaker said that it was engrossed and read a third time and passed.
>
> THE SPEAKER: The gentleman is correct. The Chair had no knowledge of any other procedure. The only procedure the Chair had in his knowledge was it was going to be called up by a unanimous-consent request. Then the Chair said, "without objection, the bill is engrossed, read a third time, and passed." Any Member during that entire procedure could have objected if he desired to do so.
>
> MR. DEVINE: Is the gentleman from West Virginia now making a statement

10. 111 CONG. REC. 14425, 89th Cong. 1st Sess.

11. S. Con. Res. 36, relating to the 20th anniversary of the United Nations.

12. 119 CONG. REC. 3929, 3930, 93d Cong. 1st Sess.

13. H.J. Res. 331, to extend the Railway Labor Act.

14. Carl Albert (Okla.).

after the fact, or is this in support of the bill already passed?

THE SPEAKER: The gentleman . . . is doing what is often done on a unanimous-consent bill, and that is explain the bill to the House after passage.

MR. STAGGERS: Mr. Speaker, I ask for 5 minutes to explain and say to the gentleman from Ohio that I did not intend for this to be in this fashion; that I thought I would ask for unanimous consent to bring it to the floor, and that was my intent. The Speaker did make a statement that the bill was engrossed, read a third time, and passed.

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

THE SPEAKER: The gentleman will state it.

MR. DEVINE: In view of the statement made by the chairman of the committee that he had no intention that it be brought up under that set of circumstances, and the fact that the Chair has stated that a motion to reconsider has been laid on the table, I would ask the Speaker if a motion would not be in order to remove from the table the motion for reconsideration.

THE SPEAKER: It takes unanimous consent to vacate the proceedings by which a motion to reconsider was laid on the table.

MR. DEVINE: Mr. Speaker, I ask, therefore, unanimous consent to vacate the order of the Chair in connection with this legislation.

THE SPEAKER: The gentleman from Ohio has asked unanimous consent that the proceedings by which the joint resolution was engrossed, read a third time, and passed, and the motion to reconsider laid upon the table, be vacated.

Is there objection to the request of the gentleman from Ohio?

There was no objection. Subsequently, the request for the immediate consideration of the House joint resolution was withdrawn.

Thereupon, without objection, Senate Joint Resolution 59, which had been delivered to the House during discussion of House Joint Resolution 331, and which also dealt with the Railway Labor Act, and differed little from the House joint resolution, was brought before the House for immediate consideration. After Senate Joint Resolution 59 had been read, Mr. Staggers explained the points wherein it differed from the House joint resolution earlier considered, and offered an amendment to the Senate joint resolution. The amendment was agreed to. Senate Joint Resolution 59 was then ordered read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.[15]

Postponement of Joint Resolution

§ 24.12 By unanimous consent, the proceedings whereby a joint resolution had been indefinitely postponed were

15. 119 CONG. REC. 3933–35, 93d Cong. 1st Sess., Feb. 8, 1973.

vacated and the resolution restored to the Consent Calendar.

On Jan. 6, 1936,[16] the Clerk called Senate Joint Resolution 118, providing for the filling of a vacancy on the Board of Regents of the Smithsonian Institution of the class other than Members of Congress. By unanimous consent, the Senate joint resolution was indefinitely postponed.

On Feb. 3, 1936,[17] Mr. Kent E. Keller, of Illinois, the same Member who had requested that the Senate joint resolution be postponed indefinitely on Jan. 6, 1936, requested unanimous consent that those proceedings be vacated:

> MR. KELLER: Mr. Speaker, I ask unanimous consent to vacate the proceedings by which Senate Joint Resolution 118, providing for the appointment of Mr. Morris, a member of the Board of Regents was indefinitely postponed, and reinstate the same on the calendar.
>
> THE SPEAKER:[18] Is there objection?
>
> There was no objection.

Subsequently, on Feb. 17, 1936,[19] after the Clerk's call of Senate Joint Resolution 118, the following proceedings occurred:

> THE SPEAKER: Is there objection (to the consideration of the resolution)?
>
> MR. [JESSE P.] WOLCOTT [of Michigan]: Reserving the right to object, this is the first time this has been on the Consent Calendar. This is numbered 375. I would like to ask the Chair how it got on the calendar?
>
> THE SPEAKER: The Chair is informed that this joint resolution was indefinitely postponed and later the gentleman from Illinois (Mr. Keller) asked unanimous consent that the proceedings be vacated and the joint resolution restored to the calendar. That request was granted and the joint resolution was restored to the calendar by the order of the House.
>
> Is there objection to the consideration of the joint resolution?
>
> There was no objection.

16. 80 CONG. REC. 112, 74th Cong. 2d Sess.

17. 80 CONG. REC. 1381, 74th Cong. 2d Sess.

18. Joseph W. Byrns (Tenn.).

19. 80 CONG. REC. 2224, 74th Cong. 2d Sess.