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LOUISE M. SLAUGHTER, *Chairwoman*

Floor Procedure and Voting

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For program information, email: deb.delaney@mail.house.gov

H-312 US Capitol, Washington, D.C.

(202) 225-9091



Floor Procedure and Voting

Section 4 chapter 2 of 5

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Introduction

This packet of materials, drawn largely from CRS reports and House Practice, will provide an overview of proceedings on the House floor, starting with an explanation of who is allowed on the floor and how measures are introduced and committee reports are filed on the floor.

Next we will discuss the order of business in the House. As discussed below, there is no “typical” day in the House, as the House employs a range of devices to deviate from the order of business prescribed by the standing rules.

We will then distinguish the House operating under the “hour rule” from the Committee of the Whole, a parliamentary device the House uses to streamline the consideration of measures on the floor. This is followed by a discussion of quorums in floor proceedings in both the House and the Committee of the Whole.

We then address recognition, management of debate and the amendment process. During consideration of a measure, Members and others on the floor must follow the House’s rules of decorum, which will be our next topic.

When Members wish to ask the presiding officer a question concerning procedure, they may do so in the form of a parliamentary inquiry, which we discuss before moving on to questions of privilege.

Throughout the day on the floor, votes are taken on both procedural and substantive questions. After a basic discussion of voting on the floor, we will end with consideration of measures under suspension of the rules.

Note that several important subjects that could fit neatly into this document are omitted, as they are covered in other LPP reports. Procedures for considering legislation, i.e., how measures get to the floor, is discussed in the LPP report on the Rules Committee. Points of order and motions in the House are covered in their own reports.

Who Is Allowed on the House Floor and When

Chapter 10 of House Practice discusses the House chamber, rooms and galleries and notes that “[t]he unauthorized presence of persons on the floor of either House or in the gallery of either House is prohibited” by law under 40 USC §193f(b)(1), (2). House rule IV, reprinted below, states the House’s policy regarding admission to the Hall of the House:

RULE IV – THE HALL OF THE HOUSE – Use and admittance

1. The Hall of the House shall be used only for the legislative business of the House and for caucus and conference meetings of its Members, except when the House agrees to take part in any ceremonies to be observed therein. The Speaker may not entertain a motion for the suspension of this clause.

2. (a) Only the following persons shall be admitted to the Hall of the House or rooms leading thereto:

(1) Members of Congress, Members-elect, and contestants in election cases during the pendency of their cases on the floor.

(2) The Delegates and the Resident Commissioner.

(3) The President and Vice President of the United States and their private secretaries.

(4) Justices of the Supreme Court.

(5) Elected officers and minority employees nominated as elected officers of the House.

(6) The Parliamentarian.

(7) Staff of committees when business from their committee is under consideration, and staff of the respective party leaderships when so assigned with the approval of the Speaker.

(8) Not more than one person from the staff of a Member, Delegate, or Resident Commissioner when that Member, Delegate, or Resident Commissioner has an amendment under consideration (subject to clause 5).

(9) The Architect of the Capitol.

(10) The Librarian of Congress and the assistant in charge of the Law Library.

(11) The Secretary and Sergeant-at-Arms of the Senate.

(12) Heads of departments.

(13) Foreign ministers.

(14) Governors of States.

(15) Former Members, Delegates, and Resident Commissioners; former Parliamentarians of the House; and former elected officers and minority employees nominated as elected officers of the House (subject to clause 4).

(16) One attorney to accompany a Member, Delegate, or Resident Commissioner who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when a recommendation of that committee is under consideration in the House.

(17) Such persons as have, by name, received the thanks of Congress.

(b) The Speaker may not entertain a unanimous consent request or a motion to suspend this clause.

3. (a) Except as provided in paragraph (b), all persons not entitled to the privilege of the floor during the session shall be excluded at all times from the Hall of the House and the cloakrooms.

(b) Until 15 minutes of the hour of the meeting of the House, persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of a Member, Delegate, or Resident Commissioner by card or in writing, may be admitted to the Hall of the House.

4. (a) A former Member, Delegate, or Resident Commissioner; a former Parliamentarian of the House; or a former elected officer of the House or former minority employee nominated as an elected officer of the House shall not be entitled to the privilege of admission to the Hall of the House and rooms leading thereto if he or she—

(1) is a registered lobbyist or agent of a foreign principal as those terms are defined in clause 5 of rule XXV;

(2) has any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or

(3) is in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal.

(b) The Speaker may promulgate regulations to carry out this rule including regulations that exempt ceremonial or educational functions from the restrictions of this clause.

5. A person from the staff of a Member, Delegate, or Resident Commissioner may be admitted to the Hall of the House or rooms leading thereto under clause 2 only upon prior notice to the Speaker. Such persons, and persons from the staff of committees admitted under clause 2, may not engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons shall remain at the desk and are admitted only to advise the Member, Delegate, Resident Commissioner, or committee responsible for their admission. A person who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

For more detailed information on admission to the floor, see chapter 10 of House Practice. Below are some of the points made in that chapter:

- The term “heads of departments” has been construed to mean members of the President’s Cabinet. 5 Hinds §7283.
- The term “contestants in election cases” has been construed to include challengers in an election contest, even though the challenger was not a candidate in the election in which the sitting Member was reelected. Deschler Ch 4 §4.5.
- It is not in order to refer to persons temporarily on the floor of the House as guests of the House, such as Members’ children, other children, or Senators exercising floor privileges. *Manual* §678.
- Although Senators have floor privileges, they are not entitled to address the House. Deschler Ch 4 §4.8.
- Rule IV is less strictly enforced on ceremonial occasions. 5 Hinds §7290.
- Rule IV clause 2(a)(7), permitting on the floor staff of a committee when business from their committee is under consideration, has been interpreted by the Speaker to allow the presence on the floor of four professional staff members and one clerk from a committee during consideration of that committee’s business and to require that such individuals remain unobtrusively by the committee tables. *Manual* §678.
- Under rule IV clause 5, and regulations promulgated by the Speaker thereunder, staff on the floor are not permitted to pass out literature or otherwise attempt to influence Members in their votes or to applaud during debate. *Manual* §681.

Introduction of Measures and Filing of Reports on the House Floor

Introduction of Bills and Resolutions

Section 6 of chapter 6 of House Practice states that bills and resolutions are introduced by being deposited in the hopper at the Clerk's desk anytime the House is in session. Deschler Ch 16 §1. A Member may introduce a bill during an interim pro forma meeting even though no legislative business is being conducted. *Manual* §816.

The Speaker customarily announces a policy regarding introduction of bills and resolutions at the beginning of each Congress. In the 111th Congress, this announcement can be found in the Congressional Record for January 6, 2009:

ANNOUNCEMENT BY THE SPEAKER -- (House of Representatives - January 06, 2009)

[Page: H22]

2. Introduction of Bills and Resolutions

The policy that the Chair announced on January 3, 1983, with respect to the introduction and reference of bills and resolutions will continue to apply in the 111th Congress. The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92d Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

Filing of Reports

House Practice Chapter 11 Committees

§33. Filing Reports

Nonprivileged reports are filed by delivering them to the Clerk for reference to the calendars under the direction of the Speaker. *Manual* § 831. Privileged reports are filed from the floor and referred to the appropriate calendar by the Speaker. *Manual* § 853; Deschler Ch 17 § 58.

Ordinarily, a committee report on a bill or other measure reported to the House must accompany the reported measure. *Manual* §§ 831, 853. Except as provided in rule XIII clause 2(c), unanimous consent is required to file a committee report when the House is not in session, and such permission may not be obtained by motion. *Manual* § 418; Deschler Ch 17 § 62; § 32, *supra*.

The House may extend the time for a select committee to file a report pursuant to a simple resolution (105-1, H. Res. 170, May 13, 1999, p ll) or by agreement to a unanimous-consent request (94-2, Aug. 2, 1976, p25086). An extension of time to file has been given to a joint committee pursuant to a joint resolution and to a unanimous-consent request agreed to in each House. Deschler Ch 17 §§ 62.10, 62.11.

A Day on the Floor: One-Minutes to Special Orders

Daily Order of Business

Excerpt from CRS Report: RS20233¹
Updated April 16, 2008

“House Floor Activity: The Daily Flow of Business”

Christopher M. Davis
Analyst on the Congress and Legislative Process
Government and Finance Division

The rules of the House include a rule that lays out the daily order of business on the House floor. In practice, however, the House never follows this rule as it decides what legislative business it will transact, and when. All of the legislative business that the House conducts is brought to the floor in ways that interrupt the daily order of business, as defined by clause 1 of Rule XIV.

This rule provides that each daily session of the House is to begin with a prayer, followed by the reading and approval of the *Journal* (which documents the previous day's proceedings), and the Pledge of Allegiance. The rule then lists six other kinds of business and the order in which the House is to transact them each day. However, other House rules and certain precedents allow Members to interrupt these six kinds of business so that the House can act on specific kinds of measures and motions. A measure or motion is called *privileged* if it can interrupt the regular order of business, as defined in Rule XIV. In practice, all the legislative matters that the House considers during its floor sessions are brought up as privileged interruptions of the regular order of business.

Certain matters are privileged for floor consideration at any time. Others are privileged only after prior notification to the House or after they have been available in writing to Members for certain periods of time. Still others are privileged on certain days of the week, or on certain days of each month, or after a certain date of each year. In addition, the House always can agree to a unanimous consent request that it act on some matter -- usually a non-controversial one -- that otherwise would not be privileged for floor consideration at that time.

For example, clause 5(a) of Rule XIII grants certain committees "leave to report at any time" on certain kinds of measures within their jurisdictions. Once one of these measures is reported from committee, it becomes privileged for floor consideration, immediately or eventually. Under this rule, for instance, a special rule reported by the Rules Committee becomes privileged on the day after the committee reports it. Under the same rule, a general appropriations bill becomes privileged three days after being reported, but a continuing appropriations resolution is privileged only after September 15 of each year. Other rules and precedents grant privilege to such matters as conference reports, resolutions assigning Members to House committees, and resolutions raising "a question of the privileges of the House" (under Rule IX). Once any such matter becomes eligible for consideration, the appropriate Member (or, in some cases, any Member) can call it up for floor action when there is no other matter pending.

Rule XV designates certain days of each week or month on which special procedures take precedence over the regular order of business. For example, motions to suspend the rules are privileged on every Monday, Tuesday, and Wednesday, whereas motions to discharge committees must be listed on their calendar for at least seven days and then are privileged on the second and fourth Mondays of each month. The same rule also grants privilege on certain days to measures on the Private Calendar, to bills that committees call up on Calendar Wednesday, and to District of Columbia bills that the Committee on Oversight and Government Reform has reported.

¹ <http://www.congress.gov/erp/rs/pdf/RS20233.pdf>

Because of the House's reliance on this system of privileged business, there really is no such thing as a "typical day" on the House floor, except for the non-legislative proceedings that take place at the beginning and end of the day. Each daily session begins with the prayer, the approval of the *Journal*, and the Pledge of Allegiance. These opening proceedings usually are followed by some one-minute speeches that allow Members to comment on current legislative or other matters. However, the Speaker can control how many one-minute speeches are permitted on each day, or decline to allow any at all. After completion of legislative business on each day, there usually is a period of time for special-order speeches, arranged by unanimous consent, during which Members who have requested to do so can speak for as much as an hour each on subjects of their choice.

Between one-minute speeches and special-order speeches, the House's floor schedule of legislative business depends on what kinds of privileged matters are in order on that day and what specific privileged matters are ready for consideration, as well as on the sequence in which the majority party's leaders propose that the House consider them. With few exceptions, the majority party, acting through the Speaker or its majority on the Rules Committee, retains the ability to control the daily floor schedule by determining the sequence in which the House takes up various items of privileged business.

The flow of business on the House floor also depends on the day of the week and the time of the year. The House tends to be in session more often and for longer hours during the middle of the week than on Mondays and Fridays. Also, the House tends to meet more often and for longer hours later during the year than during the first months of each session, when much of the House's legislative work is being done in committee. As the end of each session of Congress approaches, the House sometimes meets in extended floor sessions. Finally, the House typically conducts certain kinds of legislative business during certain months of the year. For example, the House is expected to act on a budget resolution during the spring, and the floor schedule during the months of June and July often is dominated by the House's initial consideration of the annual general appropriations bills. By the same token, during the last weeks of September, the House frequently has been preoccupied with the need to complete the appropriations process before the new fiscal year begins on October 1.

One Minutes

Excerpt from CRS Report: RL30135²
Updated March 26, 2009

“One-Minute Speeches: Current House Practices” (p. 2-3)

Judy Schneider
Specialist on the Congress

Recognition for One-Minute Speeches

Recognition for one-minute speeches is the prerogative of the Speaker. Under his power of recognition (House Rule XVII, clause 2), the Speaker decides when he will entertain unanimous consent requests to address the House for one minute, and how many one minute speeches he will allow.

According to the Speaker’s announced policies, the chair “reserves the right to limit one-minute speeches to a certain period of time or to a special place in the program on any given day, with notice to the leadership.”³ When pressing legislative business is before the House, the Speaker may decide to limit the number of one minute speeches, to postpone one minutes until after legislative business, or to forego them altogether.

A period for one-minute speeches (hereafter referred to as “the one-minute speech period”) usually takes place at the beginning of each legislative day after the daily prayer, the Pledge of Allegiance, and approval of the previous day’s *Journal*. The Speaker determines the number of one minutes permitted during this period. This number varies from day to day. The Speaker might allow an unlimited number of speeches one day and then limit the number the following day (e.g., allow only 10 one minutes on each side of the aisle). The majority and minority leadership usually receive advance notification of any limitations.

A majority party Representative appointed as “Speaker *pro tempore*” usually presides in the chair during the one-minute speech period. In recent practice, the chair often announces how many one minutes will be allowed before the one-minute speech period begins.

Representatives seeking recognition for one minutes sit in the first row on their party’s side of the chamber. From the chair’s vantage point, Republican Members sit on the left side of the chamber and Democratic Members on the right side. In recognizing Members for one minutes, the chair observes the following announced policies of the Speaker:

“The chair will alternate recognition for one-minute speeches between majority and minority Members, in the order in which they seek recognition in the well under present practice from the Chair’s right to the Chair’s left, with possible exceptions for Members of the leadership and Members having business requests.”⁴

Because the chair moves from his right to left in recognizing Members, the Republican Member seated closest to the center aisle is recognized first on the *Republican side*, and the Democratic Member seated closest to the Speaker’s lobby is recognized first on the *Democratic side*. Recognition alternates from majority to minority throughout the period for one minutes.

In addition to the one-minute speech period, Members can usually ask unanimous consent to deliver a one minute after legislative business ends but before special order speeches begin.

² <http://www.congress.gov/erp/rl/pdf/RL30135.pdf>

³ The 1984 announcement of these policies is provided in *Congressional Record*, daily edition, vol. 130, Aug. 8, 1984, p. H8552. The Speaker’s announced policies for the 111th Congress continued the application of these 1984 policies. See *Congressional Record*, daily edition, vol. 155, Jan. 6, 2009, p. H22.

⁴ *Ibid.*

...

Delivering One-Minute Speeches

When recognized by the chair, individual Members ask unanimous consent to address the House for one minute and to revise and extend their remarks.⁵ Permission is almost always granted. Members speak from the well of the chamber. They are limited to one minute and cannot ask unanimous consent for additional time. When the chair announces that one minute has expired, the Member can finish the sentence underway but must then stop speaking. The chair's calculation of time consumed during a one-minute speech "is not subject to challenge on a point of order."⁶

When Members cannot finish their remarks in one minute, the permission to extend allows them to complete their speech in writing in the *Congressional Record*. The undelivered portion of their speech appears in a distinctive typeface. Permission to extend also authorizes Members to insert extraneous material such as a newspaper article or a constituent letter during a one-minute speech. The inserted material appears in a distinctive typeface.

⁵ Permission to *revise* gives Members the opportunity to make technical, grammatical, and typographical corrections only. Permission to *extend* authorizes the insertion of material such as a newspaper article or constituent letter during the one-minute speech.

⁶ *House Practice*, "Consideration and Debate" chapter, sec. 50, p. 426.

Special Orders

Excerpt from CRS Report: RL30136⁷
Updated March 31, 2009

“Special Order Speeches: Current House Practices” (p. 2-4)

Judy Schneider
Specialist on the Congress

Recognition for Special Orders

Recognition for special orders is the prerogative of the Speaker. While special orders routinely begin once legislative business is completed, the Speaker is not required to recognize Members for special orders as soon as legislative business ends. Under his power of recognition (House Rule XVII, clause 2), the Speaker can first recognize other Members for "unanimous-consent requests and permissible motions."⁸ The Speaker may also interrupt or reschedule the special order period to proceed to legislative or other business. Moreover, the Speaker can recognize Representatives for special orders earlier in the day (e.g., when the House plans to consider major legislation through the evening hours).

A majority party Representative appointed as "Speaker pro tempore" usually presides in the chair during special-orders. In recognizing Members, the chair observes the following announced policies of the Speaker:

- Representatives are first recognized for five-minute special order speeches, and then for longer speeches that do not exceed 60 minutes.
- Recognition alternates between the majority and minority for both the *initial* special order and *subsequent* special orders in each time category (i.e., five-minute special orders; longer special orders). In recognizing individual Members, the chair follows the order specified in the list of special order requests submitted by each party's leadership (see "Reservation of Special Orders" section).
- No special orders are allowed after midnight *on any day*.
- *On Tuesdays*, after all legislative business is completed, the chair can recognize Members for five-minute special orders and unlimited longer special orders until midnight.
- *On every day but Tuesday*, after the five-minute special orders, the chair can recognize Members for no more than four hours of longer special orders.⁹ The four hours are divided equally between the majority and minority. Each party can reserve the first hour of longer special orders for its leadership or a designee (a so-called "leadership special order" -- see below for more information). When less than four hours remains until midnight, each party's two-hour period is prorated.¹⁰

⁷ <http://www.congress.gov/erp/rl/pdf/RL30136.pdf>

⁸ U.S. Congress, House, *Procedure in the U.S. House of Representatives*, 97th Cong. (Washington: GPO, 1982), chap. 21, sec. 9.6-9.7, pp. 312-313.

⁹ This four-hour limitation can only be extended if the chair grants permission after consultation with the leadership of both parties and notification to the House.

¹⁰ For example, if the House completes legislative business at 11:00 p.m., Members are first recognized for five-minute special orders, and then the time remaining until midnight is divided between the two parties for longer special orders.

Each party's leadership usually chooses a designee to deliver a leadership special order during the party's first hour of longer special orders.¹¹ This designee will sometimes lead a thematic special order and yield time to other party Members. For example, on May 7, 1997, the minority leader's designee delivered a 60-minute special order on H.R. 3 (juvenile crime control legislation), with participation from other Democratic Members.¹² The majority leader's designee then led a 60-minute special order on the 1997 balanced budget agreement, during which he yielded time to other Republican Members.¹³

To summarize, under the Speaker's current announced policies, there are generally three "stages" to each day's special order period:

- first, five-minute special orders by *individual Members*;
- next, special orders longer than five minutes (normally 60 minutes in length) by *the party's leadership or designee*; and
- last, special orders longer than five minutes (length varies from six to 60 minutes) by *individual Members*.

Reservation of Special Orders

Members reserve five-minute and longer special orders through their party leadership: *Democratic* Members reserve time through the Office of the Majority Leader, and *Republican* Members reserve time through the Republican cloakroom or the party leadership desk on the House floor. Under the Speaker's announced policies, Members cannot reserve special orders more than one week in advance. Moreover, the date of the reservation does not affect the order in which the chair recognizes Members for special orders.¹⁴

The Speaker's announced policies require that the majority and minority leadership give the chair a list each day showing how the party's two hours of longer special orders will be allocated among party Members. The chair follows this list in recognizing Members for longer special orders.

For five-minute special orders, the majority and minority leadership compile a list of five-minute special order reservations each day. This list is given to a party Member who asks unanimous consent that each Member on the list be allowed to address the House for five minutes on a specific date. Permission is routinely granted by the House. A notice of granted five-minute special orders appears in the House section of the daily *Congressional Record* (under the heading "Special Orders Granted") and on the inside page of the daily "House Calendar" (formally called *Calendars of the United States House of Representatives and History of Legislation*).

Individual Members may also ask unanimous consent to give a special order speech at the last minute, to use another Representative's reserved special order time, or to deliver a reserved

¹¹ On occasion, a party's leadership may designate two party Reps. to lead back-to-back special orders that collectively total one hour. For example, on July 14, 1996, Rep. Frank Pallone and Del. Eleanor Holmes Norton were recognized for separate 30-minute special orders as the minority leader's designees. See *Congressional Record*, daily edition, vol. 142, July 14, 1996, pp. H5036 and H5039.

¹² *Congressional Record*, daily edition, vol. 143, May 7, 1997, pp. H2338-H2343.

¹³ *Ibid.*, pp. H2343-H2348.

¹⁴ This current practice, firmly established by the Speaker's announced policies of Jan. 5, 1995 and extended by the announced policies of Jan. 6, 2009, departs from earlier House practice. Previously, Members were recognized for special order speeches in the order that they reserved their speech (i.e., when three Members each reserved a 30-minute special order for a particular day, the Member who reserved the speech at the earliest date was recognized first). For other differences between current and earlier House practices, see the "Earlier Announced Policies of the Speaker" section.

special order out of the established sequence for that day. These unanimous consent requests are made infrequently and permission is usually granted.

The House vs. The Committee of the Whole

The House Under the Hour Rule

CRS Report: 98-427
Updated December 21, 2006

“Considering Measures in the House Under the One-Hour Rule”

James V. Saturno¹⁵
Specialist on the Congress

The fundamental rule of the House of Representatives governing debate is the one-hour rule. Clause 2 of Rule XVII states in part that no one shall "occupy more than one hour in debate on a question in the House...." When the House debates a bill on the floor under this rule, the bill is said to be considered "in the House." The House considers bills on the floor under the one-hour rule unless it resorts instead to one of the alternative packages of floor procedures for which the House's rules also provide, especially the Committee of the Whole and motions to suspend the rules. In fact, a primary advantage of these alternative procedures is that they avoid some of the difficulties that can arise when the House debates a bill under the one-hour rule.

In theory, the one-hour rule allows each Member of the House to speak for an hour on any question, meaning not only each bill, but also each amendment to that bill, and each debatable motion that Members propose during the bill's consideration. Potentially, the result could be debates of interminable length, which could make it impossible for the House to complete its legislative work in a timely fashion. In practice, however, the one-hour rule typically limits *all* Members of the House to a *total* of only a single hour of debate on the bill and any amendments and motions relating to its passage. This can be insufficient time for the House to consider many of the important and controversial bills that it takes up each year. As a result, the House actually debates relatively few bills on the floor each year under the one-hour rule. Although any bill or resolution on the House Calendar (but not those on the Union Calendar) can be considered "in the House," the measures most likely to be considered in this way are resolutions, reported by the Rules Committee, providing for other bills and resolutions to be considered in Committee of the Whole.

Controlling the First Hour

When a bill is considered "in the House," the Speaker recognizes the majority floor manager of the bill to control the first hour of debate. The majority floor manager typically is the chair of the committee or subcommittee that had reported the bill. The majority floor manager controls what happens during this hour. No one else can speak or propose an amendment or motion unless the majority floor manager yields to another Member for that purpose. In virtually every case, the majority floor manager supports the bill in the form in which it is called up for consideration, so the manager is very unlikely to yield to anyone else for the purpose of offering an amendment. Instead, the majority floor manager normally yields part of his or her one hour to other Members "for purposes of debate only."

Opening Statements

The majority floor manager first makes his or her opening statement on the bill. Even before beginning this statement, the majority floor manager very often yields control of one-half of his or her hour to be controlled by the minority floor manager, who usually is the ranking minority member of the same committee or subcommittee. In these instances, the majority floor manager

¹⁵ Stanley Bach, former Senior Specialist at CRS, originally wrote this report. The listed author updated this report and is available to respond to inquiries on the subject.

opens the debate and then reserves the balance of his or her time. The minority floor manager follows with an opening statement and also concludes by reserving the balance of his or her time.

Yielding Time

Each floor manager then yields portions of the time remaining under his or her control to other Members who also wish to speak. Either floor manager may yield to another Member for a specified number of minutes or for as much time as that other Member may consume. At the conclusion of each speech, the Speaker again recognizes one of the floor managers either to speak or to yield time for other Members to speak. In doing so, the Speaker may recognize the floor manager who has the most time remaining in an effort to make sure that the time for debate on each side is used at roughly the same rate. The majority floor manager has the right to close the debate.

The Previous Question

At the end of the hour, or at least after any time that the minority floor manager controls has been consumed or yielded back, the majority floor manager can be expected to move the previous question on the bill. This nondebatable motion proposes to end the debate on the bill, to preclude amendments to the bill, and to bring the House to a vote on passing the bill without intervening motions, except for the possibility of motions to adjourn, or to table the bill, or to recommit the bill to committee. The motion to order the previous question requires only a simple majority vote for adoption, and the motion rarely is defeated. *As a result, debate under the one-hour rule rarely continues for more than one hour in total, not one hour for each Member.*

Opportunities to Amend

There are two ways in which Members may be able to offer amendments to a bill that is considered "in the House." First, the motion to recommit the bill can instruct the committee to report the bill back to the House immediately with a certain amendment that is contained in the instructions. The House's rules protect the right of the minority party to offer such a motion. Second, it may be possible to offer an amendment before the previous question is ordered; however, there is no right to do this and it happens infrequently. Only the Member who controls the floor -- in other words, the Member whom the Speaker has recognized for an hour -- can propose an amendment to a bill that is being considered "in the House." The bill's proponents usually are not interested in offering an amendment. An opponent can propose an amendment only if he or she controls the floor. This requires that the House first vote against ordering the previous question, allowing the debate to continue for a second hour. To control this hour, the Speaker recognizes the leading opponent of ordering the previous question, usually the minority floor manager, and that Member then can propose an amendment. At the conclusion of the second hour, if not before, the Member controlling the floor can be expected to move the previous question on both the bill and the amendment to it. If the House votes to order the previous question, it proceeds to vote first on the amendment and then on the bill as it may now have been amended.

The Committee of the Whole

CRS Report: RS20147¹⁶
Updated March 20, 2007

“Committee of the Whole: An Introduction”

Judy Schneider
Specialist on the Congress

History

The Committee of the Whole has been an accepted practice in the United States Congress since the First Congress convened in 1789. It was used earlier in many of the colonial legislatures, as well as in the Continental Congress. The custom has its antecedents in English parliamentary practice. De Alva Stanwood Alexander, an historian of the House of Representatives and a former Representative himself, wrote:

This Committee has a long history. It originated in the time of the Stuarts, when taxation arrayed the Crown against the [House of] Commons, and suspicion made the Speaker a tale-bearer to the King. To avoid the Chair's espionage the Commons met in secret, elected a chairman in whom it had confidence, and without fear of the King freely exchanged its views respecting supplies. The informality of its procedure survived the occasion for secrecy, but to this day the House of Commons keeps up the fiction of concealment, the Speaker withdrawing from the hall when the Committee convenes, and the chairman occupying the clerk's desk.¹⁷

Use of the Committee of the Whole in the current practice of the House of Representatives has changed considerably from the form first used in 1789. Until the early 1800s, the House used committees of the whole to work out the broad outlines of major legislation. A select committee would then be appointed to draft a bill. When the select committee reported the bill to the House, the House would then refer the measure to a Committee of the Whole for debate and amendment before itself considering the question of passage.¹⁸

Historian Ralph Volney Harlow commented on the committee of the whole as a forum in which the broad outline of legislation could be discussed:

The committee of the whole is really a compromise between a regular session, and an adjournment for purposes of discussion. The latter method could not be used to advantage in any large assembly, because some restraining influence would be necessary. But the primitive form of the committee of the whole was probably a short adjournment, during which members could move about from one to another, and freely discuss the merits of the matter under consideration.¹⁹

Gradually, the standing committee system grew up in the House of Representatives, replacing the temporary select committees of the earlier era. Standing committees assumed the overview and drafting functions previously divided between a committee of the whole and a select committee.

As a result, the purpose for convening in Committee of the Whole began to change. The concept found in current practice is that of the principal forum for discussion and amendment of legislation. Contemporary Committee of the Whole procedures are not without some restriction, but they are more flexible than those employed in the formal sessions of the House of Representatives.

¹⁶ <http://www.congress.gov/erp/rs/pdf/RS20147.pdf>

¹⁷ De Alva Stanwood Alexander, *History and Procedure of the House of Representatives* (Boston and New York: Houghton Mifflin Company, 1916), p. 257.

¹⁸ Congressional Quarterly, Inc., *Origins and Development of Congress* (Washington, D.C., 1976), p. 83.

¹⁹ Ralph Volney Harlow, *The History of Legislative Methods in the Period Before 1825* (New Haven: Yale University Press, 1917), p. 92.

For a comparison of characteristics of the House and the Committee of the Whole in contemporary practice, please see Table 1 at the end of this report.

Resolving Into Committee

When the House of Representatives resolves itself into the Committee of the Whole, two simple rituals mark the transformation. First, the mace — a column of ebony rods which sits on a green marble pedestal to the right of the Speaker on the podium — is moved to a white marble pedestal positioned lower on the podium. The mace represents the authority of the sergeant of arms to maintain order in the House. When it is removed from the higher position on the podium, it signals the House is no longer meeting as the House of Representatives in regular session, but in the Committee of the Whole.

Second, the Speaker descends the podium, and designates a majority party colleague to take his place and assume the duties of the presiding officer during the deliberations of the Committee of the Whole. The Member designated by the Speaker thus becomes the chairman of the Committee of the Whole and is responsible for recognizing Members, maintaining order, and ruling on points of order. During meetings of the Committee of the Whole, Members address the chair not as “Mr. Speaker” but as “Mr. Chairman” or “Madam Chairman.”

Under the Standing Rules of the House, a measure that raises revenue, directly or indirectly appropriates money, or authorizes the expenditure of money *must* be considered in the Committee of the Whole. Other types of measures *may* be considered in the Committee of the Whole, if the House so decides, or if a rule-making statute so requires.

In either case, the House of Representatives must first agree to resolve itself into the Committee of the Whole. It does so in three ways: by unanimous consent, by adopting a motion to resolve into the Committee of the Whole, or by adopting a “special rule” that authorizes the Speaker to declare the House resolved into the Committee of the Whole for the purpose of considering a specified measure.

In addition to making the consideration of a specific measure in order in the Committee of the Whole, each of these three approaches will most likely limit general debate time and assign its control. They may also specify the number and types of amendments which may be offered, may designate debate time on amendments, and may waive points of order against House rules, if a provision in the measure could otherwise be held in violation of them.

Procedural Advantages

Once the House resolves itself into the Committee, the measure before the Committee is debated and amended. In general, the Committee of the Whole observes the rules of procedure of the House of Representatives insofar as they are applicable.

There are several important differences between proceedings in the House of Representatives and proceedings in the Committee of the Whole that make legislative deliberation in the Committee an attractive alternative.

Quorums

In the House, a majority of the membership is required to constitute a quorum to conduct business. If all 435 seats are filled, a majority is 218 Members. In the Committee of the Whole, however, only 100 members are required to constitute a quorum. The chairman may vacate further proceedings under a quorum call as soon as 100 members have answered the call, and the minimum 15-minute period allowed for a quorum call need not be used in its entirety, as is the case in the House.

In addition, the chairman of the Committee is generally allowed the discretion of whether or not to permit a quorum call during general debate. Furthermore, if the presence of a quorum has been established once during any day's deliberations in the Committee, the chairman need not entertain a quorum call unless a pending question has been put to a vote during the amendment process.

Debate on Amendments

The basic rule governing debate in the House is the "one-hour" rule. In theory, this means any Member receives one hour to debate when recognized on any question. By custom, this hour is divided between the majority and minority, with each side receiving 30 minutes. Members often yield time to one another, but normally only for the purpose of debate, and not for the offering of amendments or procedural motions. It is unusual for the House to proceed to a second hour of debate under the "one-hour" rule.

In the Committee of the Whole, however, the basic rule governing debate of amendments is the "five-minute" rule. Supporters of amendments offered in Committee receive five minutes of debate time and opponents of the proposition receive five minutes.

Thus, more Members are likely to participate in debate under the "five-minute" rule in Committee than is possible under the "one-hour" rule in the House.

To gain five minutes of debate time on a pending amendment, a Member may offer a nonsubstantive amendment, also called a "pro forma amendment," to "strike the last word" or "strike the requisite number of words." Thus, a Member overcomes the rule applicable in the Committee of allowing only five minutes for a Member to speak in support of an amendment and five minutes for a Member to speak in opposition to an amendment. A Member may also seek unanimous consent to continue for a short, specified period of time.

Ending Debate

In the House, debate can be ended by moving the previous question. However, the previous question not only ends debate, it also brings the matter before the House to an immediate vote. This precludes the possibility of any further amendments or discussion. Neither debate nor amendments to the motion for the previous question are in order.

The previous question is not in order in the Committee of the Whole. However, additional and more flexible choices exist. A motion either to close debate or to limit the time for further debate (e.g., to 20 minutes, to 4:00 p.m., etc.) may be offered in the Committee. Either motion is debatable and can be further refined through amendment. In practice, the floor manager of a bill will more often ask unanimous consent that debate be either closed or limited and offer a motion only if unanimous consent cannot be obtained.

In addition, even if a motion to close debate is agreed to in the Committee, Members may still offer amendments they have filed at the desk. These will be considered, but without debate. However, if Members had their amendments printed in the *Congressional Record* in advance of floor proceedings, they are guaranteed 10 minutes of debate on those amendments. In practice, this protection can be overturned by a "special rule" adopted by the House prior to the commencement of proceedings in the Committee if the special rule provides other amendment procedures.

Recorded Votes

A smaller number of Members are required to support a call for a recorded vote in the Committee than are required in the House. In the House, one-fifth of those present and supporting a recorded vote constitutes a sufficient number to trigger a recorded vote. If the minimum 218 Members necessary to constitute a quorum in the House are present, the number needed to call

for a recorded vote would be 44. In Committee, 25 Members are needed under any circumstances to support the call for a recorded vote.

Rising of the Committee

The Committee of the Whole dissolves itself by “rising.” If the Committee has not completed consideration of the measure before it, the floor manager may offer a simple motion to rise. At a later time, the House may choose to resolve itself again into the Committee of the Whole to resume consideration of the same measure. If the Committee has completed its deliberations, Members may agree to a motion to rise and report to the House of Representatives the actions and recommendations of the Committee. Once the decision to rise has been made, the chairman of the Committee descends the podium and the Speaker ascends to take his place as presiding officer of the House of Representatives. The mace is returned to its original location.

The chairman then reports to the House those amendments that were adopted in the Committee and the Committee’s recommendation on the question of final passage of the measure. (Neither second-degree amendments nor substitutes that were adopted nor any first or second-degree amendments that were defeated in the Committee are reported to the House.) The House must then formally agree to any amendments reported by the Committee. Therefore, it is possible that amendments that were adopted by the Committee of the Whole could be defeated by the House of Representatives.

The House may agree to all the amendments reported to it by the Committee of the Whole through one vote (“en gross”), or separate votes may be demanded on any amendments agreed to in the Committee. The votes on amendments could also be structured pursuant to the provisions of a “special rule” adopted earlier. Votes are put on such amendments in the order in which they appear in the bill, not in the order by which the request was made. The House then considers, with the possibility of several intervening motions such as a motion to recommit, the question of final passage of the measure.

Table 1. Comparison of Characteristics of the House and the Committee of the Whole

House	Committee of the Whole
Mace raised	Mace lowered
Speaker presides	Chairman presides
One hour rule	Five minute rule for amendments
More than half the House (218) is a quorum	100 is a quorum
44 Members (or 1/5th of those present) a “sufficient number” to trigger a recorded vote	25 Members a “sufficient number” to trigger a recorded vote
Motion for previous question is in order; terminates debate and precludes offering further amendments.	Motion to limit or end debate is in order, but does not preclude offering of further amendments.
Motion to recommit in order	Not in order
Motion to reconsider in order	Not in order
Routine business of House	Not in order

Quorums in House Floor Proceedings

Excerpt from CRS Report: 97-704

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“Quorums in House Floor Proceedings: An Introduction”

Stanley Bach

Senior Specialist in the Legislative Process
Government and Finance Division

Summary

This report presents a brief explanation of the House's rules and procedures relating to the quorum requirements applicable on the House floor. Additional and more authoritative information may be found in the commentary accompanying pertinent House rules and appearing in the most recent edition of the House rules manual, formally entitled *Constitution, Jefferson's Manual and Rules of the House of Representatives*.

Background

For the most part, the Constitution empowers the House of Representatives and the Senate to establish the procedures by which each house conducts its legislative business. Under section 5, clause 2, of Article I, "[e]ach House may determine the Rules of its Proceedings." However, there are certain exceptions to this discretionary authority, including a provision of the immediately preceding clause stating that "a Majority of each [House] shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide."

So the Constitution stipulates that a quorum for House floor proceedings is a simple majority of the membership, or 218 of the 435 Representatives (assuming that there are no vacancies in the House). Furthermore, the Constitution would appear to require that this majority of Representatives actually must be present on the floor whenever the House is conducting legislative business, with the limited exception for adjournments and related proceedings. Yet any observer of the House will notice that it is quite unusual for 218 Members to be on the floor at the same time. In fact, it would be extremely difficult for the House's committees as well as its individual Members to meet all their official responsibilities if a majority of Representatives had to be present at every moment that the House is in session. How then does the House reconcile its practices with the constitutional requirement of Article I?

There are essentially two devices that the House has developed to give itself valuable flexibility in complying with the constitutional quorum requirement. One involves reliance on the Committee of the Whole; the other involves the definition of "business" that a quorum must be present to conduct.

The Committee of the Whole

The constitutional quorum requirement does not apply during meetings of this committee because technically they are not meetings of the House of Representatives. So the House has decided for itself what the quorum in this committee should be. The rules of the House state that the quorum needed during meetings of the Committee of the Whole is only 100, compared with the 218 Members who constitute a quorum of the House.

However, the Committee of the Whole has no authority actually to amend the bill. Instead, it votes on whether it wishes to recommend each amendment to the House because only the House, not the Committee of the Whole, can vote to amend legislation. It is this fact—that the Committee of the Whole cannot amend legislation—that allows the House to assert that the Committee of the

Whole is another form of committee and is not simply the House meeting under a different name...

Because of the House's heavy reliance on the Committee of the Whole, the quorum requirement that usually must be satisfied on the floor is not 218, which is a majority of the total membership of 435, but only 100, which is the quorum that the House has established in its own rules to apply in the Committee of the Whole. In theory, at least, the House could reduce the quorum requirement in the Committee of the Whole to any level it chooses—to 10 instead of 100 members, for example—though it has been 100 for more than a century.

The Presumptive Quorum

The House presumes that a quorum always is present, whether in the House or in the Committee of the Whole, unless the absence of a quorum is demonstrated conclusively, either by a quorum call or by a record vote. This is a reasonable and appropriate presumption because the alternative would be to presume that the House is not complying with the Constitution.

Furthermore, it is not the Speaker's (or the chairman's) responsibility to ensure that a quorum is present, and he never is required to take the initiative to count to determine the presence of a quorum. Instead, any Member can demand that the roll be called to demonstrate that a quorum is present. In recent years, however, the House has amended its rules to limit the occasions when Members are allowed to demand quorum calls. The effect of these rules changes has been implicitly to narrow the definition of the "business" that a quorum must be present to conduct, according to the Constitution.

To summarize the effect of a complicated body of rules, about the only time that a Representative has a right to challenge the presumption that a quorum is present is when a vote is taking place. At almost all other times, it is left to the discretion of the Speaker or the chairman of the Committee of the Whole to decide whether to permit a request for a quorum call or to entertain a point of order that a quorum is not present. In this way, the House can meet on the floor with few Members present. When a vote takes place, Members come to the chamber to record their presence, but then they can leave again until the next vote occurs.

It is equally important to observe that Representatives do not enforce the applicable quorum requirements as often as the House's rules still permit. Quorum calls and record votes occur in connection with only a small fraction of all the votes that take place on the House floor. The first vote taken on any question is a "voice" vote: all those in favor of agreeing to the question call out "Aye," followed by those opposed who call out "No."

The Speaker (or the chairman of the Committee of the Whole) then decides which side prevailed. This vote is final and valid even if there are very few Representatives present and voting so long as no one objects to the vote on the ground that a quorum was not present. The presumption in this situation is that a quorum (whether 218 in the House or 100 in Committee of the Whole) participated in the voice vote.

If any Member is dissatisfied with how the Speaker or chairman heard the voice vote, he or she can demand a division vote. In this case, those in favor stand and are counted, followed by those opposed. The Speaker or chairman then announces how many Representatives voted on each side, and this vote also is final and valid, even if the total number of Members voting do not constitute a quorum—again, unless a Member objects to the vote on the ground that a quorum was not present. The presumption in this case is that a quorum was present on the floor even if not all of those Members chose to vote.

The House interprets the Constitution to require that a quorum be present, not that a quorum actually vote. As the House Parliamentarian has stated in his commentary on the House's rules, "[a] vote by division takes no cognizance of Members present but not voting, and consequently the number of votes counted by division has no tendency to establish a lack of a quorum."

Whether in the House or in the Committee of the Whole, any Member can object to any voice or division vote, making the point of order that a quorum was not present. In that case, the Speaker or chairman counts to determine whether a quorum is on the floor.

If it is not, what occurs depends on whether it is a meeting of the Committee of the Whole or a meeting of the House that is taking place. In the Committee of the Whole, there first is a quorum call, which may be followed by a record vote on the pending question if enough Members request it. In the House, there is a record vote on the pending question; by casting their votes on this question, Members also document the presence of a quorum.

To repeat, though, most votes that take place on the House floor do not provoke a record vote, either because they are routine and non-controversial, or because their outcome is not in doubt and Members are reluctant to inconvenience all their colleagues unnecessarily by requiring them to come to the floor for a quorum call or a record vote.

Recognition

House Practice Chapter 46 Recognition

A. Introduction; Power of Recognition

§ 1. In General; Seeking Recognition

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

Duty to Rise and Remain Standing

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

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

Form

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

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

Note: This form of address is used whether the Member is seeking recognition to offer a proposition or interrupt a Member having the floor. 5 Hinds § 4979; 6 Cannon § 193. Such salutations as "Gentlemen of the House" or "Ladies and gentlemen" are not in order. 6 Cannon § 285. Where a woman is presiding, the term "Madam Speaker" or "Madam Chairman" is used. 6 Cannon § 284.

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

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

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

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

Recognition to Interrupt a Member

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

Cross References

Recognition is governed in specific instances and in specific parliamentary situations by practices covered fully elsewhere in this work; for example, AMENDMENTS; PREVIOUS QUESTION; REFER AND RECOMMIT; and RECONSIDERATION.

For the Speaker's announced policy of conferring recognition for unanimous-consent requests for the consideration of certain measures, see UNANIMOUS-CONSENT AGREEMENTS.

§ 2. Power and Discretion of Chair

In Jefferson's time, the Speaker was required by House rule to recognize the Member who was "first up." 2 Hinds § 1420. In case of doubt, there was an appeal from his recognition of a particular Member. 2 Hinds §§ 1429–1434. This practice was changed, beginning in 1879, when the House adopted a report asserting that "discretion must be lodged with the presiding officer." The report alluded to the practice of listing those Members desiring to speak on a given proposition but indicated that the Chair should not be obligated to follow the order stipulated. Rather, the report recommended that the Chair be free to exercise "a wise and just discretion in the interest of full and fair debate." 2 Hinds § 1424. Today rule XVII clause 2 gives the Chair the power and discretion to decide who shall be recognized, and his decision is no longer subject to appeal. *Manual* §§ 949, 953; 8 Cannon §§ 2429, 2646. There has been no appeal from a decision of the Speaker on a question of recognition since 1881. *Manual* § 356.

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

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

§ 3. Limitations; Bases for Denial

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

§ 4. Alternation in Recognition

In the House

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

Absent a special rule making party affiliation pertinent, the Chair alternates according to differences on the pending question rather than according to political affiliation. 2 Hinds § 1444. Where the special rule allots control of time to “the chairman and the ranking minority member of the committee” (which is ordinarily the case in the modern practice) the term “minority” is construed to refer to the minority party in the House and not to those in the minority on the pending question. 7 Cannon § 767. However, a special rule that allots control of time to those for and against a proposition does not necessarily require a division between the majority and minority parties of the House but, rather, a division between those actually favoring and opposing the measure. 7 Cannon § 766. Rules found in provisions of law establishing procedures for overturning executive decisions normally provide for equal division of time for debate between those favoring and those opposing a proposition, without designating who should control the time. Therefore, it is within the discretion of the Chair to recognize a Member supporting and a Member opposing the measure. *Manual* § 1130; 7 Cannon § 785.

In Committee of the Whole

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

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

B. Right to Recognition; Priorities

§ 5. In General

Rule XVII clause 2 directs the Speaker to “name the Member who is first to speak” when two or more Members rise at once. The Speaker or Chairman has the discretion to determine the order or sequence in which Members will be recognized in debate. *Manual* § 949; Deschler-Brown Ch 29 §§ 9.2, 12.1, 19.20. However, the Chair’s determination of priorities is governed by many factors, such as whether the pending proposition has been reported by a committee, whether it is given priority or is privileged under the rules, and whether the rules and practices of the House dictate a priority in recognition. For example, in recognizing a Member for a motion to recommit (who must qualify as being opposed to the bill), the Speaker gives preference to the Minority Leader and then to minority members of the committee reporting the bill in order of their rank on the committee. Deschler Ch 23 § 27.18; generally, see REFER AND RECOMMIT.

§ 6. Priorities of Committee Members

Priority of Committee Members Over Nonmembers

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

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

Recognition of Committee Chairmen

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

Priorities as Between Committee Members

Recognition is extended to committee members on the basis of their committee seniority, with the Chair alternating between members of the majority and the minority. Deschler-Brown Ch 29 § 13.25; § 4, *supra*. Where opposition is relevant to recognition and no committee member rises in opposition to the measure, any Member may be recognized in opposition. 7 Cannon § 958.

Effect of Failure to Seek Recognition

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

§ 7. Right of Member in Control

Where a Member has been placed in charge of a bill by the reporting committee, or has been so designated by a special rule from the Committee on Rules, the Member named as manager is recognized to call up the measure.

Rule XVII clause 3(a); Deschler-Brown Ch 29 § 27.1. Preference in recognition is accorded to the manager over other Members. Rule XVII clause 3(a); Deschler-Brown Ch 29 § 24.1. This priority in recognition of the Member in charge prevails in both the House and in the Committee of the Whole. Rule XVII clause 3(a); Deschler-Brown Ch 29 §§ 12.10, 14.3.

The Member in charge of the bill also is entitled at all stages to priority in recognition for allowable motions intended to expedite the bill, from the time of its first consideration to the time of

consideration of Senate amendments and conference reports. 2 Hinds §§ 1451, 1452, 1457; 6 Cannon §§ 300, 301. For example, the Member who has been recognized to call up a measure in the House has priority in recognition to move the previous question thereon, even over the chairman of the committee reporting that measure. *Manual* § 953.

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

§ 8. Right to Open and Close General Debate

Generally

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

The manager of a bill for purposes of closing general debate may be the chairman of the reporting committee or a designated majority member of that committee. Deschler-Brown Ch 29 §§ 7.3, 7.4. The right of the manager to open and close general debate under rule XVII clause 3 is recognized in both the House and the Committee of the Whole. Deschler-Brown Ch 29 § 7.4.

Rights of Proponents

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

§ 9. To Close Debate on Amendments

Recognition of Manager of Bill for Motion to Close Debate

In the Committee of the Whole, the Member managing the bill is entitled to priority in recognition to move to close debate on a pending amendment over other Members who desire to debate the amendment or to offer amendments thereto. Deschler-Brown Ch 29 § 78.9.

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

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

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

Recognition of Proponent of Amendment

Under certain circumstances, the proponent of an amendment may close debate where he is not opposed by a manager. For example, the proponent may close debate where neither a committee representative nor a Member assigned a managerial role by the governing special order opposes the amendment. Where a committee representative is allocated control of time in opposition to an amendment, not by recognition from the Chair but by a unanimous-consent request of a third Member who was allocated the time by the Chair, then the committee representative is not entitled to close debate as against the proponent. Similarly, the proponent of the amendment may close debate where no representative from the reporting committee opposes an amendment to a multijurisdictional bill; where the measure is unreported and has no “manager” under the terms of a special rule; or where a measure is being managed by a single reporting committee and the Member controlling time in opposition, though a member of a committee having jurisdiction over the amendment, does not represent the reporting committee. *Manual* § 959.

C. Recognition on Particular Questions

§ 10. In General; As to Bills

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

proponent who calls up the measure is entitled to priority in recognition for motions and debate. 2 Hinds §§ 1446, 1454; 8 Cannon § 2454.

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

Discharged Bills

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

Measures Called Up by Unanimous Consent

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

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

§ 11. For Motions

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

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

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

§ 12. Of Opposition After Rejection of Motion

Generally

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

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

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

The principle that recognition passes to a Member of the opposition is applicable upon defeat of an *essential* motion by the Member in charge of the bill. A motion to postpone consideration to a day certain is not an essential motion whose defeat requires recognition to pass to a Member opposed. Deschler-Brown Ch 29 § 15.2. The mere defeat of an amendment proposed by the Member in charge does not always cause the right to priority in recognition to pass to the opponents. 2 Hinds § 1478. In any case, the recognition for a motion by a Member in opposition may be preempted by a motion of higher precedence. *Manual* § 954.

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

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

§ 13. As to Special Rules

Calling Up Special Rules

Recognition to call up special rules—that is, order-of-business resolutions from the Committee on Rules—may be sought pursuant to the provisions of rule XIII clause 6(d). *Manual* § 861. Ordinarily, only a member of the Committee on Rules designated to call up a special rule from the committee may be recognized for that purpose. Deschler-Brown Ch 29 § 18.13.

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

Recognition for Debate

A Member recognized to call up a special rule or resolution by direction of the Committee on Rules controls one hour of debate thereon and may offer one or more amendments thereto. Deschler-Brown Ch 29 § 24.26. He need not have the specific authorization of the committee to offer an amendment. *Manual* § 858. He is recognized for a full hour, notwithstanding the fact that he previously has called up the resolution and withdrawn it after debate. Deschler-Brown Ch 29 § 18.17. Other Members may be recognized only if yielded time. Deschler-Brown Ch 29 § 29.23. The resolution is not subject to amendment from the floor by another Member unless the Member in charge yields for that purpose or the House rejects a motion for the previous question. 6 Cannon § 309; Deschler-Brown Ch 29 § 30.5.

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

§ 14. Under the Five-Minute Rule

Generally; Effect of Special Rule

Recognition of Members to offer amendments in the Committee of the Whole under the five-minute rule is within the discretion of the Chair and cannot be challenged on a point of order. Deschler-Brown Ch 29 § 9.6. The Chair does not anticipate the order in which amendments may be offered nor does he declare in advance the order in which he will recognize Members proposing amendments. Deschler-Brown Ch 29 § 21.3. The Chair endeavors to alternate recognition to offer amendments between majority and minority Members (giving priority to committee members). *Manual* § 980.

Of course, if a special rule reported from the Committee on Rules specifies those Members who are to control debate, the Chair will extend recognition accordingly. However, where the special rule merely *makes in order* the consideration of a particular amendment, it does not confer a privileged status on the amendment and does not, absent legislative history establishing a contrary intent by the Committee on Rules, alter the principle that recognition to offer an amendment under the five-minute rule is within the discretion of the Chairman of the Committee of the Whole. 95–2, May 23, 1978, p 15095. Under the modern practice, special orders often provide discretionary priority in recognition to Members who have preprinted their amendments in the *Congressional Record*. See, e.g., 107–2, H. Res. 428, May 22, 2002, p II. As to the effect of special rules on the control and distribution of debate time, see CONSIDERATION AND DEBATE.

Priority of Committee Members over Noncommittee Members

Committee amendments to a pending section are considered before the Chair entertains amendments from the floor. Deschler Ch 27 §§ 26.1–26.3. When entertaining amendments from the floor during the five-minute rule, the Chair follows certain guidelines as a matter of long-standing custom. Among them is that recognition is first accorded to members of the committee reporting the bill over Members of the House who are not on that committee. Deschler-Brown Ch 29 § 21.1. Thus, the Chair normally will recognize a member of a committee reporting a bill to offer a substitute for an amendment before recognizing a noncommittee member, although that committee member may have been recognized separately to debate the original amendment. Deschler-Brown Ch 29 § 13.20. Members of the committee reporting a pending bill are entitled to priority in recognition over noncommittee members, without regard to their party affiliation. Thus the Chair may accord priority in recognition to minority members of the reporting committee over majority noncommittee members to offer amendments. Deschler-Brown Ch 29 § 13.11.

Priorities as Between Committee Members

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

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

§ 15. Under Limited Five-Minute Debate

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

- Announce that he will attempt to divide the time equally among those Members standing at the time the limitation is imposed and then, if time remains, recognize other Members seeking recognition. Deschler-Brown Ch 29 § 22.13.
- Divide the time equally among all those Members who were on their feet seeking recognition, whether or not they have previously spoken to the question. Deschler-Brown Ch 29 § 22.9.

- Recognize Members wishing to offer amendments and those opposed to the amendments. Deschler-Brown Ch 29 § 22.15.
- Divide the time between the majority and minority managers of the bill. Deschler-Brown Ch 29 § 79.71.
- Allocate time on an amendment between the proponent and an opponent thereof, to be yielded by them. Deschler-Brown Ch 29 § 24.29.
- Recognize first those Members wishing to offer amendments after having equally divided the time among all Members desiring to speak. *Manual* § 987.
- Recognize during remaining time those Members who have a desire to speak, and then Members who have not spoken to the amendment or Members who were recognized for less than five minutes under the limitation of time. Deschler-Brown Ch 29 § 25.10.
- Allocate the remaining time in three equal parts—to the offeror of an amendment, to the offeror of an amendment to the amendment, and to the floor manager of the bill. Deschler-Brown Ch 29 § 79.78.
- Continue to recognize Members under the five-minute rule (usually where the time remaining for debate is fixed at a longer period, such as an hour and a half, and is subject to any subsequent limitations on time ordered on separate amendments when offered). Deschler-Brown Ch 29 §§ 79.32, 79.46.
- Continue to recognize Members under the five-minute rule but subsequently divide any remaining debate time among those Members standing and reserve some time for the committee to conclude debate. Deschler-Brown Ch 29 § 79.125.
- Reallocate remaining time, after initial allocation, among Members who have not spoken or proceed again under the five-minute rule. Deschler-Brown Ch 29 § 22.43.

§ 16. As to House–Senate Conferences

Recognition to Seek a Conference

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

Motions to Instruct Conferees

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

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

Calling Up Conference Reports

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

Management of Debate

House Practice Chapter 16 Consideration and Debate

B. Control and Distribution of Time for Debate

§ 10. In General; Role of Manager

Under long-standing practice, and as usually provided by special rules, one or more designated Members manage a bill during its consideration. Such managers are normally the chairman and ranking minority member of a committee reporting the measure. § 14, *infra*. The majority manager of a measure has procedural advantages enabling him to expedite its consideration and passage. He is entitled to the prior right to recognition unless he surrenders or loses control or unless a preferential motion to recommit is offered by an opponent of the bill. See RECOGNITION.

If the bill is to be taken up in the House under the standing rules, the manager calling it up is entitled to one hour of debate, which he may in his discretion yield to other Members. See § 15, *infra*. He may at any time during his hour move the previous question, thereby bringing the matter to a vote and terminating further debate, unless he has yielded control of time to another. See § 45, *infra*; see also PREVIOUS QUESTION.

The manager of a bill enjoys a similar advantage in the Committee of the Whole where the bill is being considered under a special rule or unanimous-consent agreement. General debate therein typically is controlled and divided by the majority and minority managers. The majority manager has the right to close general debate. *Manual* § 959. When the bill is read for amendment in the Committee, the managers have the prior right to recognition, whether to offer an amendment or oppose an amendment or to move to close or to limit debate or to move that the Committee rise. Similarly, if the bill is taken up in the House as in the Committee of the Whole, priority in recognition is extended during debate to members in charge of the bill from the reporting committee. See RECOGNITION.

Once a measure has been approved by a standing committee of the House, its chairman has a duty under the rules to report it promptly and to take steps to have the matter considered and voted upon. Rule XIII clause 2(b). When the measure is called up, the reporting committee manages the bill during the various stages of its consideration. The designated managers from the committee, and then other members of the committee in order of seniority, have priority in recognition at all stages of consideration. See RECOGNITION. When a chairman is opposed to a bill (although rare), the responsibility for managing the bill may be delegated to the ranking majority member of the committee. Deschler-Brown Ch 29 § 26.7. Such delegation of control is ineffective where challenged unless communicated to the Chair. Deschler-Brown Ch 29 § 26.30. The chairman also may relinquish control where the Committee of the Whole has adopted amendments to the bill to which he is opposed. Deschler-Brown Ch 29 § 26.8.

Where the measure falls within the jurisdiction of two standing committees, the chairman of one of them may yield to the chairman of the other to control part of the available time and to move the previous question. Deschler-Brown Ch 29 § 26.10. For further discussion on control of debate by managers, see also § 12, *infra*.

§ 11. Distribution and Alternation; Closing General Debate

The distribution of available time for debate, and the alternation of time between majority and minority members, is governed by principles of comity and by House tradition, as well as by standing rules of the House and by special rules. *Manual* § 955. A division of time for debate on certain motions may be required, and a Member opposed may claim a priority to control a portion

of the time. For example, rule XV clause 1(c) requires a division of time for debate on a motion to suspend the rules between those in favor and those opposed. *Manual* § 891. Under rule XXII, one-third of the time may be claimed by a Member opposed to conference reports, motions to instruct conferees, and amendments reported from conference in disagreement, where both the majority and minority managers support the proposition.

The Chair alternates recognition between those favoring and those opposing the pending proposition where a rule or precedent gives some control to an opponent or, traditionally, between the parties where time is limited. Special rules commonly divide control of time for general debate equally between the chairman and ranking minority member of the committees reporting the measure. When a special rule itself is being considered, the majority floor manager customarily yields half of the time to the minority. Alternation generally, see RECOGNITION.

A majority manager of the bill who represents the primary committee of jurisdiction is entitled to close general debate, as against another manager representing an additional committee of jurisdiction. Where an order of the House divides debate on an unreported measure among four Members, the Chair will recognize for closing speeches in the reverse order of the original allocation. Similarly, where general debate on an adversely reported measure is controlled by two Members allocated time under a previous order of the House and by two other Members deriving subdivisions of that time under a later order by unanimous consent, the Chair may recognize for closing speeches in the reverse order of the original allocation, concluding with the Member who opened the debate. Where a Member derives time for debate from the manager of a measure by unanimous consent, that Member also derives the right to close debate thereon. Where a member of the minority is recognized under a special order to call up a Senate concurrent resolution from the Speaker's desk, he is recognized to open and close debate thereon. *Manual* § 959.

§ 12. Management by Committee; Closing Controlled Debate on an Amendment

Special orders providing “modified rules” governing the amendment process commonly limit and divide control of debate between a proponent and an opponent of the amendment. Deschler-Brown Ch 29 § 28. Similarly, the Committee of the Whole may by unanimous consent also limit and divide control of debate between a proponent and a Member in opposition. Deschler-Brown Ch 29 § 27.3. Under rule XVII clause 3(c), the manager of a bill or other representative of the committee position—and not the proponent of an amendment—has the right to close debate on an amendment where debate has been so limited and allocated without regard to the party affiliation of the proponent. *Manual* § 959. Clause 3(c) is an exception to the rule set forth in rule XVII clause 3(a), which otherwise provides that the mover, proposer, or introducer of the pending matter has the right to open and close debate. The exceptional treatment of the right to close debate on an amendment elevates the manager's prerogative over the proponent's burden of persuasion. This is so even when the majority manager offers an amendment that has not been recommended by the committee. In that case, a member of the committee in opposition to such amendment has the right to close. 107–2, July 25, 2002, p II. Clause (3)(c) applies to the manager of an unreported measure, even where the rule providing for the consideration of the unreported measure designates managers who do not serve on a committee of jurisdiction. It also applies to a measure reported by the committee without recommendation.

The minority manager may claim the right to close debate under clause 3(c), as may a member of a committee of sequential referral to close debate against an amendment to a provision recommended by that committee. *Manual* § 959. However, the proponent of an amendment has the right to close where a manager does not oppose the amendment but claims the time in opposition by unanimous consent. *Manual* § 959. For further discussion on control of debate by managers, see § 10, *supra*.

§ 13. Designation of Member Who May Call Up a Measure

The committee reporting a measure occasionally designates the Member who may call up a measure for consideration, in which case the Chair may recognize only that Member. Deschler-

Brown Ch 29 §§ 27.1, 27.2. A special rule also may designate the Member. § 14, *infra*. If a Member has not been specifically designated, the Chair may in his discretion recognize a committee member to call up a measure. 91–1, Dec. 23, 1969, p 40982.

§ 14. Effect of Special Rules

Generally

The designation of certain Members to control debate on a measure is frequently provided by special rule from the Committee on Rules. Typically the Committee on Rules will draft a special rule providing that debate be equally divided and controlled by the chairman and ranking minority member of the reporting committee or committees. Deschler-Brown Ch 29 § 28. That control can be delegated to a designee.

Dividing Debate Between Multiple Committees

A special rule from the Committee on Rules may specify that debate be divided between and controlled by two or more standing committees. Deschler-Brown Ch 29 § 28.13. The special rule may provide that debate be controlled by the chairmen and ranking minority members of the several committees reporting a bill, sometimes with the secondary committees controlling a lesser amount of time. Deschler-Brown Ch 29 § 28.16. Debate also may be divided between the standing committee reporting a bill and a permanent select committee. 95–1, Sept. 9, 1977, p 28367. Where a special rule divides the control of general debate on a bill among the chairmen and ranking members of two standing committees, but does not specify the order of recognition, the Chair may exercise his discretion. He may allow one committee to use its time before recognizing the other, or may rotate among the four managers. Deschler-Brown Ch 29 § 28.18.

If the rule divides control of debate among a primary reporting committee and several sequentially reporting committees in a designated order, the Chair may allocate time between the chairman and ranking minority member of each committee in the order listed, if and when present on the floor, and permit only the primary committee to reserve a portion of its time to close general debate. Deschler-Brown Ch 29 § 28.16. When the Chair has announced his intention to permit the primary committee to so reserve a portion of its time, the sequential committees are required to use all of their time before the closing debate by the primary committee. 99–1, Dec. 5, 1985, pp 34638, 34644. A majority manager of the bill who represents the primary committee of jurisdiction is entitled to close general debate (as against another manager representing an additional committee of jurisdiction). *Manual* § 959.

Division of Time Between a Member in Favor and a Member Opposed

In the event that a specified amount of time for debate is equally divided and controlled between the proponent of the amendment and a Member opposed thereto, only one Member may be recognized to control the time in favor of the amendment and only one Member may be recognized to control the time in opposition, though each may in turn yield blocks of time to other Members. 99–2, Aug. 11, 1986, pp 20678, 20679. Pro forma amendments are not permitted where second degree amendments are prohibited unless so specified. 99–2, Aug. 14, 1986, p 21655. Time for debate on the amendment having been divided between the proponent and an opponent, the Chair may in his discretion recognize the manager of the bill in opposition, there being no requirement for recognition of the minority party. Indeed, the Chair ordinarily recognizes the chairman of the committee managing the bill if he qualifies as opposed to the amendment. *Manual* § 959; § 10, *supra*.

A special rule may provide that, after general debate divided between the chairman and ranking minority member of the reporting committee, a certain amount of time for general debate be divided and controlled by a Member in favor of and a Member opposed to a certain section of the bill. 96–1, Sept. 13, 1979, pp 24168, 24192. In one instance, the House adopted a special rule providing for one hour of general debate to be equally divided and controlled by the chairman and

ranking minority member of the reporting committee, and two hours to be divided and controlled by Members to be designated by the chairman. 95–2, July 31, 1978, p 23451.

§ 15. Yielding Time— For Debate

In General; Who May Yield

In an earlier era, a Member could not yield time for debate without losing his right to reoccupy the floor. A Member could not yield the floor unless he yielded it unconditionally. 5 Hinds §§ 5023, 5026. That practice began to change with the adoption of the hour rule for debate in 1841. 5 Hinds § 5021.

Under current practice, a Member controlling the time during debate may yield blocks of time for debate to others, take his seat, and still retain the right to resume debate or move the previous question. 8 Cannon § 3383.

The yielding of time for debate is discretionary with the Members who have control thereof. Deschler-Brown Ch 29 §§ 31.1, 31.2. A Member may not yield for purposes of debate where he has risen merely to make or reserve a point of order. Deschler-Brown Ch 31 § 7.5.

A Member who seeks yielded time should address the Chair and request the permission of the Member speaking. Deschler-Brown Ch 29 § 42. Where a Member interrupts another Member during debate without being yielded to, the time consumed by his remarks are not charged against the time for debate of the Member controlling the floor and the remarks are not carried in the *Congressional Record. Manual* § 946. A Member may yield to another for a parliamentary inquiry, but the time consumed by the inquiry and the response of the Chair comes out of the time of the Member yielding. Deschler-Brown Ch 29 § 29.5.

The time used by yielding is ordinarily charged against the yielding Member. Deschler-Brown Ch 29 § 29.5. Unused time reverts to the yielding Member. Deschler-Brown Ch 29 § 31.36. Rule XVIII clause 3(b), which prohibits a Member who is not a manager from speaking more than once on a question, often is superseded in modern practice by special orders of business that vest control of debate in designated Members and permit them to yield more than once to other Members. *Manual* § 959.

In the House

The Member in control of debate in the House under the hour rule may in his discretion yield for debate. Deschler-Brown Ch 29 § 29. Indeed, although not required to do so by standing rule, majority members in control under the hour rule frequently yield one-half the time to the minority in order that full debate may be had. Deschler-Brown Ch 29 § 29.15. Of course, the yielding of time must be consistent with any division of time that is required by House rule or a special rule from the Committee on Rules.

In the Committee of the Whole

In the Committee of the Whole, a Member in control of time for general debate may yield a block of time (up to one hour) to another Member. Deschler-Brown Ch 29 § 31.24. During five-minute debate Members may yield, as for a question or comment, but may not yield blocks of time. 5 Hinds §§ 5035–5037. A Member yielding to a colleague during debate under the five-minute rule should remain standing to protect his right to the floor. Deschler-Brown Ch 29 § 29.8. If a Member uses only part of his time, his five-minute period is treated as exhausted, as it cannot be reserved, and another Member cannot claim recognition for the unused time. 8 Cannon § 2571. However, where debate on an amendment is limited or allocated by a unanimous-consent agreement or motion, or by a special rule, to a proponent and an opponent, the five-minute rule is abrogated and the Members controlling the debate may yield and reserve time. *Manual* § 980.

Yielding During Debate on Special Rules

The traditional practice with regard to resolutions from the Committee on Rules providing special rules for the consideration of measures is for the Member in charge of the resolution to yield one-half of the time to the minority, who then may yield specified portions thereof. Although the minority member of the Committee on Rules to whom one-half of the time for debate is yielded customarily yields portions of that time to other Members, another Member to whom a portion of time is yielded may in turn yield blocks of that time only by unanimous consent. Deschler-Brown Ch 29 § 31.23. However, where a Member has been recognized under the hour rule following refusal of the previous question on such a resolution, he has control of the time and is under no obligation to yield half of that time as is the customary practice of the Committee on Rules. Deschler-Brown Ch 29 § 15.20.

Yielding Time During Yielded Time

A Member to whom time has been yielded during debate under the hour rule in the House may, while remaining on his feet, yield to a third Member for comments or questions but may not in turn yield blocks of time, except by unanimous consent. Deschler-Brown Ch 29 § 31.21. A similar rule is followed in the Committee of the Whole. Deschler-Brown Ch 29 § 31.24.

Where a Member is yielded time in the House for debate only, he may not yield to a third Member for purposes other than debate. Deschler-Brown Ch 29 § 31.19.

§ 16. Yielding for Amendment

In General

A measure being considered in the House is not subject to amendment by a Member not in control of the time unless the Member in control yields for that purpose. Deschler-Brown Ch 29 §§ 30.1, 30.4. A Member may not offer an amendment in time secured for debate only or request unanimous consent to offer an amendment unless yielded to for that purpose by the Member controlling the floor. *Manual* § 946; 8 Cannon § 2474; Deschler-Brown Ch 29 § 30.6.

A Member to whom time is yielded for the purpose of offering an amendment in the House is recognized in his own right to discuss the amendment for one hour and may himself yield time. 8 Cannon §§ 2471, 2478; Deschler-Brown Ch 29 § 30.11.

Loss of Control by Yielding Member

A Member may not yield to another Member to offer an amendment without losing the floor. 5 Hinds §§ 5021, 5030, 5031; 8 Cannon § 2476; *Manual* § 946. Where a Member controlling the time on a measure in the House yields for the purpose of amendment, another Member may move the previous question on the measure before the Member yielded to is recognized to debate his amendment. *Manual* § 997. The previous question takes precedence over an amendment. Rule XVI clause 4; *Manual* § 911. If the Member calling up a measure offers an amendment and then yields to another Member to offer an amendment to his amendment, the first Member loses the floor and the Member yielded to is recognized for one hour and may move the previous question on the amendments and on the measure itself. Deschler-Brown Ch 29 § 33.9.

Under the Five-Minute Rule

A Member recognized under the five-minute rule may not yield to another Member to offer an amendment. It is the prerogative of the Chair to recognize Members offering amendments under the five-minute rule. *Manual* § 946. However, a Member recognized under the five-minute rule may by unanimous consent yield the balance of his time to another Member, who may thereafter

offer an amendment when separately recognized by the Chair for that purpose. Deschler-Brown Ch 29 § 19.25.

A Member offering a pro forma amendment under the five-minute rule may not yield to another Member during that time to offer an amendment. *Manual* § 981.

§ 17. Interruptions; Losing or Surrendering Control

In General

With few exceptions, a Member may interrupt another Member in debate only if yielded to. A Member desiring to interrupt another in debate should address the Chair to obtain the permission of the Member speaking. The Member speaking may then exercise his own discretion about whether or not to yield. The Chair will take the initiative in preserving order when a Member declining to yield in debate continues to be interrupted by another Member. Deschler-Brown Ch 29 § 42.14; *Manual* § 946.

A Member in control of time for debate in the House may voluntarily surrender the floor by simply so stating or by withdrawing the measure he is managing. A Member recognized under the hour rule may yield the floor upon expiration of his hour without moving the previous question, thereby permitting another Member to be recognized for a successive hour. *Manual* § 957. A Member also may lose the floor if he is ruled out of order for disorderly language. Deschler-Brown Ch 29 § 33. Finally, a Member loses the floor if he yields for other legislative business (8 Cannon § 2468) or for an amendment (§ 16, supra).

A Member may be interrupted by a point of order or by the presentation of certain privileged matter, such as a conference report. 5 Hinds § 6451; 8 Cannon § 3294. In addition, it is customary for the Speaker to request a Member to yield for the reception of a message. *Manual* § 946. Although a motion proposed by the Member in charge may be displaced by a preferential motion, a Member may not by offering such motion deprive the Member in charge of the floor. 8 Cannon § 3259. A Member having the floor may not be deprived of the floor and taken off his feet:

- By a motion to adjourn. 5 Hinds §§ 5369, 5370; 8 Cannon § 2646.
- By a demand for the previous question. 8 Cannon § 2609.
- By a question of personal privilege. 5 Hinds § 5002; 8 Cannon § 2459; 98–1, Sept. 29, 1983, pp 26508, 26509.

Interruptions for Parliamentary Inquiries

An interruption for a parliamentary inquiry is not in order unless the Member having the floor yields for that purpose. *Manual* § 628; 8 Cannon §§ 2455–2458. If a Member does yield for that purpose, he will not lose control of the floor because he retains the right to resume. Thus, a Member who has been yielded time for a parliamentary inquiry may not during his inquiry move that the House adjourn, for that would deprive the Member holding the floor of his right to resume. 88–2, June 3, 1964, p 12522.

Where the Member controlling the time yields to another for debate, the latter may, during the time so yielded, propound a parliamentary inquiry. 90–1, July 17, 1967, p 19033. The time consumed to state and answer the inquiry is deducted from his time for debate. 94–1, Sept. 25, 1975, p 30196.

When the Member holding the floor during general debate yields solely for a parliamentary inquiry, the time continues to run against him. Deschler-Brown Ch 31 § 15.6. However, when the Chair entertains a parliamentary inquiry before the Member managing the pending measure in the House has been recognized for debate, or between recognitions, the time consumed by the inquiry does not come out of his time. Deschler-Brown Ch 31 § 15.8.

Offering an Amendment On the Floor

Excerpt from CRS Report: 98-995 GOV²⁰
Updated January 30, 2009

“The Amending Process in the House of Representatives” (pp. 33 – 38)
Christopher M. Davis
Analyst in Congress and Legislative Process

The Amendment Tree

The amending process on the House floor normally does not become very complicated. As has been noted, amendments usually are not proposed to measures considered in the House, under the hour rule, because the House precludes them by voting to order the previous question. Although it is possible to propose amendments to bills and resolutions considered in the House as in Committee of the Whole, these procedures are rarely used. Finally, the House acts on more measures under suspension of the rules than under most other procedures, and no floor amendments are in order at all under the suspension procedure.

It is when the House has resolved into Committee of the Whole to consider a measure that Representatives are most likely to offer amendments, some of which Members may debate at length. More often than not, however, there are few, if any, procedural complications. In many cases, the amendment process will be limited and scripted by the terms of a structured special rule adopted by the House. Even under an open rule, however, the amendment process rarely becomes complicated; a Member proposes an amendment and other Members join her in debating it; the Committee of the Whole eventually votes on the amendment and proceeds to consider the next amendment to be proposed. Alternatively, another Member may offer a second-degree amendment to the amendment, and the committee then votes on the second-degree amendment before voting on the first-degree amendment, as it may have been amended.

Yet from time to time, the amending process does become more complex, as Members take advantage of the opportunities afforded by clause 6 of House Rule XVI:

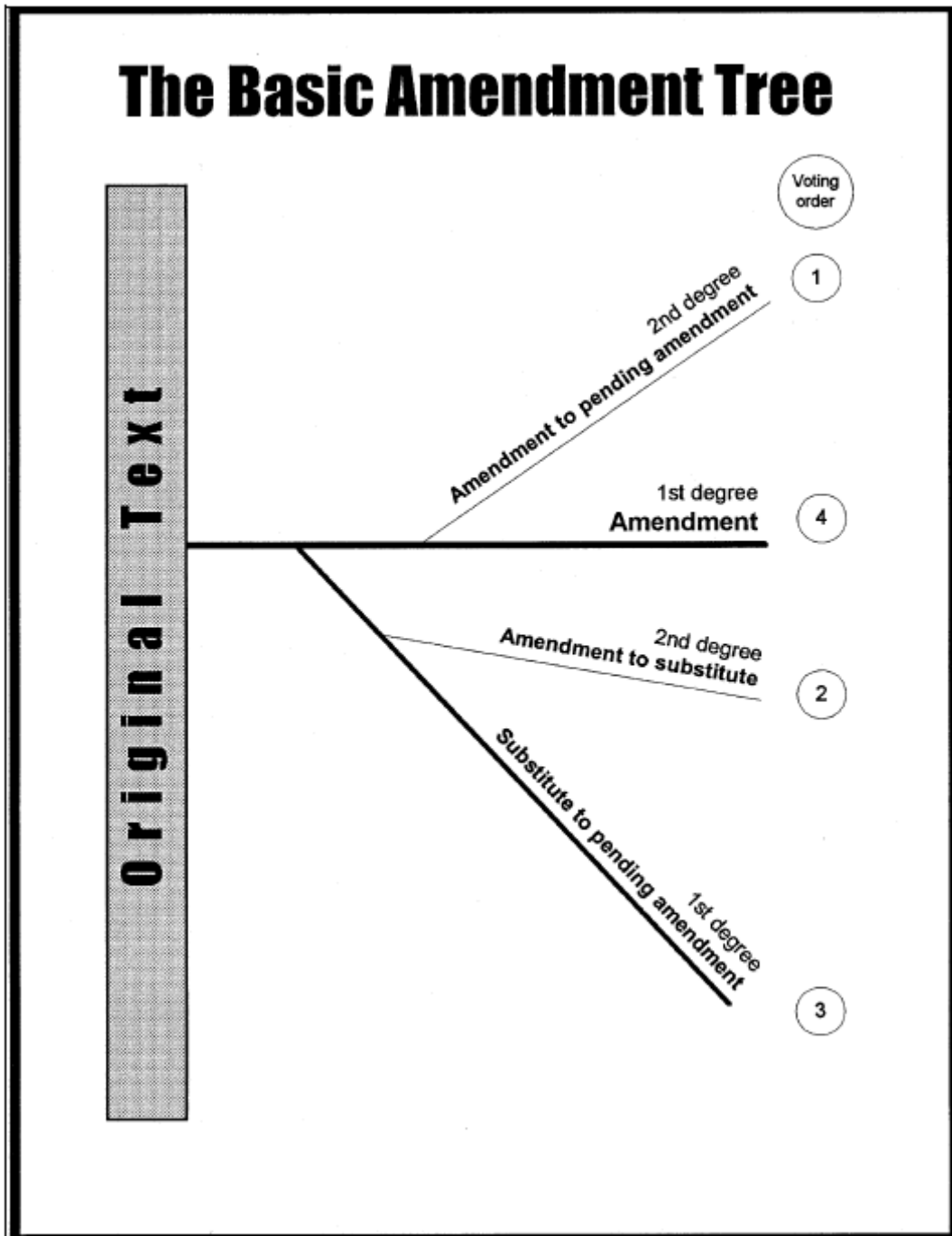
When an amendable proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it also shall be in order to offer a further amendment by way of substitute for the original motion to amend, to which one amendment may be offered but which shall not be voted on until the original amendment is perfected. An amendment may be withdrawn in the House at any time before a decision or amendment thereon. An amendment to the title of a bill or resolution shall not be in order until after its passage or adoption and shall be decided without debate.

This rule creates the possibility for as many as four (and sometimes even five or more) amendments to be proposed before Members must vote on any of them. It would be extraordinary for such a situation to develop when bills are considered in the House or in the House as in Committee of the Whole, and it arises infrequently in Committee of the Whole. Nonetheless, Rule XVI, clause 6, creates a number of strategic possibilities that Members can employ when they believe it to be in their interests to do so. The situation that may result can be depicted graphically and is often described as the “*amendment tree*.”

The amending situations that may develop depend primarily on the form of the first-degree amendments that Representatives offer. If a Member proposes a first degree amendment in the form of a *motion to insert* or, in most cases, in the form of a *motion to strike out and insert*, this amendment tree depicts the kinds of amendments, and the maximum number of amendments, that Representatives may propose before the Committee of the Whole (or the House) must vote

²⁰ <http://www.congress.gov/erp/rl/pdf/98-995.pdf>

on any one of them. Somewhat different situations, to be discussed later, may arise if the first degree amendment is a *motion to strike out* or if it is an *amendment in the nature of a substitute* proposing to replace the entire text of the measure.



Motions to Insert and to Strike Out and Insert

Assume that a Representative proposes an amendment that would insert something into a measure, or that would replace part but not all of it. No other first degree amendment may be offered until after the committee votes on this amendment. And this being a first-degree amendment, it is amendable. The amendment to the amendment may either be a *second-perfecting amendment* that would strike from, add to, or replace something in the first-degree

amendment, or it may be a *substitute amendment* that proposes a complete alternative to what the first degree amendment would insert or strike and insert.

Under Rule XVI, both of these amendments are in order. After one Member proposes a second-perfecting amendment, and before the committee votes on it, another Representative may offer a substitute for the first-degree amendment. And it is equally possible for Members to propose these two amendments in the opposite order. Thus, Members can offer two different amendments, each directed toward the first-degree amendment, before the committee votes on either of them. In addition, Rule XVI provides that the substitute for the same first-degree amendment also is amendable. Another Member may propose an amendment to the substitute, either before or after the second-perfecting amendment is offered. And the amendment to the substitute is in order even though it could be construed to be a third degree amendment (an amendment to a substitute amendment for an amendment), which normally is prohibited.²¹

In this way, Members may propose four different amendments before any votes must occur. The Representative offering the first-degree amendment may not propose the perfecting amendment to, or the substitute for, her amendment, because a Member may not amend her own amendment. However, this Member may amend the substitute for her amendment.

After Representatives have offered these four amendments, they and other Members may continue to debate them. When there is no more debate or when the committee has voted to end the debate, Rule XVI specifies the order in which the committee votes on the amendments. First Members vote on the second-perfecting amendment, thereby perfecting the first-degree amendment. Next comes the vote on the amendment to the substitute, which perfects the alternative to the first-degree amendment. Third, the committee votes on the substitute amendment, as it may have been amended. And finally, a vote occurs on the original first-degree amendment, again as it may have been amended.²²

In this way, the committee can perfect two alternatives before choosing between them. The substitute for the first-degree amendment presents the committee with a choice between two alternatives. One alternative, the first-degree amendment, is perfectible by a second-degree amendment. Therefore, Rule XVI also permits the committee to perfect the other alternative, the substitute amendment.²³ Both alternatives are perfected before the committee votes on the substitute and thereby chooses between the two of them. If the substitute wins, the last vote — on the first degree amendment, as amended by the substitute — is nothing more than a second vote on the same substantive proposal made by the substitute. On the other hand, if the substitute loses, the committee usually ratifies its decision by agreeing to the first degree amendment (perhaps as perfected). The committee may reject the first-degree amendment, whatever the outcome of the preceding votes, but the decisive vote more often occurs on the substitute amendment.

By their amendments, Representatives may create only part of this amendment tree. For instance, different Members may offer a perfecting amendment to, and a substitute for, a first-degree amendment, but no amendment to the substitute. Or they may propose a substitute for the first-degree amendment and an amendment to that substitute, but no second-perfecting amendment. In any event, the order in which the committee votes on the amendments that Members do offer remains the same: the first votes are to perfect either or both alternatives before the committee votes on a substitute, if any.

Furthermore, the situation depicted by the amendment tree is not necessarily a static one. There may only be one amendment on each “branch” of the amendment tree at a time. But after the committee votes on each amendment, a Member can offer a different amendment on the same branch, subject to the prohibition against attempting only to re-amend matter that already has been amended. A Member who seeks recognition may offer an amendment on any unoccupied

²¹ For this reason, it is not wholly accurate to characterize each amendment to an amendment as a second-degree amendment. Under Rule XVI, a substitute for a first-degree amendment is also treated as a first-degree amendment in that it is amendable.

²² *House Practice*, ch. 2, sec. 28, p. 42.

²³ *House Practice*, Ch. 2, sec. 13, pp. 27-30.

branch of the tree, if it is otherwise in order, and no Member can claim a right to be recognized before another because of the nature of the amendment he wishes to offer.

After the committee votes on a second-perfecting amendment, for example, it does not necessarily proceed to act immediately on the next amendment in the voting order. Instead, a Member may propose another second-perfecting amendment, so long as it would not only re-amend something already amended. The committee then debates and votes on this new amendment, and any other subsequent perfecting amendments, even if a substitute amendment and an amendment to it had been offered previously. In other words, Members may offer a series of second-perfecting amendments, each addressed to matter in the first-degree amendment that has not yet been fully amended, and the committee acts on each of these amendments in turn before voting on the amendment to the substitute and the substitute itself.

If no Member seeks recognition to offer another second-perfecting amendment, the committee votes on the amendment to the substitute, after which a Representative may propose a different amendment either to the substitute or to the first-degree amendment. The vote on an amendment to the substitute does not preclude additional perfecting amendments to the first-degree amendment. And should the committee eventually reject the substitute, the first-degree amendment remains open to another substitute and to other perfecting amendments. The amending process may continue until the first-degree amendment has been fully amended or until Members have no further amendments they wish to offer.²⁴

The opportunities that Rule XVI offers suggest several strategic considerations. If Member A plans to offer an amendment to a bill and knows that Member B is likely to have a different amendment on the same subject, it is not necessarily advantageous for Member A to offer his proposal as a first-degree amendment. Member B then can offer her amendment either as a perfecting amendment or as a substitute, and should it win, there will be no “clean,” direct vote on the unamended version of Member A’s original first-degree amendment.

If Member A does offer his amendment as a first-degree amendment to the bill, Member B may decide to propose her amendment as a second-perfecting amendment (if that can be done in a way that makes substantive sense), so that the Committee of the Whole will first vote on Member B’s position. But if Member B adopts this strategy, Member A can attempt to re-coup the situation by having Member C offer a slightly changed version of Member A’s amendment as a substitute for that amendment. Thus, even if the committee votes for Member B’s second-perfecting amendment, it could vote for Member A’s basic position as well by adopting Member C’s substitute. And if the committee votes for both amendments, it is Member C’s amendment that ultimately prevails, because the effect of adopting a substitute for an amendment is to fully replace the text of that amendment as it already may have been amended by one or more perfecting amendments.

Of course, Member C’s substitute also is amendable. So Member B or a colleague could offer the substance of her proposal a second time, as an amendment to the substitute. Although a Member may not offer the same amendment twice, Member B may propose equivalent amendments to both the first-degree amendment and the substitute for it, because each of her amendments would amend a different text. Anticipating this development, Member A or another ally could seek recognition first to offer an amendment to the substitute that is consistent with Member A’s original proposal. Finally, after the committee votes on both perfecting amendments — one to the first-degree amendment, the other to the substitute — Members might still be able to offer additional perfecting amendments to either.

Alternatively, Member B could propose a substitute for Member A’s first-degree amendment. To ensure that the eventual vote on the substitute would not preclude a vote on Member A’s position, an ally of his could offer a second-perfecting amendment on which the committee will vote first. If the committee votes for this perfecting amendment, it may be unwilling to vote also for a substitute that is inconsistent with the amendment already adopted. But if the substitute prevails, the victory achieved by the second-perfecting amendment is lost, because the substitute will replace the text of the first-degree amendment as perfected. Member A’s ally also has the option

²⁴ *House Practice*, ch. 2, sec. 28, pp. 42-44.

of amending Member B's substitute; if the committee supports that amendment, there will be no "clean" vote on the substitute. In response, however, Member B or an ally might obtain a vote on the essence of their position in the form of a second-perfecting amendment to Member A's original amendment.

As these possibilities suggest, there is no ideal strategy for Representatives to adopt when they anticipate the development of an amendment tree. A Member's preferred strategy can depend on such considerations as the amount and intensity of the support for the Member's position and the importance of having the committee vote first on that position. The nature of the issue also may matter. In some cases, Members may be inclined to vote for more than one approach to responding to a widely shared concern; in others, Members are less likely to vote for one approach and then to vote as well for a second, inconsistent approach. In addition, the positions of the Representatives offering the amendments can make a difference. The sequence in which the amendments actually are offered depends on the order in which the chair recognizes Members to propose them. And the chair traditionally gives preference in recognition to the senior members of the committee that reported the bill being considered.

Another implication of these possibilities is that the way in which an amendment is drafted — whether as a perfecting or a substitute amendment — depends not only on the nature of the proposal but also on the parliamentary circumstances under which it is likely to be offered. This is particularly true of amendments to amendments, which Members and staff may have to prepare after the floor debate has begun. It sometimes is advisable to draft the same amendment in several different forms, to preserve procedural flexibility and to maximize the likelihood that the Member actually will have an opportunity to offer it. Even then, the amendment's sponsor may have to complete the drafting process on the floor by "keying" it to the appropriate page and line numbers of the text she intends to amend.

Thus far, this discussion of the amendment tree has assumed that the first-degree amendment from which the tree "grows" is either (1) a motion to insert or (2) a motion to strike out and insert which affects only part of the measure's text. Somewhat different opportunities arise if, instead, the first-degree amendment is a motion to strike out or an amendment in the nature of a substitute (proposing to strike out the entire text of the measure and insert a different version in its place).

Motion to Strike Out

A motion to strike out usually is not amendable; in the conventional practice of the House, Members do not offer perfecting amendments to, or substitutes for, such motions. However, House precedents do permit Members to propose amendments to the part of the measure that the motion would strike. In other words, the House can perfect a part of a bill or resolution before deciding whether to strike it.²⁵ In this case, therefore, two Members can propose first-degree amendments to the text of a measure before the Committee of the Whole votes on either of them — the amendment to strike and the amendment to change the text proposed to be stricken. The latter amendment can be a perfecting amendment — replacing, striking, or adding to part of the language to which the motion to strike is directed. Or the amendment may be a substitute for whatever the first amendment offered would strike.

In either case, the amendment to the text proposed to be stricken is a first-degree amendment that is amendable, and the other three branches of the amendment tree may "grow" on this amendment. Thus, five amendments may be offered before any votes occur: first, the motion to strike; second, an amendment to the text proposed to be stricken; and then, a perfecting amendment to the second amendment, a substitute for it, and an amendment to the substitute.

All of the preceding discussion of the amendment tree applies to this situation, with one exception. After the committee votes on all the other amendments, there also may be a final vote on the original motion to strike. If the amendment that comes behind the motion to strike is a

²⁵ On how motions to strike may affect the amending process, see *House Practice*, ch. 2, secs. 14, 21, 22, 31, 40.

perfecting amendment, the committee votes on the perfecting amendment and then on the motion to strike. But if the amendment proposes to replace the whole text at which the motion to strike is directed, and if it attracts a majority vote on the floor, no vote occurs on the motion to strike. The matter proposed to be stricken has been completely amended, so the motion to strike becomes an attempt to re-amend something that the committee already has amended. The chair announces that the motion to strike “falls” without the need for a vote because the motion is no longer in order.²⁶

Amendment in the Nature of a Substitute for a Measure

Finally, a considerably more elaborate amendment tree can develop when a Member offers an amendment in the nature of a substitute for the entire text of a bill or resolution, though there are procedural reasons why this rarely occurs.

Such an amendment in the nature of a substitute presents the Committee of the Whole with a choice between two versions of the bill: the version embodied in the bill as it was introduced and brought to the floor, and the version embodied in the complete substitute. The amendment in the nature of a substitute is a first-degree amendment, and so it is amendable to the same extent as any other first-degree amendment. The amendment is perfectible; in addition, it is subject to a substitute (in effect, a third version of the bill) which also is amendable. After the committee votes on all amendments to the amendment in the nature of a substitute, it then votes on that complete substitute as it may have been amended. If the committee adopts the amendment in the nature of a substitute, it replaces the entire text of the measure, amending it fully. This precludes any further amendments to the bill because of the prohibition against re-amendment.

If this were the extent of the amendments in order, the Committee of the Whole would be able to perfect one version of the bill but not the other. It could vote on amendments to the amendment in the nature of a substitute before voting on it, and thereby choosing between it and the other version, the text of the bill. But it could not perfect the text of the bill itself before making this choice. For this reason, House precedents allow Members to offer amendments to the bill itself as well as to the complete substitute for it. The result is the potential for Members to offer eight amendments before the committee begins to vote: the amendment in the nature of a substitute and three amendments relating to it, and four amendments relating to the original text of the bill. Under such a scenario, two full trees of the type depicted above would arise.

After a Representative proposes the complete substitute, another Member may offer an amendment to the substitute or a first-degree amendment to perfect the pending part of the original version of the bill. If the latter is offered, it is subject to the same amendment tree as any other first-degree amendment (unless, of course, it is a motion to strike). If any or all of this two-trunk tree develops, the committee votes first on amendments to the perfecting amendment and then on the perfecting amendment (perhaps as amended), before it acts on amendments relating to the amendment in the nature of a substitute. And after the vote on the perfecting amendment to the bill, Members may propose additional perfecting amendments, one at a time, and amend and vote on them, while the complete substitute and any amendments to it remain pending.

Fortunately, there are at least two reasons why such extremely complicated situations rarely develop. Most amendments in the nature of substitutes for measures are committee amendments (or substitutes supported by committee chairmen) which special rules regularly make in order as the original text to be amended. Under such a rule, it is the substitute, not the bill, that is read for amendment and may be amended in two degrees. Members may not offer amendments to the text of the bill as introduced until after voting on all amendments to the amendment in the nature of a substitute and on the substitute itself, and then only if the committee rejects it. Because the Committee of the Whole rarely, if ever, rejects an amended committee substitute, it almost never reaches the original text of the bill. And even if this were to happen, both versions would not be open to amendment at the same time. First the committee would act on the substitute and all amendments to it, and then on amendments to the original version of the bill.

²⁶ Annotations to Section XXXV of *Jefferson's Manual in House Rules and Manual*.

The two-trunk amendment tree is unlikely to develop even if a special rule does not provide for the Committee of the Whole to consider the amendment in the nature of a substitute as original text, and, instead, a Member offers it as a first-degree amendment. The reason lies in two elements of the amending process. First, as already noted, a Representative may propose an amendment in the nature of a substitute at only two points during the amending process in Committee of the Whole: either at the very beginning, after the first section has been read, or at the very end, after the committee has disposed of all other amendments. Second, Members may only propose amendments to that portion of the measure itself that has been read or designated for amendment, and bills and resolutions typically are considered for amendment section by section or title by title.

If the substitute is offered at the beginning, after the clerk reads or designates the first section of the bill, Members can propose amendments to any part of the substitute but only to the first section of the bill (which often does nothing more than state its short title).²⁷ The clerk resumes reading the remaining sections or titles of the bill for amendment only after the committee acts on all amendments to the substitute and then rejects it. Unless the committee agrees, by unanimous consent, to consider the entire bill as read and open to amendment at any point, this situation effectively precludes substantive amendments to the text of the bill while the amendment in the nature of a substitute is pending. If, on the other hand, a Member proposes the substitute at the end of the process, the committee already will have considered and voted on whatever amendments to the bill itself Members wished to offer. There is little likelihood that they would want to propose many additional amendments to it after the complete substitute is finally offered.

Except under the most extraordinary circumstances, therefore, only the first of the two amendment tree develops on the House floor. Also, while in theory this tree could grow during consideration of measures in the House or in the House as in Committee of the Whole, this is even more unlikely. In practice, Members do not create amendment tree very often, and then only in Committee of the Whole.

²⁷ *House Procedure, 1985 Supplement*, ch. 27, sec. 7.12, p. 505.

Decorum and Debate

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“Decorum in House Debate”

Mary Mulvihill

Consultant in American National Government
Government and Finance Division

Standards of Decorum in House Debate: Governing Authorities

Clauses 1 and 4 of House Rule XVII (discussed in detail below) set forth the basic standards of decorum governing remarks that Representatives make in debate, and their conduct while on the House floor. Related sections of *Jefferson's Manual*, a statement of parliamentary law written by Thomas Jefferson when he was Vice President, also discuss standards of decorum in debate. Under House Rule XXVII, the provisions of *Jefferson's Manual* continue to govern the House “in all cases to which they are applicable and in which they are not inconsistent with the Rules and orders of the House.” Most of *Jefferson's Manual* is reprinted in the *House Rules and Manual*, with annotations from the House Parliamentarian explaining how *Jefferson's Manual* applies to House procedure today.

House Rule XVII, Clause 1

(a) A Member, Delegate, or Resident Commissioner who desires to speak or deliver a matter to the House shall rise and respectfully address himself to “Mr. Speaker” and, on being recognized, may address the House from any place on the floor. When invited by the Chair, a Member, Delegate, or Resident Commissioner may speak from the Clerk’s desk.

(b) Remarks in debate (which may include references to the Senate or its Members) shall be confined to the question under debate, avoiding personality.

Stricture Against Personalities in Debate.

The term “personalities” is generally understood in this context to mean critical personal references. Representatives are prohibited from referring negatively to individual Members, identifiable groups of Members, the Speaker, the President, or the Vice President. This prohibition also has been applied to nominated candidates for President and Vice President, including those who are not Members of Congress or an incumbent President or Vice President. Similar restrictions apply to remarks about individual Senators.

House precedents provide guidance on what constitutes engaging in personalities in debate when different categories of individuals (e.g., the President, another Representative, the Speaker) are the subject of remarks made on the House floor. Some important principles that emerge from these precedents are presented below.

References to Another Member or Identifiable Group of Members.

- Words that malign a Member’s personal motives or impugn a Member’s integrity are strictly prohibited.
- References to the conduct of a sitting Member (including the Speaker of the House) are prohibited unless this conduct is a question *pending before the House*, pursuant to a report from the Committee on Standards of Official Conduct (hereafter referred to as the “Standards Committee”), or as a question of the privileges of the House. (See the discussion below of “Remarks About Matters Before the Committee on Standards of Official Conduct: Sitting Members”.)

- Remarks in debate may not address *personal* motivations for legislative positions, but may focus on a Member's *political* motivations. For example, the chair has stated "there is nothing per se a violation by using another Member's name in describing a political action or motive."²⁸ It is not a breach of decorum to discuss a Member's policy position, provided that "personally offensive" words are not used.²⁹
- Critical references to a "collective political motivation," such as the motives of the Democratic or Republican party, are permitted.³⁰ Such references become unparliamentary, however, if they characterize the motivation of a specific Member or an identifiable group of Members.
- Critical words characterizing a measure or policy are allowed, but they may not address the personal motivation or character of a Representative. For example, the chair has ruled that "there is nothing wrong with using the word 'deceptive,' or the word, 'hypocritical,' in characterizing an amendment's effect but when a Member so characterizes the motivation of a Member in offering an amendment, that is not in order."³¹
- A Member may not read in debate extraneous material making critical references to another Member, or repeat words used by others that would be unparliamentary if spoken in debate by a Member.

References to the Speaker of the House.

- It is not in order to speak disrespectfully of the Speaker, to use words insulting to him or unduly critical of him, to make remarks calculated to be offensive to him or to reflect on him personally or officially, or to use words charging the Speaker with dishonesty or disregard of the rules.³² It also is a breach of decorum to engage in innuendo about the Speaker's conduct.³³ In ruling that critical references to the Speaker's personal conduct are not in the order, the chair has relied on the following 1897 precedent:

. . . allusions or criticisms of what the Chair did at some past time is certainly not in order not because the Chair is above criticism or above attack but for two reasons: first, because the Speaker is the Speaker of the House, and such attacks are not conducive to the good order of the House; and second, because the Speaker cannot reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them.³⁴

- More generally, all the principles governing references to individual Members discussed above apply to remarks about the Speaker.

Remarks About Matters Before the Committee on Standards of Official Conduct: Sitting Members

- When the Standards Committee is considering a question involving a sitting Member's conduct, it is out of order to speak on the House floor about the filing of the complaint before the Standards Committee, the motivation of the Member filing the complaint, and matters being reviewed by the Standards Committee. Critical characterizations and personal criticisms of the Standards Committee's members also are prohibited.³⁵ Moreover, references

²⁸ *Congressional Record*, daily edition, vol. 142, June 13, 1996, p. H6291.

²⁹ *Congressional Record*, daily edition, vol. 143, Feb. 27, 1997, p. H696.

³⁰ *Congressional Record*, daily edition, vol. 141, March 29, 1995, p. H554.

³¹ *Congressional Record*, vol. 125, June 12, 1979, p. 14461.

³² U.S. Congress, House, *Cannon's Procedure in the House of Representatives*, H. Doc. 87-610, 87th Cong., 2nd sess., (Washington: GPO, 1963), p. 160.

³³ *Congressional Record*, daily edition, vol. 141, Jan. 19, 1995, p. H330.

³⁴ For example, the chair cited this precedent on January 19, 1995. See *Congressional Record*, daily edition, Jan. 19, 1995, p. H331. The precedent is recorded in U.S. Congress, House, *Hinds' Precedents of the House of Representatives of the United States* (Washington: GPO, 1907), vol. V, sec. 5188.

³⁵ *House Practice*, "Consideration and Debate" chapter, sec. 34, p. 391, and *Jefferson's Manual*, sec. 361, p. 170.

to newspaper reports and “words printed in any other medium outside the floor of the House” about matters before the Standards Committee are not permitted.³⁶

- References to matters that have been before the Standards Committee *in the past* are prohibited if they involve a *sitting* Member’s conduct.
- When a resolution proposing disciplinary action against a Member is before the House as a question of privilege, debate on the resolution “may necessarily involve personalities,” but “personally abusive” language is not in order.³⁷ Representatives may refer to past matters resolved by the Standards Committee to compare the severity of sanctions recommended in earlier cases with those proposed in the pending resolution, so long as the details of a *sitting* Member’s past conduct resolved by the committee are not discussed.³⁸
- References to past cases before the Standards Committee involving the Speaker’s conduct are out of order even when such conduct is “possibly relevant” to a pending resolution granting the Speaker certain authority.³⁹ Debate can address “the advisability of granting the generic authorities proposed in the pending resolution,” but not matters about the Speaker that already have been before the Standards Committee.⁴⁰

References to the President of the United States.

- Criticisms of the President’s official policy actions and opinions are permitted. Members may question the President’s *political* motivation, but any questioning of the President’s *personal* motivation is out of order.
- Members may not engage in personal abuse, innuendo, or ridicule of the President. It is out of order to question the President’s personal conduct, “whether by actual accusation or by mere insinuation.”⁴¹ References to the President that have been ruled unparliamentary include calling the President a “liar,” attributing “hypocrisy” to him, accusing him of “demagoguery,” and alluding to alleged personal misconduct or a “propensity for unethical behavior” on the President’s part.⁴²
- Members may not quote from a person or a source, such as books and newspapers articles, using a “derogatory term” in reference to the President.⁴³
- It is not in order to address remarks directly to the President in House floor debate (e.g., “Mr. President, keep your word to the American people”).⁴⁴
- The Speaker has held that principles of decorum governing references to the President do not necessarily apply to references to the President’s family.⁴⁵

References to the Vice President of the United States.

- References to the Vice President’s personal conduct are not in order.⁴⁶

References to Nominated Presidential and Vice Presidential Candidates.

- References to a nominated presidential or vice presidential candidate who is a Member of Congress or an incumbent President or Vice President are governed by the standards for those categories of individuals, as outlined above and below (see “Remarks About Senators,” below).

³⁶ *Congressional Record*, daily edition, vol. 143, Sept. 24, 1996, p. H10775.

³⁷ *Jefferson’s Manual*, in *House Rules and Manual*, sec. 361, p. 169.

³⁸ *Ibid.*

³⁹ *House Rules and Manual*, sec. 749, p. 554.

⁴⁰ *Congressional Record*, daily edition, vol. 143, Sept. 24, 1996, p. H10935.

⁴¹ *Congressional Record*, daily edition, vol. 143, Sept. 26, 1996, p. H11391.

⁴² *Jefferson’s Manual*, in *House Rules and Manual*, sec. 370, pp. 175-76.

⁴³ *Congressional Record*, daily edition, vol. 142, May 2, 1996, p. H4411.

⁴⁴ *Congressional Record*, daily edition, vol. 141, Dec. 19, 1995, p. H15122.

⁴⁵ *Congressional Record*, vol. 136, July 12, 1990, p. 17206.

⁴⁶ *Congressional Record*, daily edition, vol. 141, Jan. 18, 1995, p. H305.

- In 1992, the chair extended principles of decorum to remarks about any nominated presidential or vice presidential candidate, whether or not the candidate is a Member of Congress or an incumbent President or Vice President:

. . . the Chair believes that in order to maintain decorum in the House, certain minimal standards of propriety in debate should apply to all nominated candidates for President and Vice President of the United States, and that the record and character of such candidates may be properly debated without references which constitute a breach of decorum, and the Chair advises all Members that future references to nominated candidates for President and Vice President of the United States may be subject to admonishment and restriction by the Chair if the Chair believes that such decorum has been violated.

To do otherwise would create a distinct disparity of treatment between candidates when the candidates of one party are incumbents (President, Vice President, or sitting Members of Congress), and the candidates of the other do not enjoy such traditional protection in debate.⁴⁷

Addressing Remarks to the Chair.

Rule XVII, clause 1(a), requires that Members rise and address the chair before speaking or delivering “a matter to the House.” It is a breach of decorum to direct one’s remarks to the President, the television audience, individuals in the House galleries,⁴⁸ or any other persons or organizations outside the chamber. At all times, Members must address their remarks to the chair only. When Members address one another, they do so in the third person, through the chair (e.g., “Mr. Speaker, will the gentleman yield for a question?”). This form of address helps avoid any undue familiarity in debate that might lead to breaches in decorum. The need to speak in the third person also may help restrain Members from making intemperate remarks.

Under House precedents, Representatives are prohibited from referring to other Members in floor debate by name or in the second person (“you”).⁴⁹ The appropriate way to refer to another Member is to say “the gentleman” or “the gentlewoman” and to name the Member’s state (e.g., “the gentlewoman from California”). When addressing the chair, Members can refer to themselves in the first person (“I”). Though Members can refer to the chair in the second person, they generally use “the chair” and “Mr. (or Madam) Speaker” or “Mr. (or Madam) Chairman” as forms of address.

House Rule XVII, Clause 5

When the Speaker is putting a question or addressing the House, a Member, Delegate, or Resident Commissioner may not walk out of or across the Hall. When a Member, Delegate, or Resident Commissioner is speaking, a Member, Delegate, or Resident Commissioner may not pass between the person speaking and the Chair. During the session of the House, a Member, Delegate, or Resident Commissioner may not wear a hat or remain by the Clerk’s desk during the call of the roll or the counting of ballots. A person may not smoke or use a wireless telephone or personal computer on the floor of the House. The Sergeant-at-Arms is charged with the strict enforcement of this clause.

Clause 5 of House Rule XVII proscribes certain conduct, such as passing between the chair and a speaking Member, as a breach of decorum.⁵⁰ Even if the words a Member uses are in order, the Member’s behavior may constitute a breach of decorum.⁵¹ Besides the unparliamentary behavior specified in clause 7, speaking beyond the time recognized, interrupting another

⁴⁷ *Congressional Record*, daily edition, vol. 138, Sept. 24, 1992, p. H9299.

⁴⁸ Rule XVII, clause 7, also prohibits Members from introducing or bringing to the House’s attention anyone in the galleries when the House is in session.

⁴⁹ *Hinds’ Precedents*, vol. V, sec. 5144; *Cannon’s Precedents of the United States House of Representatives* (Washington: GPO, 1935), vol. VIII, secs. 2526, 2529, 2536; and *Jefferson’s Manual*, sec. 361, p. 168.

⁵⁰ The clause’s prohibition against the use of electronic equipment was added at the start of the 104th Congress.

⁵¹ *Congressional Record*, daily edition, vol. 140, July 29, 1994, pp. H6461-H6462.

Member who has the floor and has not yielded, and ignoring the chair's repeated admonitions to proceed in order are examples of conduct that the chair has held to be breaches of decorum.⁵²

Speaker's Announced Policies on Decorum in Debate Opening Day Announcements.

As mentioned earlier, Speakers have announced policies to implement certain aspects of House procedure. In practice, the Speaker's announced policies on decorum in debate underline key principles of decorum from the House's rules, *Jefferson's Manual*, and House precedents. These policies usually are announced on the opening day of a new Congress and are printed in that day's *Congressional Record*. The Speaker's current policies on decorum in debate were announced and inserted in the *Record* on January 5, 2007. These announcements continue the application of policies that the Speaker first announced on January 3, 1991, January 4, 1995 and January 7, 2003.

ANNOUNCEMENT BY THE SPEAKER -- (House of Representatives - January 05, 2007)

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5. Decorum in Debate

The Chair's announced policies of January 7, 2003, January 4, 1995, and January 3, 1991, will apply in the 110th Congress. It is essential that the dignity of the proceedings of the House be preserved, not only to assure that the House conducts its business in an orderly fashion but also to permit Members to properly comprehend and participate in the business of the House. To this end, and in order to permit the Chair to understand and to correctly put the question on the numerous requests that are made by Members, the Chair requests that Members and others who have the privileges of the floor desist from audible conversation in the Chamber while the business of the House is being conducted. The Chair would encourage all Members to review rule XVII to gain a better understanding of the proper rules of decorum expected of them, and especially: to avoid "personalities" in debate with respect to references to other Members, the Senate, and the President; to address the Chair while standing and only during, and not beyond, the time recognized, and not to address the television or other imagined audience; to refrain from passing between the Chair and a Member speaking, or directly in front of a Member speaking from the well; to refrain from smoking in the Chamber; to deactivate any audible ring of wireless telephones when entering the Chamber; to wear appropriate business attire in the Chamber; and to generally display the same degree of respect to the Chair and other Members that every Member is due.

The Chair would like all Members to be on notice that the Chair intends to strictly enforce time limitations on debate. Furthermore, the Chair has the authority to immediately interrupt Members in debate who transgress rule XVII by failing to avoid "personalities" in debate with respect to references to the Senate, the President, and other Members, rather than wait for Members to complete their remarks.

Finally, it is not in order to speak disrespectfully of the Speaker; and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges. This separate treatment is recorded in volume 2 of Hinds' Precedents, at section 1248 and was reiterated on January 19, 1995.

7. Use of Handouts on House Floor

The Speaker's policy announced on September 27, 1995, which was prompted by a misuse of handouts on the House floor and made at the bipartisan request of the Committee on

⁵² The House also prohibits Members from wearing buttons or badges to communicate a message on the House floor, because doing so would violate the requirement that Members rise and address the chair before making a communication. This prohibition is not enforced quite as strongly as other standards of decorum, particularly the stricture against personalities in debate. *House Rules and Manual*, sec. 749, p. 554.

Standards of Official Conduct, will continue in the 110th Congress. All handouts distributed on or adjacent to the House floor by Members during House proceedings must bear the name of the Member authorizing their distribution. In addition, the content of those materials must comport with standards of propriety applicable to words spoken in debate or inserted in the Record. Failure to comply with this admonition may constitute a breach of decorum and may give rise to a question of privilege.

The Chair would also remind Members that, pursuant to clause 5 of rule IV, staff is prohibited from engaging in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Staff cannot distribute handouts.

In order to enhance the quality of debate in the House, the Chair would ask Members to minimize the use of handouts.

Enforcement of Decorum in Debate

The rules of the House provide several mechanisms for enforcing decorum in floor debate: an admonishment or call to order by the chair (Rule I, clause 2, and Rule XVII, clause 4); a point of order, usually accompanied by a demand that a Member's words be taken down (Rule XVII, clause 4); and a Member's raising a question of privilege from the floor (Rule IX).⁵³

Speaker's Admonishment or Call to Order

In most aspects of House procedure, the chair usually will not call to the chamber's attention that a violation of House rules is taking place. Instead, the resulting proceedings are considered valid unless a Member makes a timely point of order. In preserving decorum and order, however, the Chair takes more initiative in enforcing House rules and precedents. Besides calling Members to order for words and conduct specified in clauses 1 and 5 of Rule XVII, the Speaker also may admonish Members against using vulgar or profane words.⁵⁴

The Speaker's authority to admonish Members and call them to order for indecorous remarks or conduct in floor debate derives from two House rules:

- **Rule I, clause 2:** "The Speaker shall preserve order and decorum and, in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared."
- **Rule XVII, clause 4:** "If a Member, Delegate, or Resident Commissioner, in speaking or otherwise, transgresses the rules of the House, the Speaker shall, or a Member, Delegate, or Resident Commissioner may, call to order the offending Member, Delegate, or Resident Commissioner, who shall immediately sit down unless permitted on motion of another Member, Delegate, or the Resident Commissioner to explain...."

Under House precedents, the chair takes the initiative in calling Representatives to order for making improper references to the President, Senators, or the Senate. By contrast, the chair generally lets Representatives take the initiative in enforcing appropriate decorum when unparliamentary remarks about another Representative are spoken in House debate. However, when Members do engage in personalities in debate, the Speaker's announced policies, quoted above, provide that the chair may interrupt Members in the middle of their remarks to call them to order.

Upon calling a Member to order, the chair usually directs the Representative to proceed in order. Under House precedents, however, the chair can deny further recognition to a Member who violates the House's standards of decorum, such as ignoring the chair's admonishments to

⁵³ In the past, but not since 1921, the House also enforced its standards of decorum by adopting resolutions to censure Members for disorderly words spoken in debate. *Hinds' Precedents*, vol. II, secs. 1247, 1249, 1251, 1253, 1254, 1259, 1305; and *Cannon's Precedents*, vol. VI, sec. 236.

⁵⁴ *House Rules and Manual*, sec. 749, p. 553.

proceed in order.⁵⁵ Any Representative could then offer a motion to allow the seated Member to proceed in order.

Under clause 2 of Rule I and clause 3 of Rule II, the Speaker may direct the Sergeant-at-Arms to restore order in the chamber by, for example, removing a violating Member from the floor or presenting the mace (the House's traditional symbol of order).⁵⁶ The chair also enforces order and decorum in the galleries.⁵⁷ When there was applause in the galleries on March 26, 1996, a Member asked the chair to inform the gallery of House rules. The chair proceeded to admonish individuals in the galleries that "any manifestation of approval or disapproval of proceedings is in violation of the rules of the House."⁵⁸

Words Taken Down

Clause 4(a) of Rule XVII, as quoted above, empowers individual Members to call another Member to order for transgressing the House's rules and precedents governing decorum in debate. In exercising this power, a Member can make a point of order on which the chair then rules. Most often though, in addition to, or instead of, making a point of order, a Member demands that the offending words "be taken down." What follows also is governed by the remainder of clause 4(a) and by clause (b) of the same rule:

4. (a) If a Member, Delegate, or Resident Commissioner, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or a Member, Delegate, or Resident Commissioner may, call to order the offending Member, Delegate, or Resident Commissioner, who shall immediately sit down unless permitted on motion of another Member, Delegate, or the Resident Commissioner to explain. If a Member, Delegate, or Resident Commissioner is called to order, the Member, Delegate, or Resident Commissioner making the call to order shall indicate the words excepted to, which shall be taken down in writing at the Clerk's desk and read aloud to the House.

(b) The Speaker shall decide the validity of a call to order. The House, if appealed to, shall decide the question without debate. If the decision is in favor of the Member, Delegate, or Resident Commissioner called to order, the Member, Delegate, or Resident Commissioner shall be at liberty to proceed, but not otherwise. If the case requires it, an offending Member, Delegate, or Resident Commissioner shall be liable to censure or such other punishment as the House may consider proper. A Member, Delegate, or Resident Commissioner may not be held to answer a call to order, and may not be subject to the censure of the House therefor, if further debate or other business has intervened.

Representatives can invoke this "words taken down" procedure to call another Member to order for using unparliamentary language in House debate, including references that violate clause 1 of Rule XVII, and vulgar, profane, or otherwise improper words.

When a Representative demands that another Member's words be taken down, the offending words are transcribed from the official reporters' notes and read to the House by a clerk. The demand that words be taken down must be made before debate continues or other business begins. When intervening debate or business has transpired, the demand is untimely and out of order unless the objecting Member was on his or her feet and seeking recognition at the appropriate time.⁵⁹ In the 104th Congress, for example, a demand that words be taken down was untimely when it came several sentences after the offending words were spoken.⁶⁰ An important exception involves remarks that constitute personal remarks concerning the Speaker. Under the Speaker's announced policies, based on long-established precedent, such remarks can be disciplined even if intervening debate has taken place.

⁵⁵ For example, see *Congressional Record*, daily edition, vol. 142, Sept. 18, 1996, p. H10529.

⁵⁶ Presentation of the mace takes place infrequently in the modern House.

⁵⁷ The Speaker has this authority under Rule I, clause 2. House Rule XVIII, clause 1, gives the chairman in the Committee of the Whole the authority to preserve order in the chamber "[i]n case of disturbance or disorderly conduct in the galleries or lobby."

⁵⁸ *Congressional Record*, daily edition, vol. 142, March 22, 1996, p. H2675.

⁵⁹ U.S. Congress, House, *Cannon's Precedents*, vol. 8, sec. 2528.

⁶⁰ *Congressional Record*, daily edition, vol. 142, March 28, 1996, p. H3022.

The business of the House is suspended until the words in question have been taken down and reported by the clerk.⁶¹ Meanwhile, the Representative called to order must be seated. If the words objected to are spoken in the Committee of the Whole, the business of the committee is suspended and the clerk reports the words to the committee. The committee then rises and reports the words taken down to the House. Before directing the clerk to read the words taken down, the chair may ask the Member called to order if he or she seeks unanimous consent to withdraw or modify the remarks in question.

After the clerk reads the words taken down, the chair rules on whether the remarks are unparliamentary. Debate is in order at the discretion of the chair. The chair may ask for an explanation from the Member whose remarks are at issue, or a Representative can move to allow that Member to explain his or her words. The Member called to order also may ask unanimous consent to modify or withdraw those words. Representatives sometimes object to a Member's request to withdraw the words at issue until that Member apologizes for the remarks.⁶² The chair makes no ruling if the words are withdrawn or modified in a way that makes them appropriate speech. If the Member called to order claims the words were inaccurately taken down, "the question as to the words" is put to the House for a vote.⁶³

When the Chair rules that the words taken down are out of order, the words are usually stricken from the permanent edition of the *Congressional Record* by unanimous consent (the chair states, "Without objection, the words are stricken from the *Record*").⁶⁴ If unanimous consent is refused, a motion to strike the words from the *Congressional Record* is in order and "debatable within narrow limits under the hour rule."⁶⁵ The question before the House is whether the words will be stricken from the *Congressional Record*. Stricken words are replaced in the *Record* with three asterisks (* * *).

A Member whose words are ruled out of order may not speak again that day, even on time yielded by another Representative, without permission of the House. He or she is prohibited from inserting or extending remarks in the *Congressional Record*, but may continue to vote and to demand the yeas and nays. By custom, permission to speak again on that day usually is granted by unanimous consent after the chair's ruling on the words taken down. The motion is most often stated on the chair's initiative (e.g., the chair states, "Without objection, the gentleman from New Jersey may proceed in order."). If objection is heard, a Representative may offer a privileged motion that the Member be allowed to proceed in order. This motion is "debatable within narrow limits of relevance under the hour rule."⁶⁶

After the words taken down procedure is completed, the House resumes its suspended business. If the words taken down were spoken in Committee of the Whole, the House automatically resolves itself back into the committee and resumes the business it had been conducting.

⁶¹ The Representative who demanded that the words be taken down may withdraw the demand before the clerk reports the words.

⁶² For some examples, see *Congressional Record*, daily edition, vol. 142, Jan. 4, 1996, p.H107, and Jan. 24, 1995, p. H546-47.

⁶³ *Hinds' Precedents*, vol. V, sec. 5179-80.

⁶⁴ After the chair rules on a point of order, any Member may appeal that ruling. Appeals are debatable under the hour rule, although appeals often are tabled without debate. This right to appeal enables the House to reverse a ruling of the chair by a majority vote; however, this has not happened in many years.

⁶⁵ *House Practice*, "Consideration and Debate" chapter, sec. 32, p. 388.

⁶⁶ *Ibid.*, p. 389.

Parliamentary Inquiries

House Practice
Chapter 37
Point of Order; Parliamentary Inquiries

B. Parliamentary Inquiries

§ 13. In General

Recognition of Members for the purpose of propounding parliamentary inquiries is within the discretion of the Chair. 6 Cannon § 541. Inquiries concerning the parliamentary situation on the floor are properly directed to the Chair, and it is not in order for a Member to address them to the official reporters. Deschler-Brown Ch 31 § 14.14. The Chair may delay his response to a parliamentary inquiry pending examination of relevant House precedents. 8 Cannon § 2174. Responses to parliamentary inquiries are not subject to appeal. 5 Hinds § 6955; 8 Cannon § 3457. The Chair may take a parliamentary inquiry under advisement, especially when the inquiry does not relate to the pending proceedings of the House. *Manual* § 628; 8 Cannon § 2174. The Chair may clarify a prior response to a parliamentary inquiry. *Manual* § 628.

§ 14. Subjects of Inquiry

Proper Subjects of Inquiry

The Chair responds to parliamentary inquiries relating in a practical sense to the pending proceedings, such as inquiries relating to the application of the rules and precedents to a pending or otherwise pertinent situation. The Chair has entertained parliamentary inquiries concerning the following:

- The anticipated order of business. Deschler-Brown Ch 31 § 14.7.
- The status of the Clerk's progress in reading a document. Deschler-Brown Ch 31 § 14.12.
- The Speaker's authority as presiding officer. Deschler-Brown Ch 29 § 2.1.

Improper Subjects of Inquiry

The Chair may decline to entertain an inquiry on a subject not relevant to the pending question. Under this principle, the Chair has declined to respond to hypothetical questions, to questions not yet presented, and to requests to place pending proceedings in a historical context. *Manual* § 628. The Chair has declined, for example, to anticipate whether language in a measure would trigger certain executive actions or to allocate debate time on a conference report not yet filed. Similarly, the Chair has declined to anticipate the precedential effect of a ruling or to respond to rhetorical or political characterizations of pending business.

A proper parliamentary inquiry relates to an interpretation of a House rule, not to an interpretation of a statute or of the Constitution. *Manual* § 628. A Member may not, under the guise of a parliamentary inquiry, offer a motion or other proposition. He must have the floor in his own right for that purpose. 8 Cannon § 2625.

In response to a parliamentary inquiry, the Chair has declined to:

- Judge the propriety of words spoken in debate pending a demand that those words be "taken down" as unparliamentary or judge the veracity of remarks in debate, or the propriety of words uttered earlier in debate.

- Reexamine and explain the validity of a prior ruling.
- Judge the accuracy of the content of an exhibit.
- Indicate which side of the aisle has failed under the Speaker's guidelines to clear a unanimous-consent request.
- Judge the construction or meaning of an amendment, which is a matter for the House, and not the Chair, to determine.
- Characterize an amendment on which a separate vote has been demanded. *Manual* § 628.

As to Orders of the House

The Chair ordinarily will not interpret a pending special order of business prior to its adoption or render other advisory opinions. For example, the Chair refused to respond to a parliamentary inquiry as to whether a resolution, reported from the Committee on Rules but not yet called up for consideration, would have the effect of violating the rights of Members. Questions concerning informal guidelines of the Committee on Rules for advance submission of amendments for possible inclusion under a special rule may not be raised under the guise of a parliamentary inquiry. *Manual* § 628.

§ 15. Timeliness of Inquiry

Generally

The Chair may decline to respond to a parliamentary inquiry that is untimely.

The Chair does not respond to a parliamentary inquiry concerning the propriety of a proposition until the proposition is offered. Deschler-Brown Ch 31 § 15.11.

Inquiries Raised During Votes

During a vote, the Chair may refuse to entertain a parliamentary inquiry that is not related to the vote, although he may entertain an inquiry relating to the conduct of the call. *Manual* § 628; Deschler-Brown Ch 31 §§ 15.14, 15.15. A parliamentary inquiry may not interrupt a division. However, such inquiries are entertained until the Chair asks those in favor of the proposition to rise. Deschler-Brown Ch 31 §§ 15.19, 15.20. Similarly, the Speaker may entertain a parliamentary inquiry after the yeas and nays are ordered, but before the vote. Deschler-Brown Ch 31 § 15.18.

The Chair may decline to entertain a parliamentary inquiry as to the cost of conducting the pending vote on the ground that the inquiry is not relevant to the pending question. 103–1, June 10, 1993, p 12482.

§ 16. As Related to Other Business

A parliamentary inquiry may interrupt matters of high privilege, such as an impeachment proceeding. 6 Cannon § 541. However, during the reading of a bill for amendment, a Member is not entitled to a parliamentary inquiry that would interrupt the reading of a paragraph or section of the bill. 8 Cannon § 2873.

The reading of the Journal may be interrupted by a parliamentary inquiry. 6 Cannon § 624. Furthermore, the Speaker may entertain a parliamentary inquiry relating to the order of business before the approval of the Journal. Deschler-Brown Ch 31 § 15.9.

During Debate

A Member may not be taken from the floor by a parliamentary inquiry. The Member controlling debate must yield for that purpose. The Chair exercises his discretion in recognition for a

parliamentary inquiry only when no other Member is occupying the floor for debate. *Manual* § 628; Deschler-Brown Ch 31 §§ 15.1, 15.2.

Time consumed by a parliamentary inquiry is charged to the Member controlling time who yields for that purpose. When the Chair recognizes a Member for a parliamentary inquiry when no other Member has the floor, the Member controlling debate is not charged for the time so consumed. Deschler-Brown Ch 31 § 15.4.

Questions of Privilege

Excerpt from CRS Report: 98-411⁶⁷
Updated January 29, 2007

“Questions of Privilege in the House”

James V. Saturno
Specialist on the Congress
Government and Finance Division

The House of Representatives distinguishes between privileged business and questions of privilege. *Privileged business* consists of those bills, resolutions, and other matters that Members can bring up for consideration on the House floor. These matters are privileged to interrupt the regular order of business that is defined in the House's rules. *Questions of privilege* constitute one form of privileged business. Clause 1 of House Rule IX recognizes two kinds of questions of privilege: questions of *the privileges of the House*, and questions of *personal privilege*.

Questions of the Privileges of the House

Under Rule IX, clause 1, questions of the privileges of the House are "those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings." For example, questions relating to the seating of Members and the organization of the House at the beginning of a Congress have been held to raise questions of the privileges of the House, as have questions relating to the health and safety of Members and staff. Other subjects cited in *House Practice* as giving rise to questions of the privileges of the House include: "the presence on the House floor of unauthorized persons," "the conduct of those in the press gallery," "the integrity of the Journal," "the protection of House records and files," "the accuracy of House documents and records," and "use of an allegedly forged document at a committee hearing."

The Speaker determines whether a question that a Member has raised does in fact qualify under the House's precedents as a question of the privileges of the House. Two of the general principles that guide the Speaker in making these determinations are stated in *House Practice*. First, "[a] question of the privileges of the House may not be raised to effect a change in the rules of the House or their interpretation;" and second, "[a] Member may not by raising a question of the privileges of the House under Rule IX thereby attach privilege to a question not otherwise in order under the rules of the House" (in other words, make a question a matter of privileged business).

Questions of Personal Privilege

Clause 1 of Rule IX defines questions of personal privilege as "those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only." Again, it is the Speaker who determines whether an allegation or statement gives rise to a question of personal privilege. According to *House Practice*, the allegation or statement must refer to an individual Member and must reflect directly on the Member's integrity or reputation. "Mere statements of opinion about or general criticism of his actions as a Member...or his voting record or views...do not constitute grounds for a question of personal privilege."

Members have raised questions of personal privilege to respond to allegations about matters such as misuse of public funds, conflicts of interest, abuse of the franking privilege, corruption and bribery, criminal conspiracy or perjury, violation of the securities laws, and knowingly making a false statement with the intent to deceive. Members may rise to questions of personal privilege to respond to such public criticisms, whether made by other Members or, for example, in private

⁶⁷ <http://apps.crs.gov/products/rs/pdf/98-411.pdf>

publications. However, a question of personal privilege "may not be based on language uttered on the floor of the House in debate," according to *House Practice*, because the offended Member has another recourse: a timely demand that the objectionable words be taken down.

Floor Action on Questions of Privilege

A Member raises a question of *the privileges of the House* in the form of a resolution. The Member rises on the floor and states, "Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution which I send to the Clerk's desk." The text of the resolution is read. If it is the majority leader or the minority leader who offers the resolution, the Speaker immediately rules as to whether it constitutes a valid question of privilege. If the question is raised by any other Member, consideration of it may be deferred until a time and place within the next two legislative days that the Speaker designates in the legislative schedule. When that time arrives, the Speaker then decides whether the resolution raises a valid question of privilege.

If the Speaker determines that the resolution does raise a valid question of privilege, the House proceeds to consider the resolution under the one-hour rule, with the time for debate equally divided between the resolution's proponent and either the majority leader or the minority leader, as the Speaker determines. The House may agree to order the previous question after the first hour of debate on the resolution; if so, the House proceeds to vote on the resolution without amendment or further debate. If the previous question is not ordered, debate may continue under the one-hour rule, and the Member controlling the time may propose an amendment to the resolution. Motions to table or refer the resolution, or to postpone its consideration, also are in order.

A Member raises a question of *personal privilege* simply by stating that he or she is rising on the floor for that purpose. A question of personal privilege is not raised by resolution. The Speaker then asks the Member to explain the grounds on which the question is based. If the Speaker determines that the Member has raised a valid question of privilege, that Member is recognized immediately to speak for one hour. After this hour for debate, the House takes no further action on the matter. No vote occurs because there is no question for the House to decide.

For additional information, see the Parliamentarian's annotations accompanying House Rule IX; *House Practice*, pp. 707-730; and *Deschler's Precedents of the U.S. House of Representatives*, vol. 3, pp. 27-143.

Voting

CRS Report 98-228⁶⁸
Updated May 19, 2008

“House Voting Procedures: Forms and Requirements”

Walter J. Oleszek
Government and Finance Division

Voting is among the most public acts of Representatives. Generally, Members try not to miss a vote, because it is an important demonstration to their constituents that they are always on the job. Procedural considerations suffuse voting, and thus it is important to understand the methods of voting in both the House and in the Committee of the Whole, where much of the chamber's business is conducted.

In the House.

There are four ways for lawmakers to obtain a vote in the House. They are voice votes, division votes, yea and nay votes, and recorded votes.

Voice Vote.

This means that lawmakers call out "yea" or "nay" when a question is first put by the Speaker or Speaker pro tempore. As Rule I, clause 6, states, the Speaker will first say, "Those in favor (of the question), say 'Aye'." Then the Speaker will ask: "Those opposed, say 'No'." A voice vote can be quick and easy, but it is sometimes difficult for the Speaker to determine -- based on the volume of each response -- whether more lawmakers shouted "aye" compared to those who shouted "no."

Division Vote.

Rule XX, clause 1(a), states that if the Speaker is uncertain about the outcome of a voice vote, or if a Member demands a division, the House shall divide. "Those in favor of the question shall first rise from their seats to be counted," and then those who are opposed to the proposition shall stand to be counted. This procedure is reasonably accurate and takes only a few minutes, but it does not provide a public record of how each Member voted. Only vote totals (95 for, 65 against, for instance) are announced in this seldom-employed method of voting.

Yea and Nay Vote.

The Constitution (Article I, Section 5) declares that "the Yeas and Nays of the Members...on any question" shall be obtained "at the Desire of one fifth of those present." Under this provision, it does not matter if a quorum of the House (218 Members) is not present to conduct business -- which the Constitution requires -- because any Member can say, "Mr. Speaker, on that vote, I demand the yeas and nays." If the demand is supported by one-fifth of those present, the Speaker will say "the yeas and nays" are ordered.

There is also an "automatic" yea and nay (or rollcall) vote provided in House Rule XX, clause 6. For example, if it is evident to a lawmaker that a quorum is not present in the chamber, he or she may object to a vote on that ground and, "automatically," a vote will be ordered by the chair. To request an automatic vote, a Member says, "I object to the vote on the ground that a quorum is not present, and I make a point of order that a quorum is not present." The actual vote will then simultaneously determine both issues: the presence of a quorum and the vote on the pending question. Clause 10 of Rule XX also states that the "yeas and nays shall be considered as ordered" on final passage of a limited number of measures or matters, such as concurrent budget

⁶⁸ <http://www.congress.gov/erp/rs/pdf/98-228.pdf>

resolutions. The Constitution requires that votes to override presidential vetoes shall be determined by the yeas and nays.

Recorded Vote.

Under Rule XX, clause 1(b), if any Member, Delegate, or Resident Commissioner "requests a recorded vote, and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device." (Yea and nay and recorded votes are all taken by electronic device -- employed since 1973 -- unless the computerized voting system malfunctions; then standby procedures outlined in Rule XX, clause 2(b), are used to conduct the votes.) To obtain a recorded vote, a Member states, "Mr. Speaker, on that I demand a recorded vote." If at least one-fifth of a quorum of 218 -- or 44 members -- stand and support the request, then the recorded vote will be taken by electronic device. Recall that the distinction between recorded votes and the yeas and nays goes to the number of Members required to support each request: one-fifth of those present for the yeas and nays and one-fifth of a quorum (44 of 218) for recorded votes.

In the Committee of the Whole.

Three methods of voting are available in the Committee of the Whole: voice, division, and recorded. Yea and nay votes are not permitted in the committee, either the constitutional or "automatic" forms. In short, there is only one way to obtain a recorded vote in the committee -- where a quorum is 100 Members -- and it is outlined in Rule XVIII, clause 6(e). This rule of the House states: the "Chairman shall order a recorded vote on a request supported by at least 25 Members." Thus, any Member may say, "I request a recorded vote," and, if 25 lawmakers (the Member who made the request can be part of the tally, too) rise to be counted by the chair, the recorded vote will occur by electronic device. Alternatively, a lawmaker who plans to request a recorded vote even though few Members are present in the chamber will usually say, "Mr. Chairman, I request a recorded vote and, pending that, I make a point of order that a quorum is not present." Once the chair ascertains that a quorum is not present, there is an immediate quorum call and the Member who requested the recorded vote can ask 24 other colleagues to support his request as they come onto the floor.

Length of Time for Voting.

Under Rule XX, clause 2(a), the minimum time for a record vote by electronic device is 15 minutes in either the House or the Committee of the Whole. The 15-minute period is the *minimum*, rather than the maximum, time allowed for the conduct of a recorded vote. The chair has the discretion to hold the vote open longer. A new 110th rule states that votes are not to be held open for the sole purpose of reversing the outcome of a vote. However, this rule seems difficult to interpret in practice. There are also occasions in the House (see Rule XX, clause 9) when the Speaker has the discretion to reduce the voting time to not less than five minutes. The Speaker also has the authority under Rule XX, clause 8, to postpone and cluster certain votes. Votes in the Committee of the Whole may also be reduced to five minutes, as noted in Rule XVIII, clause 6(f).

Suspension of the Rules

Excerpt from CRS Report: 98-314⁶⁹
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“Suspension of the Rules in the House: Principal Features”

Elizabeth Rybicki
Analyst in Congress and Legislative Process

"Suspension of the rules" is a procedure that the House of Representatives often uses on the floor to act expeditiously on relatively noncontroversial legislation.⁷⁰ This procedure is governed primarily by clause 1 of House Rule XV. When a bill or some other matter is considered "under suspension," floor debate is limited, all floor amendments are prohibited, and a two-thirds vote is required for final passage.

Typically, a Member whom the Speaker has recognized will say, for example, "Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 1234." By making that motion, the Member triggers the use of the suspension procedure under Rule XV. However, this same procedure can be used for other legislative purposes. For example, a Member can move to suspend the rules and agree to a conference report, or concur in a Senate amendment to a House bill, or take some other action.

There are nine principal features of the suspension procedure.

- **First, the Speaker controls the use of this procedure.** No Member has a right to make a suspension motion. The Speaker decides who to recognize for suspension motions.
- **Second, suspension motions are in order only on Mondays, Tuesdays, and Wednesdays, and during the final days of the annual congressional session.** The House sometimes agrees to consider suspension motions on other days, by agreeing to either a unanimous consent request or a special rule for that purpose.
- **Third, there are only 40 minutes of debate on a suspension motion and the bill (or other action) to which it relates.** Time control is usually divided between the chairman and the ranking minority member of the committee or subcommittee with jurisdiction over the bill. However, if the ranking minority member supports the bill, another Member who opposes it can claim control of half the time for debate.
- **Fourth, when a bill is considered under suspension, no floor amendments are in order.** The Member making the motion, however, can include amendments as part of his or her motion. In that case, the Member moves to suspend the rules and pass the bill *as amended*.
- **Fifth, after the 40 minutes of debate, there is a single vote on suspending the rules and passing the bill.** The House does not vote first on whether to suspend the rules and then on whether to pass the bill. Both questions are decided by one vote.
- **Sixth, a two-thirds vote of the House is required to pass a bill under suspension of the rules.** This is a two-thirds vote of the Members present and voting, a quorum being present. If a suspension motion fails to receive the required two-thirds vote, the House can consider the bill in question again, often under procedures that require only a simple majority vote to pass it.

⁶⁹ <http://www.congress.gov/erp/rs/pdf/98-314.pdf>

⁷⁰ This report was written by Stanley Bach, a former Senior Specialist in the Legislative Process at CRS. The listed author updated the report and can respond to inquiries on the subject.

- **Seventh, the Speaker can postpone rollcall votes on suspension motions until later on the same day or within the next two legislative days⁷¹, and cluster them to occur one after the other.** When there is a series of such rollcall votes, Members have 15 minutes to vote on the first motion but they usually have only five minutes to vote on each of the other motions.
- **Eighth, there is no requirement that a bill must be reported from committee before the House can consider it under suspension.** One advantage of the suspension procedure is that the committee to which a bill was referred does not have to meet formally to vote on reporting it or to prepare a written report on the bill.
- **Ninth, the suspension procedure automatically waives all points of order against the bill (or other action) and against its consideration.** The procedure suspends all rules of the House except those that govern the suspension procedure itself.

There is no suspension calendar. Instead, during the last floor session of each week, a member of the majority party leadership usually makes a public announcement on the floor about the bills that have been scheduled tentatively for consideration under suspension during the following week.

For additional information, see the Parliamentarian's notes following clause 1 of Rule XV in the *House Rules and Manual*; pp. 871-879 of *House Practice*; and vol. 6, chap. 21, sec. 9-15 of *Deschler's Precedents*. [Also see CRS Report RL32474, "Suspension of the Rules in the House of Representatives" by Thomas P. Carr.⁷²]

⁷¹ A "legislative day" begins the first time the House meets after an adjournment and ends when the House adjourns again.

⁷² <http://www.congress.gov/erp/rl/pdf/RL32474.pdf>