

PARLIAMENTARY LAW
AND
PROCEDURE

JOHN Q. TILSON

PARLIAMENTARY
LAW
and
PROCEDURE

By

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1935

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WASHINGTON, D. C.

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ACKNOWLEDGMENTS

GRATEFUL ACKNOWLEDGMENT IS
HERE MADE TO THE DISTINGUISHED
SPEAKER OF THE HOUSE OF REPRESENTATIVES, MR. BYRNS, FOR HIS GRACIOUS "FOREWORD," TO LEWIS DESCHLER, THE ABLE HOUSE PARLIAMENTARIAN, FOR READING THE MANUSCRIPT AND CALLING ATTENTION TO MINOR INACCURACIES TO BE CORRECTED, AND TO STEWART S. BOYLE, THE AUTHOR'S SECRETARY AND ASSISTANT, FOR MOST HELPFUL WORK IN PREPARING THE MANUSCRIPT FOR PUBLICATION

FOREWORD

In the publication of this volume, Mr. Tilson has performed a notable service in a number of different respects. In the first place, he makes clear that parliamentary law is not, as often supposed, an arbitrary code of artificial rules, but a well tested system of orderly procedure developed by the long experience of many deliberative bodies. Next, he takes the rules of the House of Representatives which are admittedly technical, and in language which an inexperienced layman may comprehend, shows them to be well adapted to the procedure of American assemblies generally. His clarification of the House rules for the use of other bodies is well done and has been much simplified by leaving out of consideration all the rules that are special in their nature and applicable only to the business and purposes of the House of Representatives.

Originality of subject matter is disclaimed by Mr. Tilson, but his treatment of the subject is distinctly original. After a brief statement regarding the need, purpose and value of parliamentary law, with a brief account of its origin and development, he takes up in numerical order those rules of the House deemed equally apt and suitable for the use of other deliberative assemblies. His comment upon the successive paragraphs of the rules is freely expressed in anything but technical language and for the most part makes clear their meaning which sometimes is not so easily grasped by a mere reading of the rule itself.

Whether or not one fully agrees with Mr. Tilson in his theory as to why other American assemblies have not heretofore more readily adopted the procedure of

TO

THE MEMBERS OF CONGRESS NOW
SERVING ON CAPITOL HILL, TO THEIR
PREDECESSORS AND TO THEIR SUC-
CESSORS, THIS VOLUME IS RESPECT-
FULLY DEDICATED BY THE AUTHOR

the House of Representatives, his spirited, though possibly somewhat partisan, review of the reasons for this, constitutes a most readable chapter. At any rate, he comes to the proper conclusion that there is no longer any good reason why the procedure of the House should not be adopted generally as the basis of American parliamentary procedure and boldly recommends it.

While avowedly prepared for the use of assemblies other than the House of Representatives, it will doubtless prove to be of great assistance to Members desiring a better understanding of many provisions not always entirely clear as technically stated in the rules. Mr. Tilson's experience in the Speaker's Chair of his own State Legislature and his long service in the National House of Representatives, where he often presided and always ably, to say nothing of his six years in the difficult position of Majority Leader in the House, have given him a wealth of actual experience unequalled in the present generation and which entitles anything he says on the subject to receive the thoughtful attention of all those interested in parliamentary procedure.

Presiding officers of all sorts of meetings will surely find much of interest as well as help of a most practical character from reading what Mr. Tilson says on many points often arising in such meetings, while those taking part from the floor will find it equally helpful.

A personal word may not be out of place in view of the particular circumstances of this case. Mr. Tilson and I were born in the same State, but never met until we met in the House of Representatives on the opening

day of the 61st Congress. He came as a Republican from Connecticut and I as a Democrat from our native Tennessee. We soon became the best of personal friends and have so remained to the present day. Mr. Cannon was then Speaker, who learning that Tilson came directly from the Speaker's Chair in the Connecticut Legislature soon called him to the Chair, with the result that from that day forward whenever the Republicans were in the majority, Tilson was in the Chair more than any other Member. The reason for this was that few men, if any, who have presided over the House, or Committee of the Whole, during my time, have shown to a higher degree the particular qualities requisite for an effective presiding officer, and while he ranked high in the House as an able parliamentarian, he ranked even higher in the estimation of his colleagues for his quite unusual aptitude in presiding. Few men are better qualified to advise others on the subject.

Personally, I expect to get a lot of help from Tilson's book during my service as Speaker.

JOSEPH W. BYRNS

The Speaker's Rooms,
U. S. House of Representatives
January 10, 1935.

PREFACE

The purpose of this volume is to serve as a helpful guide to presiding officers of deliberative bodies and to those who, from the floor, participate in such deliberations. It makes no claim to originality of subject matter, unless it be in the selection or rejection of matter deemed sufficiently important for presentation in such a work. In one respect at least it is well nigh, if not quite unique. It boldly accepts the rules of the United States House of Representatives, so far as they are applicable to the parliamentary procedure of deliberative bodies generally, and urges their adoption as better adapted to the use of American assemblies than any other system of rules heretofore proposed.

In the opinion of the author, the time has arrived when Americans generally may, with good reason, adopt the almost universal custom of other self-governing peoples in accepting as a code of parliamentary procedure the rules of the popular branch of the legislative department. The rules of such a body are almost sure to have been thoroughly tried out under conditions providing a searching test. This is surely true of our own National House of Representatives. Politics and partisan passion always furnish abundant reasons and opportunity for putting them to the test, and when a rule fails to stand up under the strain, it soon passes into the discard. It is therefore quite safe to assume that the rules of the House of Representatives, having withstood for an extended period, the assaults of hostile partisans, gaining strength with each attack, will not break down under ordinary usage in other deliberative assemblies.

There is one very great advantage in the adoption of the rules of the House of Representatives that will appeal to parliamentarians and students of parliamentary procedure. As a guide to the membership of the House of Representatives, the rules of the House, carefully annotated and with numerous citations of precedents, are printed and reprinted from time to time as may seem desirable, together with the Constitution of the United States and Jefferson's Manual, both copiously annotated and with numerous citations covering controverted points. It is known as the House Manual. This volume is prepared with the most painstaking care by an able parliamentarian, is kept fully up-to-date and is readily obtainable as a government publication.

In addition to the House Manual, which in itself is a most helpful parliamentary guide, as well as a rich storehouse of information on the subject, there is available in all well-stocked college and public libraries a truly monumental work of eight large volumes, known as "Hinds' Precedents," which is an inexhaustible mine for the student of Parliamentary Law.

A supplement to this truly great work of Asher C. Hinds is now being compiled by Clarence Cannon which will contain a stupendous collection of decisions and supporting arguments. It is therefore the privilege of any member of a body that adopts the House Rules, so far as applicable to general procedure, to consult precedents and decisions on points of order covering the broadest possible field.

In order to make all the more available the valuable aids just referred to, the author of this volume, in commenting upon the rules of the House, has taken them

in exactly the same order in which they are set down and supported by citations in the House Manual.

While it is the hope of the author that this little volume may prove helpful to many others who may seek to learn more about parliamentary procedure, it is fair to state that it has been prepared with special reference to that large group of young men and women studying in the law schools of the country.

The idea of such a work grew out of a course of lectures on Parliamentary Law which have been given by the author at the Yale School of Law during the fall semester for a number of years. These lectures are in reality a combination of lecture and practice session at which it is attempted to apply by actual use the subject matter of the lecture. What has proved to be most practical and useful, as tested out by experience in these periods of instruction, is brought together here. The desire to be practically helpful to these successive classes of aspiring young men and women was the motivating cause, while they in turn have been the inspiration of the effort that has finally produced this volume.

JOHN Q. TILSON.

Washington, D. C.,
January 31, 1935.

CHAPTER I

INTRODUCTION

Organization

Civilization itself is largely the result of the organized group activities of the race. The first essential of organization is coming together, assembling, and the final result is acting together,—in other words, cooperation. In our American life this means organized assemblies, large or small, for the consideration of appropriate measures for effective concerted action.

The number and variety of assemblies by means of which men and women carry on their social, educational, religious, political, industrial and commercial activities are almost infinite. Almost everything in the way of unified or cooperative action, which is one of the greatest boons of civilized society, is done through the assemblies of organized groups.

In our schools the children, at a very early age, organize for one purpose or another and thereby acquire early the habit of acting as a body. It is increasingly so as education advances through high school, college and university. Before Freshmen have fully learned their way about the campus or know the names of the different college buildings, they will have been called together for some sort of organized action. The church has its full quota of organizations in its various religious societies,—Synods, Presbyteries, Conventions, Conferences, Associations, Christian Endeavor, Ladies' Aid, Missionary Societies, and the like. All kinds of clubs, lodges, and secret societies generally, with or

without financial benefits, act through organized assemblies.

On the political side, there are Caucuses, Conventions, (local, state and national), Town Meetings, Common Councils, Boards of Aldermen, Legislatures, Parliaments under all sorts of names, and in our own United States, the Congress. In all of these organizations some form of parliamentary procedure is employed. Some one must act as a presiding officer at their meetings. Others must steer the proceedings from the floor, and those who, as a rule, do the most effective work from the floor in such bodies, are those having the best practical knowledge of parliamentary procedure and who, themselves, are capable of presiding efficiently and well over such bodies.

Parliamentary Effectiveness

In all the different kinds of meetings mentioned, or not mentioned, parliamentary law in some form or other is the basis of orderly procedure in the transaction of business. There can be no doubt that a thorough understanding of parliamentary law adds weight and influence to the voice of any one actively participating in such meetings. It is said that knowledge is power. If this be true, knowledge of parliamentary law and a practical grasp of the principles of parliamentary procedure should help to make the one possessing it more potent and effective than his fellow lacking this advantage. It is an accomplishment not to be despised when one is able at a moment's notice to take the chair and preside over an assembly of persons

met for a common purpose and to do so with ease, dignity and effectiveness. By the same token, he should be able to properly conduct a parliamentary controversy from the floor of the assembly.

Presiding Over Assemblies

In the work of the ministry, the clergy find a large portion of their work presiding over the varied and sundry organizations through which the church does its work.

The ability to preside well is especially important to lawyers in their professional work. Much of modern business is done by organized entities known as corporations, which can act only through assemblies of those authorized by law or the articles of incorporation. The meetings of stockholders and directors sometimes become very important matters in the business world, and every lawyer who hopes to advise in the direction of substantial business affairs should be ready and able to preside as well as to advise concerning his duties as presiding officer the one who, in any particular enterprise, may be the chief executive.

Presiding Officers

The importance of being a good presiding officer is not only in the peace of mind and satisfaction it brings to the one presiding, although this means much to him, but the good of the cause for which the body is assembled. That a presiding officer can make or mar a meeting has been too often demonstrated to admit of doubt. A good chairman will be able to run off

business with dispatch and effectiveness without doing violence to the rules; and, in the highest performance of his function as a presiding officer, he can turn or keep the discussion along right lines, thereby contributing toward bringing the right rather than the wrong result. On the other hand, a poor or indifferent chairman can spoil almost any meeting, make progress next to impossible, and to this extent, nullify the benefits otherwise to be derived from the meeting.

To make an ideal presiding officer requires certain qualities which all may not possess to the same degree; but even among those who may not have these qualities in the highest degree, almost any one who will take the trouble to learn, at least the underlying principles of parliamentary law, can do much toward qualifying himself as a good presiding officer.

Mr. Speaker Reed, in his little work, admirably describes what a good presiding officer should be, in this language: "A man of good presence, good voice, of much firmness and good temper. He should have knowledge of parliamentary law and sufficient good sense to enable him to know when to press a rule and when to let common consent have its way. The conduct of an assembly depends much more upon the conduct of the Chairman than upon any other condition or perhaps all other conditions combined. The more intelligent the assembly, the worse it may act under a bad presiding officer."

Parliamentary Leaders

It is not the sole purpose of this work to help develop,

or to aid, presiding officers, important as this may be. In every meeting at which there is business to be transacted there is, or should be, some one person who, whatever may be his position or title, is, in fact, the parliamentary leader of the assembly. He either brings before the meeting the business to be considered, or in concert with some one else specially designated for the purpose—and, so far as practicable, with the aid of the presiding officer—helps to direct the discussion in the proper channels to best accomplish the purpose of the meeting.

If there is divergence of opinion in the meeting so that opposition develops, some one should properly direct its course so that it may be effective. In order to lead, whether in the majority or in the opposition, it is imperative that one shall know not only the principles upon which parliamentary law is based, but he should have a practical working knowledge of the generally accepted rules of parliamentary procedure. It is the aim and purpose of this little work to aid, through proper information, admonition, advice and inspiration, the development of those qualities which mean leadership in parliamentary assemblies. Leaders with parliamentary knowledge, tact and floor ability are needed in every organized assembly, small or great, and the practical value of their services in this kind of work can scarcely be estimated.

CHAPTER II

HISTORY OF PARLIAMENTARY LAW

There is little practical need to devote much space to the history of parliamentary law, although it is quite an interesting subject. All ages since man has adopted cooperative action with his fellows, have doubtless had some sort of rules of procedure for assembled groups. Students, for instance, have often wondered to little purpose just what was the parliamentary procedure in the Greek market place. There must have been some sort of rules, though they have not come down to us. There should have been rules that would have enabled one Greek, with clearer vision than the others, to have raised a point of order, as unconstitutional or otherwise objectionable, against the resolution condemning Socrates to drink the hemlock. It is not even known just how the vote was taken. Apparently no fraud in connection with the ballot was charged or at least Socrates does not seem to have questioned it.

Roman Senate

Those of our time have often wondered just what kind of rules were used in the Roman Senate. They must have been comparable, or at least somewhat akin, to the rules of our own United States Senate, for enough has come down to us to prove that old Cato seemed to have no difficulty in securing the floor upon all occasions, in season and out of season, in order to keep before the Senate, and his constituents, to say nothing of future generations, the one plank in his platform, that Carthage must be destroyed.

Interesting as all these things are, they are not of the greatest importance so far as our present purpose is concerned. It is a loss, no doubt, to those students of parliamentary law who would like to go to the very bottom of things that what we call ancient history has failed to bring down to us a very clear notion as to the rules and procedure of ancient assemblies.

English Parliament

Parliamentary law, as we know it and as the world knows it, does not go back of the beginnings of the English Parliament. So well is this fact recognized that the very name of that body has attached itself to the law and procedure that have been developed under the general designation of parliamentary law, although the origin of the word must be sought across the English Channel.

The development of parliamentary procedure has gone hand in hand with the struggle for liberty and the working out of the idea of self-government. It has no real place in a despotism. If it be so that one man, or a comparatively small coterie of men, can say, "To the dungeon with him," or, "Off with his head," there is little need or place for parliamentary law. It has proved itself to be the helpful hand-maiden of concerted efforts toward self-government, but helpless in the presence of despotism, or anarchy.

Majority Rule

Parliamentary law is based on majority rule. Particular emphasis should be laid upon this point because

majority rule itself is the out-growth and result of a long drawn out development in the never ending struggle for human liberty. The growth and building up of this idea into a practical working system constitutes a most important step in the struggle. It was one of the greatest accomplishments on behalf of free self-government when the principle of majority rule was finally, though tardily, and in only a comparatively few countries fully accepted.

Majority Rule—Its Development

In order to correctly appraise the true value of the great boon of majority rule, let us see what it superseded. It is the law of the jungle that might makes right, and this was the law of man in the development of political government generally, so far as we know, until a time relatively recent. Up to a time comparatively modern, even in the most civilized countries, the great mass of the people were glad to become serfs, esnes, vassals, in a sense slaves, in order to be protected by the shield of a powerful war lord. With the advance of civilization, and especially with the improvement in implements of war, particularly the invention of gunpowder, there finally came a time when peoples, or at least some peoples, came to realize, through long and sad experience, that other things being equal, might was on the side having the greatest number of adherents.

It was said by a great warrior that the Lord was on the side of the heaviest battalions. Human experience having demonstrated that this was usually true, the

fine idea occurred to our own ancestors that within the confines of a single country, instead of fighting it out to the bitter end to determine which of two contending groups is the more powerful, it should be agreed in advance by all parties concerned that the side having the greater number of individuals should be declared the victor and should have the rights and privileges to which the victor would be entitled had there been a fight to the finish. Of course, such a policy could not be carried out until the cause of human liberty had advanced to a very considerable degree, at any rate, to the stage where the vanquished was permitted to retain life and, at least, a portion of his property.

Majority Rule—Not Universally Accepted

In some countries, it is not yet fully settled that the side having the greater number, as determined by an election, shall be accorded the fruits of victory even so far as government is concerned, and consequently those in a minority group sometimes seek to determine the matter by the old method of force, hence the frequent revolutions in those countries.

Majority Rule—Importance of Acceptance

It is important to get the true significance, the real import of this idea of majority rule and to realize fully how great was the advance when it became the accepted rule (and the word accepted should be emphasized) to count noses instead of fighting it out on the battle field. It was a long stride in the direction of stable government when the ballot was finally substituted for

the bullet, and this was simply the practical method of adopting the principle of majority rule.

Much stress is laid upon this particular point because it lies at the root of all parliamentary law, procedure and action. It has become accepted as so much a matter of course, however, that, observing how smoothly parliamentary proceedings usually run on, few realize the basis upon which the system rests.

Acceptance of Majority Rule Must Be Complete

It was only after a long and sometimes apparently losing struggle that it was finally settled, at least, in England and some other countries which have travelled along the same lines, that the majority, as decided at an election, shall by virtue of this fact have for the time being the duties, powers, privileges, and emoluments attaching to the business of government. In order to be enduring, this must be agreed to and accepted as a final, incontrovertible, established fact. It must be so generally, so universally, recognized that the minority group or groups must not only fully accept the result, but must be ready and willing to help by force, if necessary, to maintain the power to be exercised for the time being by the majority.

Alternative of Majority Rule

It is often asked "Why should the vote of fifty-one out of a group of one hundred be regarded as sacred, while the proposal of forty-nine of the same group, equally intelligent, should be disregarded?" The answer is that the principle of majority rule is at stake,

which is far more important than the choice between any two contending groups could possibly be. The forty-nine may be far wiser than the fifty-one, but there has been no method yet devised by the wit of man for determining in advance, or at any time for that matter, which group is the wiser. It might also be contended, with equal probability, that the forty-nine in a pitched battle would vanquish the fifty-one, but unfortunately, there is no way of determining this fact except by an actual fight. The awful consequences of an actual fight, which we now call war, are and always have been so great that finally it came to be accepted as a fixed principle that the majority having been determined by a method agreed upon in advance, the result shall be regarded as final for the time provided by law. Having reached the stage of accepting the principle of majority rule, parliamentary law was gradually developed as an indispensable aid in regulating and controlling the procedure of those selected to exercise governmental power.

Parliamentary Law—Its Function

Parliamentary law is not a series of arbitrary rules, but on the contrary is a consistent system founded upon common sense and sanctioned by the test of actual experience. Stating it in another way, parliamentary law may be called a common sense code of procedure generally agreed upon for use by assemblies for working the will of the majority. To be enduring, as well as effective, and best serve the interests of all, such a code of procedure must be reasonably fair to the minor-

ity. It should provide, however, that after such reasonable consideration as on the whole and in the long run, will best serve the public interest, those comprising the majority and, therefore, responsible, may finally work their will.

Present Rules are Outgrowth of Experience

The rules now commonly accepted as the best parliamentary procedure are the net result of decades of experience in many parliamentary assemblies. They may be said to have been hammered out on the anvil of experience by the successive blows of able men, animated by patriotism, partisan passion, and all the other elements that enter into the necessary business of government.

CHAPTER III

RULES OF THE HOUSE OF REPRESENTATIVES

Our own parliamentary law is directly derived from that of the English, the study of which is still most helpful, although there are many differences in details. The rules of the House of Representatives at Washington are doubtless the most thoroughly wrought out, tested and tried by actual experience, of any in use in America. They are the basis for the procedure in most of the state legislatures and some other assemblies in this country. It is not practicable or desirable to use these rules in their entirety for assemblies of all kinds, because they contain a number of special provisions which have been found necessary, or at least thought to be necessary, in the American Congress, though unsuited elsewhere; but leaving aside certain of these special rules, which have no general application, the rules of the National House of Representatives, because of their simplicity, are well adapted to assemblies of every kind and character. They are particularly adapted to the needs of state legislatures and have been adopted, so far as applicable, in a number of States.

Uniformity of Usage

It would be well if parliamentary usage throughout the United States were uniform and one of the hopes entertained in the work of preparing this volume for publication is that it may aid in causing a more nearly uniform usage to become general by conforming more and more nearly to the rules of the National House of

Representatives. As an earnest student of parliamentary procedure, and with considerable experience in its application, the author is prepared to go the whole way and to earnestly recommend that the rules of the National House of Representatives be boldly proclaimed as the accepted model for the parliamentary law of the land.

Need for Uniformity of Practice

Since it is the purpose of the author to use as a basis in this work, the rules and practice of the House of Representatives, so far as applicable to assemblies generally, it seems appropriate at the outset to explain briefly why this course has been adopted.

No student of parliamentary law and procedure, who has read even a portion of the many American books written as parliamentary guides and helpers, can repress a feeling of regret that there should be such a woeful lack of uniformity in these writings and in the practice of parliamentary procedure. No people in the world are so much given to meetings requiring some sort of parliamentary rules and yet nowhere is there greater lack of uniformity in the rules of procedure practiced.

Advantages of Uniformity of Practice

There are many reasons why substantial uniformity in the rules governing the procedure of deliberative bodies is desirable. An obvious advantage is that one would not need to forget and learn over again much of his knowledge of parliamentary rules every time he

changed his residence or his organization in order to understand or participate in the work of a new environment. Other reasons will readily suggest themselves.

Jefferson in his Manual says: "And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the Members. It is very material that order, decency and regularity be preserved in a dignified body." Any body adopting the rules of the National House of Representatives will always be certain to have a rule to go by whose rationality has been thoroughly tested by time and experience.

Greater Uniformity of Practice in England

For a long time it has been the accepted rule in British assemblies of all kinds to make the procedure of the House of Commons their parliamentary guide. It is taken as a matter of course not to be questioned, that this is the proper parliamentary procedure. Although it might never occur to one that such is the case, it appears to be a matter of national pride, if not of patriotism, to use the parliamentary rules governing the House of Commons for deliberative assemblies.

Reasons for Uniformity of Practice in America

In no other country is there better or sounder reasons for generally adopting the rules of a legislative body

than in this country adopting the rules of our own House of Representatives, and yet with the exception of a few State legislatures, this has been done only infrequently. It should be the rule, as in England, instead of the exception as it is here, that in every debating club, every literary society, every lodge and secret society, where there is any effort to follow a recognized parliamentary procedure, that the rules adopted to govern such procedure, should be those of the National House of Representatives, so far as applicable.

Lack of Understanding the House Rules

There is one reason probably more potent than any other that has prevented American deliberative assemblies from openly adopting the rules of the House of Representatives. Largely through ignorance of what properly constitutes parliamentary rules, the rules of the American House of Representatives have been on a number of occasions used as a foot-ball in partisan politics. On a few occasions, perhaps, because of the paucity of real issues between political parties, the rules of the House of Representatives, largely because they were thoroughly understood by but few, have been seized upon and made to do duty as political capital.

If sufficient public outcry be raised, people become convinced, knowing little or nothing about it, that something is "rotten in Denmark," that something must be wrong that ought to be righted, and this conviction so ignorantly arrived at, has its effect in causing some of the non-thinkers to vote for the "outs" to

replace the "ins," which in many cases is the motivating cause from the beginning. Meanwhile, these somewhat frequent assaults upon the rules of the House have been of a character sufficiently disturbing to cause timid souls to fight shy of them and to prevent anything like universal acceptance of a system of rules so often under attack.

Hindering Causes Removed

In this present era, when no issue of the character described is pending, is a good time to call attention to the indisputable fact that none of the attacks ever made upon the rules of the House have had more than a remote connection with those portions of the rules governing parliamentary motions or procedure. Most frequently the attacks upon the rules relate to the calendars of the House, the selection of its committees or the discharge of committees from the consideration of bills, none of which affects in the slightest degree the parliamentary procedure.

Instances of Attacks Upon Rules

One of the most celebrated instances of attack upon the House rules was in the Fifty-first Congress when the Speaker, Thomas B. Reed, of Maine, used a method for determining the presence of a quorum somewhat different from that in vogue for some years past. The Constitution of the United States provides that a quorum of the House of Representatives necessary to transact business shall consist of a majority of the

membership of the House, but prescribes no method for ascertaining whether or not a quorum is present.

Although apparently it was the earlier practice to determine by a count, it had become the later practice of the House to accept the report of a roll call as to whether or not a quorum was present. Ordinarily, the facts and the roll call were in accord, but on occasions when partisanship reigned supreme and partisan passions ran high, there would come times when such was not the case. When a filibuster was in progress, for instance, and it was desired to break a quorum in order to prevent action deemed objectionable by a militant minority, members sitting in their seats would refuse to answer to their names when called, thus showing absent on the roll call, though obviously present, and actually participating in the debate.

The Reed Ruling

On one occasion when the roll call was completed it failed to show a quorum present. Whereupon Speaker Reed directed the Clerk to record as present a sufficient number of additional members then sitting in front of him, naming them, to make up the necessary quorum. Mr. Crisp, of Georgia, appealed from the ruling of the Speaker, but a vote of the House sustained the decision. The rage of those thus thwarted in their purpose can be easily imagined.

The Speaker was denounced in the most bitter terms as a czar and despot, while the welkin rang from one end of the country to the other until the Congressional elections were over. The outcry seemed to have had

its desired effect, or, at any rate, Speaker Reed's party was reduced to a minority in the Fifty-second Congress, and Mr. Crisp, himself, was made Speaker. The Reed ruling was, of course, promptly reversed, but in the succeeding Congress obstruction became such that business was not only delayed, but much of it actually prevented from being considered at all for lack of time.

Meanwhile, a case involving the point of the quorum required by the Constitution to transact business had reached the Supreme Court, and it had been decided that it was the "presence" of the required number that determined the fact of a quorum and not the voting. So in the Fifty-fourth Congress the much criticised Reed ruling was restored to its place of authority. Of course, such a sensible and reasonable application of the constitutional provision for a quorum was accepted by succeeding Congresses without regard to party, and no one would now think of reverting to the practice it superseded.

It should be noted that this celebrated case related to a constitutional provision and affected only a practice of the House for determining the presence of a quorum that had grown up under this provision, without the slightest effect upon anything related to parliamentary procedure.

The Cannon Ruling

Almost as celebrated as the Reed insurrection, and still fresh in the minds of many participants still living, was the so-called revolution against the Cannon rules. From a parliamentary standpoint it is sufficient to say

that only a single, inconsequential point of parliamentary procedure was involved, in which the correctness of Speaker Cannon's ruling was admitted by the ablest leaders of his opponents, such as Champ Clark, later Speaker, and Oscar W. Underwood, later Majority Leader and United States Senator. It was admitted to be a case of revolution, the right of which is not denied under proper circumstances, and the conditions then existing were claimed to be such as to justify the revolution.

Grave doubt still exists among experienced legislators and students of parliamentary procedure whether any of the changes proposed or effected, as a result of this famous uprising, were wise or in the interest of better legislation, though a discussion of this question has no proper place here. It is sufficient to state in this connection that the points at issue in the Cannon revolt, related exclusively to certain powers exercised by the Speaker, including the appointment of the Standing Committees of the House, and his service as chairman of the important Rules Committee appointed by him. No criticism was made of any of the rules governing the parliamentary procedure of the body and the only purpose of temporarily over-ruling the Speaker's admittedly correct decision on a minor point of order was to enable the House to vote immediately upon a resolution taking from the Speaker the power to appoint the Standing Committees or to serve on the Rules Committee. Parliamentary procedure was not changed at all, but again the outcry was made and had

its effect in the general election. Along with other issues, it was made to do duty in the campaign which resulted in a reversal in the party control of the next House of Representatives and Mr. Clark, instead of Mr. Cannon, was elected Speaker of the next House.

Later Attacks Upon the Rules

In later years, through succeeding Congresses, there grew up a movement demanding what was concealed under the high-sounding name of "liberalizing the rules of the House." No one attempted to clearly define what was meant by it. Judging by what was proposed, when the opportunity came to do something about it, the principal grievance seems to have been that occasionally a committee, which had been elected by a vote of the House, failed to promptly report out some bill referred to it and which was supposed, or claimed, to be favored by a substantial number of members. The proposal usually took the form of permitting a certain number, much less than a majority of members, by signing a petition to force out of committee and to the floor of the House any measure for which the required number of signatures could be secured by persuasion, intimidation, or otherwise. Such rules, with varying numbers necessary to discharge committees, were adopted from time to time, but none ever proved to be satisfactory or really workable.

Such a provision, in addition to being unnecessary to bring about consideration of any measure having sufficient support to pass it, is in direct conflict with and contradictory of the basic principle of majority

rule. It will be observed here also that the ordinary rules of parliamentary procedure are in no respect involved; but in spite of this fact, throughout the country, it was heralded that an attack was being made by self-sacrificing patriots upon the antiquated and vicious rules of the House.

Effects of Attacks Upon the Rules

The periodical attacks upon the rules of the House taken together with the inherent difficulty of the subject and the limited general information in regard to it, have not only frightened the timid but have prevented even those who might seek for guidance in parliamentary questions from turning in this direction. From such information as they may have received from reading the newspaper headlines, many honest people have the notion that the rules of the House are not only intricate and difficult to understand, but positively vicious, tricky, a veritable snare for the feet of the unwary. As a matter of fact they are not intricate or difficult to understand. In many respects, they are simpler than those laid down in such well-known works as Cushing's Manual, Robert's Rules of Order, or even the parliamentary guide written by Mr. Speaker Reed himself. No other system or code of rules has been more thoroughly tried out in an arena furnishing such opportunity for applying the acid test of experience and securing results obtained through the winnowing process of elimination by trial and error.

In spite of the fact that the rules of the House have been dragged into political controversies causing bias

and prejudice against them, and notwithstanding the fact that Congress itself has not always held that high place in the esteem of the people that it should hold, nevertheless the able men of all parties who have constituted the House of Representatives through the years have wrought out by actual experience a system of parliamentary procedure, unequalled in its simplicity and unexcelled in its practical workability. This truly American system is the invaluable heritage of a nation, which should be proudly adopted by deliberative assemblies of every character throughout the country.

Present Trend Toward House Rules

Those bodies which choose to adopt the House rules so far as applicable will find themselves in fairly numerous and quite respectable company. A number of State legislatures have adopted the House rules so far as they apply, subject, of course, to the special rules made necessary by special conditions in each case. Other bodies are beginning to follow suit and now that no one has been able to discern anything further out of which political capital might be made by an attack upon the poor unoffending House rules, is a good time to forget the folly of the past and begin to utilize more effectively what has been laboriously but thoroughly worked out by those who have preceded us and by them left ready for our hands.

Purpose of Rules

Let us start with two fundamental facts, that in the end the majority must rule and that the proper function

of an assembly is to act by resolution or otherwise, after proper consideration. Mr. Speaker Reed once expressed it as follows: "It is the business of the legislative body to legislate, and the rules of parliamentary law are primarily to enable a proper result to be arrived at after fair consideration."

The amount of time to be consumed in discussion that is thought to be fair may vary all the way from what are sometimes called "gag rules" to the procedure in the United States Senate where, until a comparatively recent date, there was practically endless debate. While the procedure should be such that in the end the majority, which under our system is responsible, may work its will, nevertheless, parliamentary rules are made to protect minorities against the undue usurpation of power by arbitrary majorities, not for the sake of the minority, but, in the long run, for the public good.

Only Ten of House Rules Relate to Procedure

The rules of the House of Representatives are forty-three in number, varying in length from a brief paragraph to several printed pages. Only ten of these rules in any way relate to procedure and since this work is concerned with procedure alone, only those rules which relate to procedure will be included here.

The other rules are concerned with the establishment and jurisdiction of committees, the calendars of the House, the treatment of Senate amendments and a

number of other more or less connected matters to which reference here is unnecessary.

The ten rules included are: Rules I, IX, XIV, XVI, XVII, XVIII, XIX, XXIII, XXVII and XXX.

Much of the material contained in these ten rules is not applicable to assemblies generally, but it is deemed best to print the ten in their entirety.

CHAPTER IV

RULE I—DUTIES OF THE SPEAKER

Calling the House to Order

Paragraph 1 of Rule I—"The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order, and on the appearance of a quorum, cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same."

In the early days of the English Parliament, the presiding officer was called the "Prolocutor," the title "Speaker" coming into permanent use during the 16th Century. The title "Speaker" is ordinarily applied only to the presiding officer of the popular branch of a legislative body. It should be understood in the study of these rules that in all cases the correct title of the presiding officer of the assembly concerned is to be substituted for the word "Speaker."

The title "President" is the usual designation of the officer presiding over the Senate in bi-cameral bodies and over many other assemblies. "Chairman" is the most commonly used title for presiding officers. Other titles in use for presiding officers of American assemblies are too numerous to be listed here and quite varied, but whatever the title, the duties of the individual performing this function are much the same.

Whatever the title of the presiding officer may be, in parliamentary language, he is always "The Chair." The presiding officer should not use the first person in speaking of himself, but should use the designation

"The Chair," or in appropriate cases, "The present occupant of the Chair." He should use the term "the present occupant of the Chair" when he wishes to refer to himself as an individual rather than as the presiding officer.

In the first paragraph of this rule, the Speaker is required to take the chair promptly at the designated hour, and in the House of Representatives this requirement is scrupulously observed. In other than legislative assemblies, it is more honored in the breach than the observance. Especially is this true in the case of mass meetings and other voluntary gatherings where the apparently universal human propensity for being late is taken into account.

A Quorum

The quorum provided for in this rule is a majority of the membership of the House, as required in Article I, Section 5, of the United States Constitution for both Senate and House. In bodies not thus restricted, a quorum may be any number established and agreed upon, but the favorite proportion is one more than half of the entire membership, and where not specifically stated, this is usually understood to be the necessary requirement for a quorum.

By a "quorum" is meant the number or proportion of the membership required to be present for the transaction of business. The word is the Latin relative pronoun plural and means, literally, "of whom." It was first used in the commissions of English courts sent out for the trial of certain classes of cases and indicated the

necessity of certain members of the court being present in order to constitute a legal tribunal.

The presence of a quorum at the sessions of the House of Representatives, except at the first meeting of a new session of Congress, is assumed and is presumed to continue present throughout the session unless the question of a quorum is raised.

Speaker Preserves Order on Floor and in Galleries and Lobby

Paragraph 2 of Rule I—"He 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."

The primary and most important duty of a presiding officer is set out in this paragraph,—“He shall preserve order and decorum.” This is no easy task in a large body and is seldom fully or completely performed. Only by unremitting attention on the part of the Speaker, with tact and firmness, and with a fair degree of cooperation on the part of the Members, is even a semblance of “order and decorum” maintained in the House of Representatives.

The task given the Speaker “in case of disturbance or disorderly conduct in the galleries or in the lobby, to cause same to be cleared” is much more easily accomplished.

Speaker's Control of the Hall, Corridors and Rooms

Paragraph 3 of Rule I—"He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that

part of the Capitol assigned to the use of the House, until further order."

In the third paragraph of this rule the Speaker is given general control of the corridors and passages and, what is of more particular importance to a few members, the much coveted rooms in the House wing of the Capitol.

Decision of Questions of Order

Paragraph 4 of Rule I—"He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House, and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House."

The only portion of this paragraph of the rule that is of general application, is that the Speaker “shall decide all questions of order, subject to an appeal by any Member on which appeal no Member shall speak more than once, unless by permission of the House.” Next to the preservation of order and decorum, the decision of points of order is of the highest importance in order that uniformity of decision and the orderly disposition of business may be maintained.

Points of Order

Points of order are the means through which violations of and deviations from the rules established for the government and procedure of parliamentary bodies are called to the attention of those in position to take action concerning them. They may be as varied and numerous as the human mind is able to conjure up in the way of transgressing rules.

Two of the most prolific sources of points of order are violations of the rule of germaneness in offering amendments (Para. 7b, Rule XVI) and the offering of amendments in the third degree (Rule XIX). Another is that the discussion is not confined to the question under debate, and another that personalities are not being avoided in debate (Para. 1, Rule XIV). The making of motions "when a question is under debate," other than those authorized by the rule of precedence among motions (paragraph 4, Rule XVI) and offering motions otherwise than as the rule prescribes, also furnish their full quota of points of order. All these are but examples of the innumerable list that might be brought together of possible infractions.

Must Be Raised Before Debate

In order to be valid, a point of order must be made before debate has begun on a motion or other proposition. It is one of the cases in which the law protects the vigilant and not the sleeping. The partly awake, however, have some safeguard against undue haste in beginning debate by insisting upon the motion being stated by the Chair, or, if in writing, read by the Secretary, before debate may properly begin. (Para. 2, Rule XVI).

A thorough knowledge of the rules and parliamentary procedure of assemblies generally is a valuable asset to any one presiding over or participating in the deliberations of such bodies, and the proper use of such knowledge should add to the prestige, value and influence of any one so using it. A wise discretion, how-

ever, should govern as to the time, place and manner which such knowledge should be used.

The rules that are supposed to govern the procedure of an assembly should be reasonably observed, and where circumstances require it they should be strictly and rigidly enforced. There are circumstances, however, where it may be far wiser and better to permit relaxation of the rules even to the extent of temporarily disregarding them. All depends upon conditions and one thoroughly conversant with the rules is far more likely to recognize the conditions either calling for laxity or for rigid enforcement.

How to Raise Points of Order

When it is desired to raise a point of order the member rises and respectfully addresses the presiding officer, as in seeking recognition. If debate or the offering of motions be in order and no one holds the floor, recognition to raise a point of order is sought in the same way as for debate. If another member is seeking recognition at the same time, one should add, when addressing the Chair, that he desires to make a point of order. This entitles him to priority in recognition for this purpose only. If another has the floor he cannot be taken from the floor, except the point of order be that no quorum is present or one relating to remarks just made and which, if at all, must be taken note of immediately. In other words, if no rights are to be lost by so doing, a point of order should not and cannot be raised while another has the floor.

The procedure in any case is simple. The member

having gained the eye and the ear of the presiding officer, announces that he desires to make a point of order. The Speaker says, "The gentleman will state his point of order," which he proceeds to do.

Discussion of Points of Order

Discussion on the point of order is permitted at the discretion of the presiding officer and subject to his control. He usually says, "The Chair will hear the gentleman on his point of order." He usually hears some one opposed to the point of order and often hears prolonged argument pro and con, but can stop it at any time. When ready to rule upon the point of order he indicates it by saying, "The Chair is ready to rule."

In discussing a point of order, there is often a tendency to discuss the merits of the main question, but this is not properly permissible, and the offender should be halted by another incidental point of order to the effect that he is discussing the main question instead of the point of order, or, at any rate, is not confining himself to the question under debate which is now, at this stage, the point of order first raised.

Appeals From the Decision of the Chair

The provision of the paragraph in regard to appeals is quite clear. All decisions on points of order are subject to appeal by any member. The presiding officer of an assembly is the servant of the assembly and not its master.

The usual practice in taking an appeal from the decision of the Chair is for the member rising and ad-

ressing the Chair to say, "I respectfully appeal from the decision of the Chair." The Speaker says, "The decision of the Chair is appealed from. The question is, shall the decision of the Chair stand as the decision of the House." Limited debate is in order on the appeal and the question is usually put in this form, "The question is, shall the decision of the Chair stand as the decision of the House. As many as are in favor will rise and stand until counted. (The Speaker counts and announces the number voting in the affirmative for notation by the Clerk.) As many as are opposed will rise and stand until counted. (Counts, announces the number voting in the negative and the final result.) On this vote the 'Ayes' are—— and the 'Noes' are——. The 'Ayes' have it and the decision of the Chair stands as the decision of the House," or "The 'Noes' have it and the decision of the Chair is over-ruled."

The clause forbidding a member speaking more than once on an appeal without permission of the House is perhaps necessary as a reserve power, but rarely is there occasion for applying it. Should a member desire to speak again it would be quite unusual for the privilege to be denied him.

Putting the Question By the Speaker

Paragraph 5 of Rule I—"He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: 'As many as are in favor (as the question may be), say Aye;' and after the affirmative voice is expressed, 'As many as are opposed, say No;' if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and

then those in the negative; if he still doubts, or a count is required by at least one-fifth of a quorum, he shall name one from each side of the question to tell the Members in the affirmative and negative; which being reported, he shall rise and state the decision."

The rule requiring the Speaker to "rise to put the question" should be observed by all presiding officers. There is a certain loss of dignity when the presiding officer, in submitting a question for a decisive vote remains seated. It will be noted that he may "state" the question seated, which calls for an explanation of the distinction between "putting" a question and "stating" it. Putting a question is a final submission of the question to a vote, whereas stating it is simply for the information of the members and, without objection, may be repeated until the question is clearly understood.

Viva Voce Vote

The form in which the question is put could not be stated more simply than in the rule,—“As many as are in favor (as the question may be) say Aye;” and after the affirmative voice is expressed, the negative voice is called for in precisely the same language,—“As many as are opposed, say No.” It now becomes the duty of the presiding officer to decide whether the affirmative or negative voice prevails. An acceptable and most satisfactory procedure is for the presiding officer immediately after the expression of the negative voice to indicate his opinion as to the prevailing side by saying, “The ‘Ayes’ appear to have it,” or “The ‘Noes’ appear to have it,” followed by a short pause. The pause is

important and should always be observed because it gives any doubting member the opportunity to rise and after addressing the Chair demand a division.

A Division

A division having been demanded, an acceptable form for taking the division is for the presiding officer to say, “A division has been demanded. Those in favor (as the question may be) will rise and stand until counted.” Upon completion of the count the presiding officer raps the gavel to seat those voting in the affirmative, states the number so voting, for notation by the Clerk, and immediately proceeds to put the negative, —“As many as are opposed will rise and stand until counted.” Upon completion of the count, the presiding officer again raps the gavel, announces the negative vote, and adds, “The ‘Ayes’ are (so many) and the ‘Noes’ are (so many), the ‘Ayes’ have it,” or “The ‘Noes’ have it, and the motion is carried” or “lost,” as the case may be.

The rule provides that if the Chair is in doubt he may call for a division, but obviously he would have this right as a member, which is not taken from him by reason of his occupancy of the chair.

Teller Vote

If there is doubt as to the accuracy of the Chair’s count, another and more accurate method of counting is provided and this is by means of tellers, when demanded by at least one-fifth of a quorum.

In order to obtain tellers a member rises and says,

"Mr. Speaker, I demand tellers." The Speaker says "Tellers are demanded, as many as are in favor of taking this vote by tellers will rise and stand until counted." By this rule one-fifth of a quorum is required to second the demand for tellers. One-fifth of a quorum having seconded the demand for tellers the usual procedure is as follows:

The Chair usually appoints the opposing leaders of the immediate controversy as tellers, who take their posts in a convenient place, while the Chair says, "As many as are in favor (as the question may be) will pass between the tellers and be counted." When the affirmative vote has passed between the tellers, the teller making the count reports "(so many) in the affirmative." The Chair then says, "As many as are opposed (as the question may be) will pass between the tellers and be counted." Upon conclusion of the negative vote a report of the number so voting is made by the other teller and the Chair announces the result in the same way as the result of the rising vote was announced and declares the motion carried or lost as the case may be.

"Yea" and "Nay" Vote

In addition to the viva voce vote, the rising, or division vote and the teller vote, there is the roll call or "Yea" and "Nay" vote, which is provided for in the Constitution of the United States when desired by one-fifth of those present.

The usual procedure for securing a "Yea" and "Nay" vote is for a member to rise, address the Chair and say,

"I demand the 'Yeas' and 'Nays'." The presiding officer says, "The 'Yeas' and 'Nays' are demanded. As many as are in favor of taking this vote by 'Yeas' and 'Nays' will rise and stand until counted." The presiding officer counts those standing and if in his judgment as many as one-fifth of those present have arisen, says, "A sufficient number have arisen and the 'Yeas' and 'Nays' are ordered. As many as are in favor (as the question may be) when their names are called, will answer 'Aye,' those opposed 'No,' and the Clerk will call the roll." In case an insufficient number arise, the presiding officer announces the fact by saying, "Not a sufficient number, and the 'Yeas' and 'Nays' are denied." In case of a doubt, a verification may be had by a count of the entire number present. In ascertaining whether one-fifth of those present support a demand for the 'Yeas' and 'Nays,' the Speaker counts the entire number present and not merely those who rise to be counted. Such count is not subject to verification and a request for a rising vote of those opposed to the demand is not in order.

The roll is usually arranged in alphabetical order, the last name, or surname only is called, unless there be more than one of the same name, or with names so much alike in sound as to cause uncertainty as to the member called. In such cases the name of the State is added. When there are two or more of the same name from the same State the initials or Christian name may be used.

Second Roll Call

In the House of Representatives the rule is (Para. 1, Rule XV) for the Clerk to call again the names of those who did not respond to the first roll call, but in case of failure to respond to either call a member may not have his vote recorded at the conclusion of the roll call, unless he states that he was present listening and failed to hear his name called.

The four methods of taking the vote of an assembly here given are the only methods used in the practice of the House, with the exception of the vote for the election of Speaker, in which the roll is called and the response instead of 'Aye' or 'No' is the name of the person to be voted for.

Other Methods of Voting

For all legislative assemblies and for most others, the four methods given are well adapted and adequate, but each assembly, society, club, board or other organization will determine for itself the method best suited to its purposes and environment. In the case of clubs and societies it is usual to provide for voting by a 'show of hands' which is in some measure like the division or rising vote above described, but much more difficult to count accurately, especially in a large assembly.

Taking the vote by ballot is practiced in some foreign legislative assemblies, but the time required for counting, which is quite considerable, is not the only objection to this method. For a practical method of voting on the many questions to be decided in a busy American

assembly, there is little to commend it, though for the election of officers and other special purposes, where secrecy is desirable, it is the usual and proper procedure.

Speaker's Vote—Tie Vote

Paragraph 6 of Rule I—"He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in cases of a tie vote the question shall be lost."

The Speaker is not required to vote, except where his vote would be decisive, although, of course, as a member of the House, he would vote by ballot the same as any other member. The only cases in which one vote is decisive are when the vote is a tie, by voting in the affirmative, or when the affirmative vote is one greater than the negative, so that the vote of the Speaker in the negative would cause a tie, because it is obvious, even without stating it in the rule, that "in cases of a tie vote the question shall be lost," since it is a fundamental principle of parliamentary procedure that a majority is necessary to prevail.

Speaker Pro Tempore

Paragraph 7 of Rule I—"He shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days: Provided, however, that in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence."

In this paragraph the Speaker is given the right to name any other member to perform the duties of the Chair, but limits the time for which such substitution may be made. It is evident that the paragraph would have no application to other assemblies unless so provided by special rule. Ordinarily one or more vice-chairmen are provided for, but if not, the regular presiding officer is usually permitted to name a substitute to preside temporarily.

CHAPTER V

RULE IX—QUESTIONS OF PRIVILEGE

Definition and Precedence of Questions of Privilege

Rule IX—"Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn."

It will be noted in this rule that there are two classes of privileges, first, affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, its applicability to the members, affecting the "rights, reputation and conduct of members, individually, in their representative capacity only."

In the early stages of the development of parliamentary procedure, questions of privilege were of far greater importance than they are now. During the long struggle between the Crown and the Parliament in England it was of the most vital importance that the privileges of the House itself and of the individual members in their official capacity should both be scrupulously maintained. During this struggle it was regarded as important that there should be no effort to set down or catalog a list of these sacred privileges, because it was claimed that were these privileges specified some other means outside of the designated list would be invented by the ingenuity of the Crown and utilized for the destruction of the people's rights.

The privileges of Members of Congress mentioned in this connection are not many and while important, cannot be said to have the commanding importance attached to them in the early stages of parliamentary government. In all cases, except "treason, felony, and breach of the peace," they are "privileged from arrest during their attendance at the session of their respective Houses and in going to and returning from the same" and from being "questioned in any other place for any speech or debate in either House."

Outside of the constitutional privileges there are, of course, many privileges of the House and of the individual members. When these are violated parliamentary procedure gives them a high degree of privilege when brought before the body for consideration.

In the case of questions of privilege involving the safety, dignity and integrity of the House and its proceedings, it is required that they be brought before the body in the form of a resolution. In the case of questions of personal privilege affecting "the rights, reputation and conduct of Members individually in their representative capacity only," no resolution is required, but a simple statement of the violation complained of, if held by the Chair to raise a question of privilege, entitles the member to the privilege of addressing the House in explanation or denial.

CHAPTER VI

RULE XIV—DECORUM AND DEBATE

Obtaining the Floor for Debate

Paragraph 1 of Rule XIV—"When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to 'Mr. Speaker,' and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality."

This rule requires the member to rise and by inference negatives all attempts to take part in the procedure while remaining seated. It precludes such unparliamentary procedure as calling "Vote, vote," or otherwise attempting to inject one's self into the proceedings without having obtained the necessary parliamentary status through parliamentary procedure. He "shall respectfully address himself to 'Mr. Speaker' and on being recognized may address the House." Recognition by the Chair is the necessary prerequisite for permission to address the House. Any attempt to do so otherwise is not only unparliamentary but tends to produce disorder and confusion.

When a woman is the presiding officer, the only difference in addressing the Chair is the substitution of "Madam" for "Mr.," regardless of whether she is "Miss" or "Mrs.;"—as "Madam Speaker" or "Madam Chairman." The response from the Chair in giving recognition to a woman member is either "The lady from ———," or "The gentlewoman from ———," or her official title, as in the case of men. If necessary to dis-

tinguish further, add "Miss X" or "Mrs. Y.", as the case may be.

Debate Confined to Question Before the House

He "shall confine himself to the question under debate." Much meat is packed into this small statement and if the discussion is to be kept from aimless wandering over an undefined territory, this rule must be observed. If it is not, the debate ceases to be a logical discussion of a particular subject and becomes a rambling and incoherent medley of unrelated statements. Of course, discretion is called for and where there is plenty of time for debate and it is of a general character, more leeway is necessarily expected and allowed.

Courtesy in Debate

The last two words of the paragraph are of tremendous significance and go to the very root of courtesy in debate. Where personalities are indulged in, tempers are soon lost, and sober judgment cannot be depended upon. So necessary is insistence upon this rule that it is quite unparliamentary to use the second person in referring to another member and, in fact, even the name of another member is not called when there are other available means of designating him. In the House of Representatives a member is designated as the "Gentleman from (naming the State from which the member comes)," although on account of there being a number of members from the same State, it may be necessary to say, "The gentleman from (naming the State from which the member comes), Mr.——." In other

than legislative assemblies it is sometimes not so easy to designate the members except by name, but even then it is the better procedure to say, "The gentleman who preceded me" or "The gentleman on my right" or some other proper designation. These may be regarded as only the niceties of deliberative assemblies, but they indicate the importance of courtesy in debate.

Speaker's Power of Recognition

Paragraph 2 (a) of Rule XIV—"When two or more Members rise at once, the Speaker shall name the Member who is first to speak; * * *."

What this rule means is that the presiding officer has the power of recognition and it is now generally accepted as sound parliamentary practice that there is no appeal from the decision of the Chair in giving recognition. This does not mean that the presiding officer is entirely free in giving recognition. Many rules, customs and practices limit his discretion. Fair play and good sportsmanship are two elements entering into recognition. It is not good policy to be unfair and ordinarily it does not bring good results. It will be noted also that the power given the Speaker in this paragraph is to a certain extent limited in a subsequent paragraph.

Securing recognition is the parliamentary procedure by means of which a member obtains the right to address the assembly, or in the usual parlance, "gets the floor."

Paragraph 1 of this rule requires that the member rise and respectfully address himself to the Chair. It

is assumed that the member first rising and addressing the Chair is to be first recognized. As above indicated, there are a number of factors entering into the matter of recognition which may and properly should control the presiding officer in naming the one "who is first to speak." Although by rule or accepted practice, such person may be clearly indicated, he should nevertheless remove all question by being already on his feet when the point of time arrives at which recognition may be demanded. If he fails to do so, he should not complain if some one else is recognized ahead of him.

Fairness in Recognition

The Chair should always strive to recognize as fairly as is practicable. Debate, as a rule, should alternate between the affirmative and the negative. In legislative bodies, a practice often followed is to fix the time for debate and allow the time to be allotted by someone in control of it on either side, but if this is not done, the presiding officer should see to it that the time is, with reasonable fairness divided between the proponents and opponents of the pending proposition.

In most assemblies it is the practice to recognize first the mover of the proposition. This, of course, is not a matter of right, but should be acted upon as a matter of courtesy, and usually it will be found the best means of expediting the business before the assembly. It should be borne in mind that the presiding officer is supposed to carry out the will of the assembly, and as

a rule, an assembly wishes to be fair, especially in matters of debate.

Hour Rule in Debate

Paragraph 2 (b) of Rule XIV—" * * * and no Member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule."

The question of time to be occupied is, of course, applicable to the House of Representatives only and has no application whatever to other assemblies, although it may indicate the necessity for establishing by special rule, a limit of debate in other assemblies.

Opening and Closing of Debate

Paragraph 3 of Rule XIV—"The Member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening."

While this paragraph in its entirety is not applicable to assemblies generally, the first clause states the usual parliamentary practice that the member reporting the measure from a committee or offering it directly from the floor, shall have the courtesy, if not the right, of opening and closing the debate. He should be first recognized by the Chair if he seeks recognition.

Call to Order

Paragraph 4 of Rule XIV—"If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to,

decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper."

This paragraph provides the means for dealing with members transgressing the rules and may well be adopted as sound procedure in other bodies. An acceptable form for calling a member to order is to rise and address the Chair by saying, "Mr. Speaker, I make the point of order that the member is not addressing himself to the question under debate (or whatever may be the particular transgression)." A common method of disposition of a case of this kind is, upon the first point of order, the Chair shall warn the offending member by saying, "The gentleman will proceed in order," but if it be necessary to again call him to order, further action may be necessary. Sometimes another member makes a motion that the gentleman be allowed to proceed in order.

Words Taken Down

Paragraph 5 of Rule XIV—"If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened."

This paragraph simply gives the procedure in case of objection to words spoken in debate that are deemed violative of proper parliamentary procedure.

Member to Speak But Once to the Same Question

Paragraph 6 of Rule XIV—"No Member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every Member choosing to speak shall have spoken.

The purpose of this paragraph is to give every member an opportunity to discuss a pending question, if he chooses to do so, before members who have already spoken may again occupy the floor. This is another rule requiring discretion in its observance because often only a small portion of the membership desire to discuss the question while a few members may be able to furnish information on many points of importance if given the opportunity.

Decorum of Members in the Hall

Paragraph 7 of Rule XIV—"While the Speaker is putting a question or addressing the House, no Member shall walk out of or across the hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House, no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots, or smoke upon the floor of the House; and the Sergeant-at-Arms and Doorkeeper are charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke upon the floor of the House at any time."

During the first fifty years in the House of Representatives members wore their hats in accordance with the custom of the House of Commons in England, where hats are still worn by the members.

This paragraph is not of general application and has no reference to procedure, but still may well serve as a model for assemblies that meet often and for long continuing sessions. In the House of Representatives the rule against members wearing hats has been scrupulously maintained even since so many women have become members of Congress.

Introducing or Calling Attention to Persons in the Galleries

Paragraph 8 of Rule XIV—"It shall not be in order for any Member to introduce to or to bring to the attention of the House during its sessions any occupant in the galleries of the House; nor may the Speaker entertain a request for the suspension of this rule by unanimous consent or otherwise."

Paragraph 8 of Rule XIV was adopted at the beginning of the 73rd Congress to put an end to what had become a very real abuse. It is a rule of special application to the House of Representatives and needs no explanation or further comment here.

CHAPTER VII

RULE XVI—MOTIONS

Motions Reduced to Writing

Paragraph 1 of Rule XVI—"Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day."

The usual subsidiary motions and others which are carefully prescribed as to form such as to lay on the table, the previous question, to postpone either to a day certain or indefinitely, and to adjourn, are not required to be reduced to writing. Neither are very simple motions to amend, but the demand may be made at any time and should be made when the amendment is long or involved. If the Clerk at the desk is experienced and quick, he can usually catch the language of the motion and reduce it to writing by the time the presiding officer can state it, but if there be any question as to the language, the demand should be made and compliance with the rule insisted upon.

The provision for entering on the Journal all motions made and the member making them in each case should be accepted and practiced by all bodies holding regular sessions as a matter of information for future reference. Motions withdrawn at the same sitting may be treated as not made at all.

Stating and Withdrawing of Motions

Paragraph 2 of Rule XVI—"When a motion has been made, the Speaker shall state it or (if it be

in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment."

Before any one is recognized for debate or for any other proper motion, the presiding officer should plainly state the motion, or if it be in writing, cause the Clerk to read it aloud, but until an amendment is made or some other action taken, it may be withdrawn.

It will be noted that when the motion has been stated by the Chair or read aloud by the Clerk, it is "in possession of the House" and debate is in order. Nothing is said of a second being required.

Seconding Motions

At the time the provisions of this rule were first adopted in 1789, a second was required for every motion, but in the very first years of the century, this requirement became obsolete in practice, as it did about the same time in the British Parliament, although it was not dropped from the printed rules of the House of Representatives until 1880. Legislative bodies, almost universally, have long since dropped from their practice this meaningless formality. It is, however, one of those apparently undying customs that cling tenaciously to the practice of clubs, boards and other minor assemblies; so that those who would readily adjust themselves to the parliamentary usage of such bodies are warned against too strenuously insisting upon the immediate discontinuance of this time-honored custom of seconding motions.

In all truth and candor, however, it should be said that it is difficult to imagine anything more useless, undignified or unparliamentary than for some unrecognized voice to boom from the midst of the assembly, "I second the motion."

It is recorded of the period in the British House of Commons during which the custom of seconding motions was gradually disappearing that although the rules then provided for a second, they were regarded as sufficiently complied with for a member merely to tip his topper. Directly opposite to our present House of Representatives rules, hats are still worn in the House of Commons. Of course, anything so inane as lifting the hat as a parliamentary function soon went out of use along with the rule itself. It is one of the oft recurring humorous, but momentarily humiliating, episodes in a legislative body for a new member "fresh from the sticks" to sing out on the first day of his service, "I second the motion," but he never repeats the mistake and all his fledgling colleagues usually profit from his courageous but untimely venture.

It is to be hoped that in the not too distant future this time-honored practice of seconding motions will wear itself out in all assemblies and disappear as it has from legislative bodies, but until that time arrives, presiding officers of other than legislative bodies are advised to accept patiently the well meant offerings of those who insist upon seconding the motion and at most dare only to omit reference to the second or seconder in stating and putting the motion.

Question of Consideration

Paragraph 3 of Rule XVI—"When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member."

Raising the question of consideration is one of the most important and highly privileged of parliamentary motions. It permits a majority of the assembly to protect itself against the waste of time and effort in the discussion of a matter which it does not wish to consider. It can be raised by any member and brings an immediate decision without debate or intervening motion upon the question as to whether the assembly will consider the motion or proposition. Refusal to consider does not amount to rejection or prevent it being brought up again at some other time.

The question of consideration must be raised when the motion is made or proposition submitted. Failure to raise it at this time forfeits the right to raise it at all, but so long as it is in order it takes precedence over all other motions. It is too late to raise the question after the motion has been stated and debate has begun.

The method of raising the question of consideration is direct and simple. A member rises and after addressing the Chair, says, "I raise the question of consideration." The presiding officer announces that such a member has raised the question of consideration and immediately puts the question, saying, "As many as favor consideration of the motion or proposition (as the case may be) say 'Aye'." Likewise, putting the negative side. Any point of order which if sustained

might prevent consideration, should be made and decided before the question of consideration is put, but such a point of order cannot be raised after the question of consideration has been decided.

It is not in order to move to reconsider the vote by which consideration was refused. It is obvious that if a vote of the assembly has just refused to consider the matter at all, it would be inconsistent to entertain a motion to reconsider.

Precedence of Privileged Motions

Paragraph 4 of Rule XVI—"When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of the bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution."

Paragraph 4 of Rule XVI, is in many respects the most important provision in the Rules of the House. The first sentence of this paragraph sets out in the briefest possible language the order of precedence of the usual motions utilized in the consideration and disposition of matters debated and acted upon in parliamentary bodies.

Note carefully that this rule applies only "when a

question is under debate." In other words, until some main motion or proposition is before the assembly the order of the precedence of motions does not apply. When there is no pending question, many things might be in order under the regular order of business. The presiding officer, under such circumstances, should exercise the greatest care in the matter of giving recognition that would entitle the member recognized to bring up any business that might be then in order.

When a question is under debate, however, the entire situation is changed. Henceforth, "no motion shall be received" except those here stated and then in the order of precedence here set down. Of course, this rule is not quite so iron-bound and exclusive as it reads, because there are incidental motions arising out of the immediate circumstances that might come up calling for immediate action at any time, but as the name indicates, these are incidental and have no direct bearing upon the main question. They serve rather as a temporary, though necessary, suspension of the consideration rather than as a means of disposing of the question.

The motions here enumerated, except the motion to adjourn, are all to be utilized for the disposition in one way or another of the question under debate, that is, the main motion. They apply to the main motion and with certain exceptions are inapplicable to each other.

Motion to Adjourn

The motion to adjourn is here given the highest privilege and it is usually so in parliamentary and deliber-

ative assemblies generally. It is often stated that a motion to adjourn is always in order. This is not literally true. Unless a time has been fixed for reconvening, an adjournment would mean the dissolution of the assembly. Under such circumstances, a motion to fix the time for reconvening, would take precedence over the motion to adjourn.

A motion to adjourn may not be made while a member holds the floor, or while a vote is being taken. Under certain conditions it will be held out of order as dilatory.

Generally speaking, however, the motion to adjourn is the most highly privileged of motions so far as the order of precedence is concerned. In order to retain its high position of precedence, it must be simply a motion to adjourn, with no additions or qualifications whatever. A motion to adjourn until tomorrow at one minute before or after twelve o'clock noon would have no privilege whatever, though the time fixed for reconvening might be twelve o'clock noon. In case noon were the hour fixed for meeting and the motion were to adjourn until that hour, the presiding officer in stating and putting the motion should leave off as surplusage the words "until twelve o'clock noon tomorrow." It should be borne in mind, however, that all the while the parliamentary situation is "when a question is under debate," that is, when there is something before the assembly. If there is nothing pending, no business before the house, then a motion to adjourn to some time specified may be in order as a main ques-

tion open to debate and amendment, unless in conflict with some established order of business, in which case it may be ruled out of order by a proper demand for the regular order.

A motion to adjourn having been voted down, another motion to adjourn will be held dilatory, unless there has been intervening business or a reasonable time of debate which may be regarded as having changed conditions since the former motion was made.

The motion to adjourn is not used in Committees of the Whole or other committees. Committees "sit" and "rise." They do not adjourn.

Motion to Lay on the Table

For the disposition of principal motions, or main questions, the motion to lay on the table holds first rank and yields only to the motion to adjourn. It must be kept in mind that it comes into use only "when a question is under debate," but is applicable to incidental and other motions arising during the consideration of the main question. In theory, it only temporarily disposes of the subject matter to which it is applied, which, it might be supposed, may be brought back into consideration at some subsequent time. In practice, however, at least so far as the House of Representatives is concerned, no such subsequent time ever arrives.

The motion to take from the table is not one of the motions that may be made "when a question is under debate," and therefore has no privilege. In fact, not being one of the specified motions, it is positively ex-

cluded by the language "no motion shall be received," other than those listed in the rule "when a question is under debate."

Theoretically, when the "question under debate" has been disposed of and no business is before the house, the matter laid on the table, if such business is then in order, may be taken from the table by motion under proper recognition. Practically, however, with an established order of business, no such opportunity ever comes, except by unanimous consent, or a suspension of the rules. Therefore, in practice, the motion to lay on the table, if carried, kills the proposition, and this is its principal use. It is a quick and painless death, for the motion is not debatable and cannot be amended.

Situation If Taken From Table

Such being the usual fate of a question laid on the table there will seldom be cause to consider what will be the condition of the question, if and when revived. It is, however, a matter worthy of reference. Some writers on the subject hold that when a tabled question is taken from the table, it comes with all the motions clinging to it that were pending at the time of tabling. This is not in accord with the best practice, nor is there good reason to support it. Motions to amend pending at the time of tabling go to the table with the main motion and come back with it if taken from the table. With other subsidiary motions, however, the case is different. These are superseded by the motion to lay on the table and disappear in case that motion prevails. The reason for this distinction is clear. A motion to

amend proposes to change the main question in one way or another. The other subsidiary motions,—to postpone to a day certain, refer, postpone indefinitely and the previous question,—are all alternative proposals for disposing of the main question, so when the motion to lay on the table prevails the assembly has made its choice of methods for disposition of the question. In effect, the other proposed methods are thereby rejected and fall to the ground. None of these, however, take the place of the motion to amend which should accompany the main question until both are disposed of.

The motion to lay on the table is in order and can be made while any of the lower ranking motions are pending, and, if carried, disposes of the matter for the time being. As above stated, amendatory motions go to the table with the main motion and come up with it in case of its resurrection, while the others simply cease to have effect.

Main Question Follows Amendment to Table

Upon the theory that what is laid on the table may come up again for consideration, it is held that laying an amendment on the table carries with it the main question, it being regarded as unfitting that the main question should be otherwise disposed of, while the proposed adjunct by way of amendment is somewhere in limbo, subject to return upon proper occasion. Such being the effect, it is better practice instead of moving to lay the amendment on the table to move directly to table the main question.

Some Uses of Motion to Table

The motion to lay on the table is the favorite weapon by which to dispose quietly and quickly of appeals from the decision of the Chair, and, in fact, all such matters as may come properly within the class described in the immortal tragedy of Macbeth, "If it were done, when 'tis done, then 'twere well it were done quickly"; but, in all cases, the responsible majority must be prepared to defend against the charge of ruthlessness and "steam roller" tactics in case the proposition thus disposed of has many friends.

An appeal from the decision of the Chair, if laid on the table, does not carry the main question, nor does the motion to reconsider a vote, when laid on the table, carry the bill or resolution passed by the vote.

When Not in Order to Table

The motion to lay on the table is not in order in Committee of the Whole. Although it supersedes the motion for the previous question if that motion is pending, it is not in order after the previous question has been ordered. The reason is obvious, for the assembly having just taken action intended to bring the main question to an immediate vote, it would be inconsistent at least to entertain a motion, the effect of which, if carried, would be to prevent a vote. However, until the vote has been taken and carried, ordering the previous question, the motion to lay on the table is in order and will supersede that motion.

On account of its somewhat drastic effect the motion

to lay on the table is sometimes criticised by those who may have felt its power but there is no reason for adverse criticism. It has its place in the work of parliamentary bodies and if used wisely and with proper discretion performs a most important function in the procedure of deliberative assemblies.

The Previous Question

The motion to order the previous question ranks third in precedence of motions in order "when a question is under debate," being outranked only by the motions to adjourn and to lay on the table. Its function is to shut off amendments, close debate and bring the question or questions to which it applies to an immediate vote.

There are two important exceptions to the immediate taking effect of the vote intended to close debate and prevent amendments. One of these is mentioned in this paragraph of Rule XVI, providing that after the previous question has been ordered, one motion to recommit shall be in order. The reason for this exception is that the opposition or minority members may not be precluded from offering such counter-proposal as they would substitute in place of the majority's proposal in case they had the votes to do so.

The other exception will be found tucked away as an added clause to paragraph 3 of Rule XXVII. It provides that if the previous question has been ordered without any debate whatever, there shall be allowed forty minutes debate, twenty minutes for and twenty

minutes against the pending motion, after the previous question has been ordered. However, it must be said that this rule is sometimes, in fact, often, practically nullified by the proponent in charge of the main question, engaging in a minimum of debate, simply to cover the rule and then moving the previous question. There having been debate the forty minutes special rule does not apply.

While the motion for the previous question is still pending, a motion to lay on the table is in order but not so after the motion is carried.

It will be noted that the three motions first mentioned in the rule, to adjourn, to lay on the table, and for ordering the previous question,—are all decided without debate.

House Rule XVII being devoted to the motion for the previous question, further comment on the subject will be deferred until Rule XVII is reached in order.

Motion to Postpone to a Day Certain

Fourth in order of precedence stands the motion to postpone to a day certain. The reason for the advanced rank of this motion is that it favors consideration of the question by fixing a time at which it will become the order of business. There may be any number of reasons why it should not be considered at the present time, but if this motion carries, the assembly has formally expressed its determination to take up the question at a certain time.

The motion can be made, although there be pending

amendatory motions, a motion to refer or commit and a motion to postpone indefinitely, but it is not in order when a motion of higher rank is pending.

Limited Amendment and Debate in Order

The motion to postpone to a day certain can be amended by changing the time and is debatable within the limits relating to the time and to the propriety of the postponement. It does not open up the merits of the main question. The previous question may be applied to the motion to postpone, so as to shut off debate and amendments and bring it to an immediate vote.

The motion to postpone to a day certain is a weapon employed by foes as well as friends. It provides for a definite delay and delay may be dangerous. It is a well recognized parliamentary tool and often performs an important and useful function.

Motion to Refer or Commit

The motion to refer or commit stands fifth in rank of motions which can be made "when a question is under debate." It is in order after any or all of the motions of inferior rank have been made and are pending.

It may transpire that in the effort to amend the main question by amendments from the floor and in the confusion of strenuous debate, the bill or resolution, instead of being simplified or clarified has become more involved and doubtful as to its meaning. In such case, it is often in the interest of better legislation that

the proposal be sent to a committee where a smaller group in calmer mood may sit down around a table and iron out the rough places.

Like the next higher ranking motion, this motion is subject to limited debate and amendment. The committee to which the question is to be referred may be instructed by the assembly, therefore the instructions proposed may be debated and amended, but it is not in order to propose as instructions, anything that might not be proposed directly as an amendment from the floor.

The committee proposed in the motion may be changed by amendment as to name, number, or personnel, and all these matters may be debated and amended, but the motion does not open up the merits of the main question either to debate or amendment.

Motion to Amend

To perfect proposed legislation and take final action upon it, may be considered the primary or principal function of a legislative body, hence the motion to amend is used more in the aggregate than all the other parliamentary motions combined.

In paragraph 4, of House Rule XVI, the only reference to the motion to amend is in the order of precedence of motions where it is set down as sixth in rank of the privileged motions, outranking only the motion to postpone indefinitely. In later paragraphs of this rule, there are certain negative limitations on the motion, and rule XIX is devoted to amendments,

but beyond these, no attempt is made to indicate the limitless field covered by the subject of amendment.

Any or all of the other subsidiary motions, excepting to postpone indefinitely, may be made while a motion to amend is pending, but, as explained under the motion to lay on the table, no other motion can detach a proposed amendment from the main question until it is disposed of by a vote having this for its purpose. It can be amended, laid on the table and the previous question applied, but as heretofore explained, if laid on the table, the main question goes with it.

Amendments—How Made

Amendments are made in three principal ways,—by addition, by subtraction, by substitution. These three methods are usually referred to as inserting, striking out, and striking out and inserting.

When by a vote of the assembly, language has been inserted, it is not in order to move to amend by striking it out in the same form as added, but by combining the language inserted with other language so as to make a new substantive proposition, it may become in order. Likewise, when language has been stricken out, it may not be again presented for reinsertion in the same form and can only be brought up again by including other language or otherwise changing it so as to make a new proposition.

If the purport of an amendment is simply to negate the pending proposal, it is not in order, because the same purpose is served by a negative vote on the pend-

ing question. For example, the insertion of the word “not” would serve no other purpose than to reverse the vote. In fact, it would be a handicap for when stated negatively, it would require a majority to carry, whereas originally a tie vote would accomplish the same purpose.

It is not the function of the Chair to pass upon the effect of an amendment stated in logical form and making sense, though it may completely change the meaning of the original proposition. It is entirely consistent with good parliamentary usage for the opponents of a measure to so modify it by amendment as to completely change its character and purpose. Unless the proposed amendment is in conflict with some well established parliamentary rule or practice, it is better for the Chair to let the assembly pass upon the merits instead of ruling it out on a point of order.

Motion to Postpone Indefinitely

In the House of Representatives, the motion to postpone indefinitely is given the lowest rank of all the motions that can be made “when a question is under debate.” It cannot be made when any of the other subsidiary motions are pending. On the other hand, any of the other motions may be made while it is pending. This statement is questioned by some writers, it being contended that as between a motion to amend and the motion to postpone indefinitely, the one made first should be put first. For all practical purposes, it is a question of no great importance, for it is a motion

rarely used in the House of Representatives and not apt to be used often in other assemblies. As to coming in conflict with a motion to amend, the chances against such an occasion arising are indeed very remote. However, the place assigned to this motion by House Rule XVI, seems to be the correct one, and therefore even a motion to amend should be in order while the motion to postpone indefinitely is pending.

The effect of voting to postpone indefinitely is to finally dispose of the pending proposition without a direct vote on the merits. Such disposition is not generally favored by American assemblies, hence the small use made of the motion.

Since a decision to postpone indefinitely removes the question from consideration, this motion opens up the main question to debate, which is perhaps another reason for its not being more frequently utilized.

Precedence of Motions—A Summary

Summarizing the entire paragraph relating to the precedence of motions, it is most important to keep in mind that "when a matter is under debate," that is, when a main or principal motion is pending,—usually characterized as "something before the house,"—no motion is in order except to adjourn, to lay on the table, to order the previous question, to postpone to a day certain, to refer,—which includes to commit or recommit—to amend or to postpone indefinitely, and that these motions have precedence in the order here given. No motion of lower rank is in order while one

of higher rank is pending, and conversely any motion of higher rank is in order when only a motion of lower rank is pending.

The first three of these motions,—to adjourn, to lay on the table and to order the previous question—are not debatable and cannot be amended.

The motion to postpone to a day certain is open to limited debate and limited amendment, the limitation being that the debate and amendment are confined to the subject of the postponement and may not include discussion or amendment of the main question.

The motion to refer, or commit, is open to debate and amendment only as to the committee or other body to which it is proposed to refer the main question. It does not open the main question to debate or amendment.

The motion to amend is limited by the rule of germaneness, which is that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." (Rule XVI, paragraph 7).

The motion to postpone indefinitely is seldom used in most American assemblies. It is outranked by all the other motions that are in order "when a question is under debate." It has one characteristic not possessed by any of the other motions, it leaves the entire subject matter of the main question open to debate.

Hour of Adjournment

Paragraph 5 of Rule XVI—"The hour at which the House adjourns shall be entered on the Journal."

No harm can come from the application of this paragraph of Rule XVI, although probably not of transcendent importance to other than legislative bodies.

Division of the Question

Paragraph 6 of Rule XVI—"On the demand of any Member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain: Provided, That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business, be divisible."

The first half of this paragraph is properly applicable to all assemblies. In the very nature of things, the question is not always free from doubt as to just what constitutes a substantive proposition, but the wise course for a presiding officer to follow is to construe the rule strictly and rigidly adhere to the principle involved that there must be two substantive propositions, each of which will stand alone with meaning unimpaired when separated from the other.

The last half of this paragraph, the proviso, has no application to assemblies generally.

Motion to Strike Out and Insert Not Divisible

Paragraph 7a of Rule XVI—"A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; * * *."

Paragraph 7(a) of Rule XVI is directed to the motion to amend. The first part of the paragraph

states what has been found, by long experience, to be the better practice in regard to the motion to amend by striking out and inserting. It will be seen that whereas a motion to strike out and insert, if carried, might produce a logical result, if divided and the motion to strike out prevails, while the motion to insert is lost, a non-sensical or ludicrous outcome might result. No rights are lost, however, by the application of this rule, for the vote to strike out being lost, further amendment is still in order, either to insert or to strike out and insert.

Germane Amendments

Paragraph 7b of Rule XVI—" * * * and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

In the last three lines of paragraph 7 (b), of Rule XVI, lies more controversy than in any other provision of this or any other rule of parliamentary procedure. More pages have been written and printed on the subject of the germaneness of amendments than upon any other subject within the domain of parliamentary law and were it possible to completely exhaust the topic, it would require a full sized Carnegie library to contain the volumes that might be written.

Let us repeat the few meaningful words embodying the law of germaneness,—they should be at the tongue's end of every parliamentarian—"No motion or proposition on a subject different from that under

consideration shall be admitted under color of amendment."

The reasons for adherence to the rule of germaneness are many and weighty. Its basic principle lies in the need for orderly legislation. If by way of amendment, all sorts of incongruous proposals may be strung together, a hodge-podge will be the result. Difficult enough under the best of circumstances to find one's way through the maze of statutes, it would become an impossible task were it permitted at the whim or caprice of a temporary majority to add at pleasure to any pending legislation without regard to its relationship to the original subject matter.

Ordinarily bills and resolutions are prepared in advance, carefully gone over by committees and, with explanatory reports, submitted for amendment and final action. Usually, the members have an opportunity to scrutinize the bills and give them some study before being called upon to take action. It would tend to destroy the chances of securing well considered legislation were the rule of germaneness to be ignored so as to permit amendments not related to the subject matter under consideration and which have not been considered by a committee to be offered and acted upon indiscriminately.

It is obvious that no hard and fast rule can be laid down to cover all cases that may arise. There is no limit to the number and variety of questions that will actually arise in an assembly transacting legislative business on any considerable scale.

The application of the rule of germaneness in each particular case must be left largely to the presiding officer's knowledge of parliamentary procedure, but also much may usually be safely left to his common sense in the proper construction and application of the rule.

As in the interpretation of other instruments, some presiding officers will naturally incline to a strict construction, while others will lean toward the other side, but a reasonable observance of the principle upon which the rule rests will usually not permit a presiding officer to go far astray.

Fortunately, for any assembly adopting the rules of the House of Representatives for its guidance, there is always a well filled storehouse of precedents and carefully considered decisions available for reference on the subject of germaneness as well as on all the other questions that may arise in connection with construing the House Rules. The volume, entitled "Constitution, Jefferson's Manual and Rules of the House of Representatives," with copious notes and cited precedents, compiled under the direction of an able parliamentarian, can be readily obtained, and is an indispensable guide to anyone who wishes to acquaint himself with what may now be properly characterized as American parliamentary procedure. The eight large volumes of Hind's Precedents, a monumental work, covering the more than a hundred years of Congressional parliamentary practice, are accessible at public libraries.

Further comment on other phases of the subject of amendments is reserved until House Rule XIX is reached, which is devoted to amendments.

Dilatory Motions Pending Motion to Suspend Rules

Paragraph 8 of Rule XVI—"Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion till the vote is taken on suspension."

The purpose of this paragraph is to strictly limit the opportunities for filibustering pending a motion to suspend the rules. The language is clear and simple needing no explanation.

The motion to suspend the rules is one of the most important of all the motions used in parliamentary procedure. Since Rule XXVII is devoted specially to this motion, further comment will be withheld until that rule is reached in order.

Privileged Motion for Consideration of Revenue Bills

Paragraph 9 of Rule XVI—"At any time after the reading of the Journal, it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills."

In the procedure of the House of Representatives this paragraph is of great moment and utility. It will serve well as a model for any organization adopting the rule providing for a Committee of the Whole. Until such procedure is provided for, this paragraph will have

no application. It is peculiarly appropriate to the purposes of that body which by the Constitution is primarily charged with the duty of holding the purse strings of the Government. It properly gives a high degree of privilege to bills raising revenue as well as to general appropriation bills. Rule XXIII is devoted to the consideration of the rules governing Committees of the Whole and is the logical place for further reference.

Dilatory Motions

Paragraph 10 of Rule XVI—"No dilatory motion shall be entertained by the Speaker."

The obvious purpose of this paragraph of Rule XVI is to thoroughly arm the presiding officer with the necessary power to prevent waste of time and interruption of business. He is forbidden to entertain a motion that will serve such a purpose. To be sure, there is always room for a difference of opinion as to what constitutes a dilatory motion.

In the performance of his duty, under this paragraph, it is not customary, and usually it is not wise, for the presiding officer to take the lead in calling attention to motions that might qualify as dilatory, although, of course, he has the right as well as the duty to enforce this rule. It is the usual and better practice, however, for the presiding officer to wait until a member raises a point of order and then rule upon it. Usually the committee chairman or member in charge of the pending bill, or the ranking minority committee member, takes the lead in such matters in order to protect their

bill, but it is the right and duty of every member as well to see that the rules are observed. If a member believes that a motion is dilatory, he should rise, address the Chair and inform him that a point of order is to be raised. The presiding officer responds "The gentleman will state his point of order," which the member proceeds to do, to the effect that the motion just made is dilatory.

There is often room for difference of opinion as to whether a parliamentary motion should be held as dilatory but, as stated by one speaker of the House, "when it becomes apparent to the House" such motions are quickly recognized and ruled out of order.

CHAPTER VIII

RULE XVII—PREVIOUS QUESTION

Motion for the Previous Question

Paragraph 1 of Rule XVII—"There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee."

In paragraph 4, of Rule XVI, the order of precedence of motions is fixed by which the motion for the previous question is given third rank among motions that can be made "when a question is under debate." It is, in fact, the second in rank of the motions for the disposition of main motions, the motion to adjourn being of a somewhat different character. In the same paragraph is the provision permitting one motion to recommit after the previous question has been ordered and giving preference in recognition for such purpose to one opposed to the bill or resolution. This provision is in accord with the principle recognizing a two-party system, a majority and an opposition.

In the present paragraph a motion for the previous

question is provided for specifically. It may seem peculiar that it is also specifically stated that a majority vote is required to carry the motion for the previous question. There would seem to be no more reason for specifying the vote required to carry this motion than the vote required to lay on the table or to amend, since it is generally assumed under the principle of majority rule, that a majority vote is required. There is, however, an excellent reason for singling out this motion in this manner.

Of all the motions to expedite business, probably no other motion is so much used or abused as the "previous question." It is the one motion most criticized as a "gag" rule and railed against by parliamentary tyros and others who find fault with any motion that puts a stop to debate or brings the question to a speedy issue. The motion should be used at all times with discretion. If there is time and those who wish to use it in debate, they should be given reasonable opportunity to do so. In the long run, little is gained by forcing early action on a question, when members really desire to discuss it. A majority can eventually work its will any way and usually nothing is lost by allowing those who must eventually go down in defeat, reasonable time in which to fully express their views and to state, if desired, their position on the question. The opportunity for doing this is one of the fundamental principles upon which rests the two-party system of government.

Majority Vote Required

Doubtless, another reason for specifying the vote required to order the previous question is that in many assemblies and in some excellent works on parliamentary procedure, a two-thirds vote is required to order the previous question. Of course, there is no sound basis in reason for such a requirement. It doubtless is the result of a natural unwillingness to restrict debate or amendment, unless it becomes necessary, and in ordinary assemblies it rarely becomes necessary; hence the two-thirds rule. In most cases, in such assemblies, it would probably make little difference whether it were two-thirds or four-fifths, or nine-tenths. If there be plenty of time for every member to discuss the question to his heart's content, why place a limit, especially a narrow one?

In large bodies and especially large legislative bodies, there soon comes a time, however, when it is necessary to limit debate and amendment. In such bodies a determined cohesive minority of more than one-third could and probably would, on occasions, bring legislative action to a standstill by the simple expedient of refusing to stop talking long enough to vote.

There is no more reason for requiring a two-thirds vote to order the previous question than to require a similar vote in deciding the main question. Such a requirement is at variance with the basic principle of majority rule, and rests upon no sounder foundation than that of a weak-kneed reluctance on the part of

the responsible majority to assume the burden of its responsibility when proper occasion arises.

The vote on ordering the previous question is often the crucial test vote deciding whether the majority supposed to be responsible is in fact in control of the situation. If the motion for the previous question is lost the control of the floor passes for the time being to the opposition, which on the current motion has become the majority.

In our American parliamentary procedure, the previous question has a function that no other motion can so well perform. So long as a majority is charged with responsibility, it must be correspondingly clothed with power and the motion for ordering the previous question is one of the strongest and most effective instruments for wielding this power.

Change in Form of Motion

The previous question in American parliamentary practice has developed into quite a different instrument from that described by Jefferson's Manual, as the previous question of the House of Commons. The form of the question originally was "Shall the main question be put?" A later form introduced the word "Now," so that the question was "Shall the main question be now put?" It was often used to prevent a direct vote on the main question, whereas in our American practice the purpose is to immediately bring the main question to a vote.

As the motion for the previous question is now used,

a member having the floor says, "I move the previous question (on whatever it is desired to cover)." It will be observed in the rule providing for the previous question that the motion is quite elastic and care should be used in indicating exactly what it is desired to include.

An approved form for putting the motion to order the previous question is for the presiding officer to rise and say, "The gentleman from —— moves the previous question. As many as favor ordering the previous question say 'Aye.'" (After a momentary pause for the response) "As many as are opposed say 'No.' The 'Ayes' (or 'Noes' as the case may be) seem to have it." (After a momentary pause to give time for a demand for a division) "the 'Ayes' (or the 'Noes' as the case may be) have it and the previous question is ordered (or the motion for the previous question is lost)."

Indicating the member making the motion is helpful in large assemblies, especially when there is noise and confusion, but is not necessary, in fact, is usually omitted, in smaller assemblies where the identity of the mover is readily apparent to all.

Relation of Previous Question to Failure of a Quorum

Paragraph 2 of Rule XVII—"A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present."

Paragraph 2, of Rule XVII, is intended to discourage filibustering and prevent waste of time. It has no application to assemblies generally, except such as may

by special rule, provide for a call of the house. The provision for counting a quorum is to meet the constitutional inhibition against transacting business in the absence of a quorum when the question is raised.

Questions of Order Pending the Motion for the Previous Question

Paragraph 3 of Rule XVII—"All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate."

Paragraph 3, of this rule, is for the purpose of preventing delay after the previous question has been moved by means of debate on points of order and other incidental questions, including appeals from decisions of the Chair. If debate were allowed on such questions one of the chief functions of the previous question might be defeated by permitting extended debate upon a motion designed to shut off debate.

CHAPTER IX

RULE XVIII—RECONSIDERATION

Motion to Reconsider

Paragraph 1 of Rule XVIII—"When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions, except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: Provided, That such motion, if made during the last six days of a session, shall be disposed of when made."

One of the most striking differences between British and American parliamentary procedure is in connection with the motion to reconsider. In the British parliament, the rule is strictly observed that no question shall be twice considered at the same session. In the American House of Representatives, the rule for reconsideration is quite liberal as will be noted. However, the difference is more apparent than real in the actual practice of the House.

The motion to reconsider can be made as stated in the rule, and in at least ninety-nine cases out of a hundred, is made only to be followed in the same breath with the most drastic motion of all,—to lay the motion to reconsider on the table, which being carried, finally disposes of the motion to reconsider.

An acceptable form for disposing of the motion to reconsider is for the member in charge of the bill or

resolution, having secured recognition from the Chair, to say, "I move to reconsider the vote by which the bill was passed (or resolution adopted) and to lay that motion on the table."

The member in charge of the bill or resolution is entitled to prior recognition to make the motion to reconsider.

The member making the motion to reconsider must have voted on the prevailing side, the idea being that unless some one who so voted is ready to change his vote, it would be a futile thing to bring the bill back for another vote. In practice, however, the motion to reconsider for the purpose of actually bringing the bill back for another vote is usually made on a very close vote by some one who has first voted on the losing side but before the result is announced changes his vote in order to qualify for the right to make the motion to reconsider.

In ascertaining whether or not a member making the motion to reconsider has voted on the prevailing side, difficulties and sometimes bitterness have been encountered, so that in the House of Representatives, unless there has been a record vote, it has become an established rule to presume that any one making the motion to reconsider, had previously voted on the prevailing side.

Until the motion to reconsider has been disposed of, the bill is not passed. This causes delay which has doubtless caused the growth of the practice above re-

ferred to, that in effect has destroyed for the most part the usefulness of the motion.

Reports of Committees Must Be in Writing and Be Printed

Paragraph 2 of Rule XVIII—"No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed."

Paragraph 2 of Rule XVIII, has no application to assemblies generally. It limits or restricts the motion to reconsider in special cases and includes a quite useful special rule in regard to reports of committees.

CHAPTER X

RULE XIX--AMENDMENTS

Amendments to Text and to Title

Rule XIX—"When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of a substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate."

The first portion of Rule XIX is the general rule of parliamentary assemblies. A motion to amend and one motion to amend the amendment has long been the accepted and practically universal rule. The first universal, inviolable rule of parliamentary procedure is "one thing at a time," and allowing even a single amendment would seem a deviation from this rule. Not so, however, for when the main question is under consideration and an amendment is offered, the amendment becomes the "one thing" under consideration. Likewise, an amendment to the amendment is allowed to be offered which in turn becomes the pending question.

Thus far, there is general agreement, but beyond an amendment to the amendment it has been found best not to go and therefore it has become the well established parliamentary rule that amendments in the third degree are not in order. The obvious reason for this rule is to prevent confusion, which would surely result

from piling amendment upon amendment before any one is disposed of.

Amendment by Way of Substitute

After a number of years of actual experience under this rule, a practice grew up in the House of Representatives permitting a further amendment by way of substitute, to which one amendment might be pending at a time. It was found to work well if it were insisted upon that the text of the original amendment be perfected before action is taken upon the substitute.

Apparently, this addition to the rule is a further violation of the universal "one thing at a time," but when examined it will not be found so. It becomes a logical series of proposals only one of which is, in fact, pending at any given time.

The basic reason why this additional amendment by way of substitute has been able to demonstrate its usefulness and justify its general acceptance, is that it furnishes a means by which comparison may be made between two proposals competing for adoption as the expression of the will of the assembly, thereby supplying a valuable test for both.

What had become the practice of the House of Representatives was finally, in 1880, made a part of the Rules of the House, where it has since remained, and has gradually come into more general use elsewhere. Its usefulness has been so clearly demonstrated by actual experience that it may be accepted by assem-

blies generally as the approved American parliamentary practice.

Order of Voting on Amendments

It should be noted that the rule forbids a vote on the substitute until the original amendment is perfected. In cases where there is an amendment with an amendment to it and a further amendment by way of substitute with an amendment to it, the proper order of taking the vote is first upon the amendment to the original amendment. After this vote is taken and no other amendments to the original amendment are offered, the next vote is upon the amendment to the substitute.

After the vote to amend the substitute is taken, if there be no further amendments offered to the substitute, the vote is taken on the question of substituting this substitute as amended, for the original amendment as it may have been amended. If this vote carries, the vote next comes on the original amendment as amended by the substitute.

Even with a presiding officer of some experience, the mistake is often made of not putting to vote the original amendment as amended by the substitute. The mistake is a natural one, since upon the surface, it appears that the vote is being taken twice upon the same language, since the one has been substituted for the other. However, although couched in the same language, the two propositions are materially different. The choice in the voting to substitute is between the proposed substitute and the original amendment. Should this vote carry, the language of the original amendment is dis-

posed of, the new language taking its place; but the question has not been decided whether any amendment whatever is desired. It is quite conceivable, in fact it often happens, that while a majority would prefer the substitute as between it and the original amendment, yet as between even the substitute amendment and no amendment at all, would choose the latter alternative. Therefore, the vote on the original amendment as amended by the substitute must always be taken and the vote making the substitution is not effective until the vote on the original amendment as amended by the substitute is carried.

The latter portion of the rule permitting withdrawal of an amendment before it has been amended or other action had on it, has been found to work well and no one can be injured by such withdrawal because any one else may offer the same amendment, if desired. It will be observed, however, in Rule XXIII, paragraph 5, that in the Committee of the Whole, an amendment cannot be withdrawn by the mover, except by unanimous consent. The reason for this difference will be explained when that rule is reached.

The last provision of this rule is for amending the title which is done after the bill or resolution is passed and without debate.

CHAPTER XI

RULE XXIII—COMMITTEES OF THE WHOLE HOUSE

Committees of the Whole House and Selection of Chairman

Paragraph 1, of Rule XXIII—"In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared."

Committees of the Whole are used in the House of Representatives for the transaction of most of its business, but have been little used in State legislatures, and still less in the practice of other assemblies. It is to be regretted that they are not made use of more extensively, because they are well adapted to serve admirably the purpose of less formal discussion and action during the consideration of voluminous bills, and especially through the amendatory stage of bills raising revenue or appropriating money.

Even for smaller and less formal bodies than State legislatures a mechanism for the informal discussion and amendment of lengthy proposals before final and formal action would seem to offer distinct advantages. At any rate, the author has decided to include here Rule XXIII which deals with the subject of Committees of the Whole—though nowhere specifically providing for them—as one of possible application to assemblies generally if so provided in their by-laws, or by special rule.

A Committee of the Whole is simply the entire mem-

bership of the assembly acting as a committee, with a chairman instead of the Speaker presiding. It sits in the same place as the assembly itself sits when in formal session and being made up of the same personnel, obviously the House and a Committee of the Whole cannot sit simultaneously.

Origin of Committee of the Whole

The Committee of the Whole had its origin at a time in English history when the Parliament was engaged in a life and death struggle with the Crown. At that time, the Speaker of the House of Commons was appointed by the Crown and was naturally looked upon as a friendly agent of, if not actually a talebearer to the king. The Committee of the Whole was devised so that when relations were strained between the king and the Parliament, the members might thus assemble, elect a chairman of their own and proceed to the discussion of matters pertaining to the pending situation without the formality or restrictions of a session of the House of Commons as such. In such committees, the king's household expenses and other delicate matters might be discussed with greater freedom and with less danger to individual members than would be possible in formal sessions of the House. In those days, the king's household expenses, including the maintenance of an immense retinue of retainers, courtiers, courtesans and servants, made up a budget somewhat formidable in its proportions and often was the subject of the most heated discussion.

By the time the necessity for such a device had

passed away, so far as the original purpose was concerned, the Committee of the Whole had proved itself of such usefulness in the consideration of all matters of legislation controlling the purse that it was continued as an important part of the parliamentary machinery. It came to us as a part of our parliamentary heritage and has been in use by the House of Representatives from the very beginning.

Forming a Committee of the Whole

Paragraph 1, of Rule XXIII, assumes the existence of authority for forming a Committee of the Whole and proceeds to prescribe some of the procedure for doing it. The Speaker is authorized to appoint a chairman to preside and certain powers are conferred upon him.

The House rules nowhere describe fully the manner of forming a Committee of the Whole and no prescribed formula is given for going into committee or for rising either to report the result after completing the work for which it was formed, or for temporarily suspending its labors. By custom and practice, however, a procedure has been adopted that apparently serves the purpose well and is generally adhered to.

The House in formal session having attended to the usual routine business and to the necessary preliminaries, the chairman, or other member of the committee having in charge the bill to be considered, rises and says, "Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the consideration of (describing the bill by number and title) and pending the motion I ask

unanimous consent that general debate be limited to (number) hours, one half of the time to be controlled by the gentleman from —— (usually the ranking minority member of the committee reporting the bill) and one half by myself."

Limiting Time for General Debate

Often these two members have already agreed upon the time so that this apparent effort to enter into a covenant openly arrived at, is more or less in the nature of window dressing and naturally very little difficulty is encountered in reaching an agreement under such circumstances. Sometimes, however, there is real difference of opinion and a genuine controversy ensues as to the time to be allowed for general debate.

Usually by a reasonable spirit of "give and take" an agreement is finally reached, unless members other than those on the committee reporting the bill decide to take a hand and make demands deemed unreasonable. In such case, the member in charge of the bill frequently changes his request and without attempting to fix the time asks that such time as may be consumed in general debate be equally divided and controlled as in the previous request, and this modified request is practically never objected to. After general debate has proceeded for some time, the House at a subsequent sitting fixes the time. It is not in order to move to fix the time until there has been some debate.

The time question being settled one way or another, the motion to go into Committee of the Whole is put to vote and usually without a dissenting vote the com-

mittee is formed. The Speaker designates the member who is to preside as chairman during the entire consideration of the bill and then takes his seat among the other members. The mace, which is the symbol of authority, is removed by a Sergeant-at-Arms from its high pedestal to a lower level and remains there while the Committee of the Whole is in session.

The chairman designated to preside receives the gavel from the Speaker, and from the Speaker's position says, "The House is in Committee of the Whole House on the state of the Union for the consideration of (describing the bill by number and title) which the Clerk will report."

If the bill is a lengthy one, the member in charge of it invariably asks unanimous consent that the first reading of the bill be dispensed with. Since the bill must be read in full, by paragraphs or sections, for amendment, it is simply a waste of time to read it in full at this stage, and so objection is very rarely made to this request.

Recognition in Committee of the Whole

The Chair invariably recognizes first the member in charge of the bill to explain it unless he prefers to yield to some one else. Next the ranking minority member of the committee reporting the bill is usually recognized unless by agreement a different order is arranged for. Although two members may be given complete control of the time, neither they nor those to whom time may be yielded can address the committee for more than one hour as fixed in paragraph 2, of

Rule XIV, with one exception. It is provided in paragraph 3, of Rule XIV, that when the debate has extended beyond one day, the member reporting the measure is entitled to an hour to close even though he may have used an hour in opening.

When the general debate is finished, the chairman directs the clerk to read the bill, paragraph by paragraph, for amendment and from this point forward the five minute rule as described in paragraph 5, of Rule XXIII governs.

Motions to Rise and to Rise and Report

In the Committee of the Whole, the motion to rise occupies the same preferential position as the motion to adjourn in the House itself, but the motion to rise and report is not in order until the bill has been read and all amendments that have been offered have been disposed of.

When the committee rises before completing its work and the Speaker has resumed the Chair, the chairman of the committee simply reports the fact that the committee having had under consideration the bill (describing it by number and title) "has come to no resolution thereon."

When the reading of the bill has been completed and the Committee of the Whole by vote determines to rise and report the bill back to the House, the Speaker resumes the Chair, the mace is returned to its high pedestal, the chairman of the Committee of the Whole stands in the well of the House in front of the Speaker's desk and having addressed the Chair and been recog-

nized, reports substantially as follows: "Mr. Speaker, the Committee of the Whole House on the state of the Union having had under consideration the bill (describing it by number and title) has directed me to report the same back to the House with sundry amendments (if such be the fact, or with an amendment, or two amendments, or without amendment, according to the facts) with the recommendation that the amendments be agreed to and that the bill as amended do pass." The Speaker states the chairman's report to the House and usually the member in charge of the bill is already on his feet to demand the previous question on the bill and all amendments to final passage, which, if ordered, forecloses all debate and further amendment.

Failure of a Quorum

Paragraph 2 of Rule XXIII—"Whenever a Committee of the Whole House or of the Whole House on the state of the Union finds itself without a quorum, which shall consist of one hundred Members, the Chairman shall cause the roll to be called, and thereupon the Committee shall rise, and the Chairman shall report the names of the absentees of the House, which shall be entered on the Journal; but if on such call a quorum shall appear, the Committee shall thereupon resume its sitting without further order of the House."

Paragraph 2 mentions the two kinds of Committees of the Whole used in the practice of the House of Representatives, but does not distinguish them from each other. In the practice of the House, the Committee of the Whole House is formed for the consideration of private bills, while the Committee of the Whole House

on the state of the Union considers bills for general legislation, especially bills raising revenue and general appropriation bills. The same rules apply to both, so that from the standpoint of parliamentary procedure they need not be further distinguished from each other.

It will be noted that an arbitrary number, one hundred, is fixed as a quorum of the Committee of the Whole, which seems somewhat anomalous in view of the fact that with identically the same membership as the House, the Committee of the Whole needs but a hundred for a quorum, whereas the United States Constitution requires a majority of the entire membership for a quorum of the House. One hundred members giving attention to the consideration of a bill are far more likely to produce satisfactory results than four hundred members in confusion and disorder so that no one without great difficulty is able to hear what is being said. On the average a less number than one hundred are present during the sessions of Committees of the Whole and bills receive all the more thorough consideration on this account.

Paragraph 2 prescribes the means for securing a quorum when attention is called to the fact that a quorum is not present. Oftentimes this rule is invoked by some member who chooses to consider himself aggrieved because his pet amendment has been rejected or he has been denied the privilege of enlightening his colleagues beyond the usual limit allowed for debate. Ordinarily, no good purpose is served by calling the entire membership to the floor in a no-

quorum roll-call in Committee of the Whole. The bill under consideration will probably receive far more effective attention when a much smaller number are present. This portion of the rule has no application to other assemblies.

Business Considered in Committee of the Whole

Paragraph 3 of Rule XXIII—"All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

This paragraph of Rule XXIII has no application outside the House of Representatives, but is interesting as showing how zealously the House insists upon adhering to the original purpose for which Committees of the Whole were instituted centuries ago. It was for the consideration of money bills that the Committee of the Whole was originally devised.

Order of Business in Committee of the Whole

Paragraph 4 of Rule XXIII—"In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the Committee may determine, unless the bill to be considered was determined by the House at the time of going into Committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence."

This paragraph is not of general application. In the House of Representatives, the practice is to go into Committee of the Whole House on the state of the Union to consider a single bill stated in the motion, although sometimes a number of less important bills, as in District of Columbia legislation, are considered in a single session of the Committee and all reported back to the House, seriatim, when the Committee rises. Committees of the Whole House for the consideration of private bills usually consider a number of bills before rising to report them to the House.

Debate and Amendment Under Five Minute Rule

Paragraph 5 of Rule XXIII—"When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the Committee."

While paragraph 5 of Rule XXIII is a special rule of the House of Representatives only, it contains the mechanism for a procedure so admirably adapted to the purpose of running debate that it cannot be too highly recommended for adoption and use by assemblies even of moderate size having much business to transact requiring discussion.

One casually reading this paragraph would probably never suspect that it is the firm foundation upon which

has been erected one of the great American parliamentary institutions,—the famous five minute rule of the House of Representatives. Note how simply this rule is stated and yet it embodies all the necessary machinery for hotly contested debates lasting sometimes for weeks.

It must be remembered that before the five minute rule applies general debate has been closed and the bill is being read for amendment in the Committee of the Whole. An amendment is offered and the member offering it is allowed five minutes to explain the amendment. The member who thereafter shall first obtain recognition from the Chair is allowed five minutes in opposition. On the face of the rule it would appear that debate on the proposed amendment is now finished, but not so, if any one wishes to debate it further. Both by general parliamentary usage and by the express language of this rule, it is provided that an amendment to an amendment is in order, to which the same privileges of debate attach. Then there is the additional amendment by way of substitute which was developed by the practice of the House of Representatives and has now taken its place in American parliamentary procedure to which the same privileges of debate attach under this rule. It will thus be seen that no inconsiderable time for debate may be provided by a series of amendments to the original amendment, which, in fact, is just what usually happens.

Pro Forma Amendments

It may occur to the reader that difficulty might arise

in devising enough amendments to the original amendment to allow sufficient discussion, but this difficulty is overcome by the simple though unique device of a *pro forma* amendment which usually takes the form of moving to strike out the last word of the original amendment. By the usual practice of the House the debate continues on the original amendment, though technically it is supposed to be upon the *pro forma* amendment or amendment last offered.

In order that an equal time for debate may not be denied to the opposition, it is provided that neither the original amendment, nor an amendment to it, may be withdrawn except by unanimous consent. In case of objection to withdrawal, very rarely made, however, it becomes necessary to put the amendment to vote, even though it be but a *pro forma* amendment.

Nothing in the practice of the House of Representatives seems more strange to visitors in the House gallery during the prolonged consideration of a general appropriation bill than the constantly recurring, "Mr. Chairman, I move to strike out the last word," and yet this simple but effective device, furnishes a vehicle so well adapted to explanatory discussion and rough and tumble debate that it has become an accepted institution in our Congressional parliamentary machinery.

Under the five minute rule a member may not yield a portion of his five minutes to another, but even this restriction is sometimes gotten rid of by the simple device of one member getting the time and then per-

mitting another to use it under the guise of asking him a question which he may or may not answer.

Closing the Five Minute Debate in Committee of the Whole

Paragraph 6 of Rule XXIII—"The Committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate."

In Committees of the Whole a motion for ordering the previous question is not in order but an effective cloture is provided in paragraph 6 of Rule XXIII by permitting a motion to close debate upon either the pending amendment or amendments or upon the pending section or paragraph of the bill under consideration. This motion is not in order until there has been some debate. The only difference in effect between ordering the previous question and closing debate is that ordering the previous question not only closes debate but also shuts off further amendment, whereas after debate has been closed by vote in Committee of the Whole any number of amendments may be offered to be voted upon, but without debate.

Motion to Strike Out Enacting Words of a Bill

Paragraph 7 of Rule XXIII—"A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an

adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House, it shall be referred to the Committee of the Whole without debate."

Only the first sentence of paragraph 7 is applicable to the procedure of assemblies generally. A sufficient reason for giving a motion to strike out the enacting or resolving clause of a bill or resolution precedence over a motion to amend is that if the measure is to be rejected in toto, it should be done before further time is spent upon it.

Paragraph 7 also refers to adverse reports from Committees of the Whole and provides that where the adverse recommendation is disagreed to by the House, that the bill shall stand recommitted to the Committee of the Whole and makes in order a motion to refer the bill to any standing or other committee with or without instructions.

Application of Rules of House to Committee of the Whole

Paragraph 8 of Rule XXIII—"The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable."

Parliamentary practice has built up around Committees of the Whole certain distinctive rules somewhat different from those necessary for the proper function-

ing of the more formal sessions of the House itself, but aside from these, the procedure is the same, which is sufficiently provided for in the language of paragraph 8, requiring the House rules to be observed in Committee of the Whole, "so far as they are applicable."

The primary use of Committees of the Whole in parliamentary practice is in the consideration of bills calling for prolonged discussion and numerous amendments. They are particularly useful in furnishing the less formal mechanism for making amendments than is deemed necessary in the formal sessions of the House.

The motion to adjourn is not in order. Committees of the Whole, like other committees, sit and rise. Roll calls are obviated. Motions to lay on the table are not in order. The previous question cannot be ordered. Motions to refer or to postpone are not permitted. In fact, the consideration of amendatory motions is the principal business of Committees of the Whole. When this function is finished the committee rises, and reports to the House with a recommendation upon which the House itself in formal session proceeds to take the necessary final action.

CHAPTER XII

RULE XXVII—SUSPENSION OF THE RULES

Motions to Suspend the Rules

Paragraph 1 of Rule XXVII—"No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on the first and third Mondays of each month, preference being given on the first Monday to individuals and on the third Monday to committees, and during the last six days of the session."

Rules are made for the purpose, among other things, of affording protection to minorities in their parliamentary rights against the arbitrary use of the power of majorities, not primarily for the sake of the minorities, but in the long run in the interest of the public through well considered legislation. Each assembly, within the powers possessed by it, is free to make its own rules of procedure for the transaction of its business and when so made they are binding upon it and upon its individual members. It becomes the special duty of the presiding officer, whatever may be his title, to enforce these rules, and of all other officers and members to obey them.

The rules which, by adoption, have become the law of an assembly within the scope of its powers and authority, should not be lightly set aside or disregarded. Therefore, in order to properly utilize the very important and valuable motion to suspend the rules, there should be placed in the rules themselves, a clear, well defined provision for suspension, indicating not only

the vote required, but also the time when such a motion is in order.

Origin of Motion

In the House of Representatives, the motion grew out of an earlier rule providing that no rule should be rescinded except upon notice at least one day in advance. Next came a rule requiring a two-thirds vote to suspend the rules, but without restriction as to the time when such a motion is in order. Such a rule gave occasion for much uncertainty as to when such a drastic motion might be sprung upon the membership and led gradually to the present form of the rule making such a motion in order only on the first and third Mondays of each month and during the last six days of a session.

Vote Required

There is nothing sacred about the vote required to suspend the rules but in order to carry a motion so drastic in its effect as to wipe out for the time being all the rules solemnly adopted and promulgated by the assembly for its government, surely not less than two-thirds should ever be required. If there be no restriction placed upon the time when such a motion is in order and there is thought to be danger of its abuse, the rules of an assembly might well be made to require more than a two-thirds vote.

The motion to suspend the rules by a two-thirds vote has been quite widely adopted in American assemblies and by many regarded as the general parliamentary law of American procedure. Its chief value lies in fur-

nishing a short-cut to final results where there is necessity for quick action and for preventing amendments when in the judgment of a substantial majority such amendments would be harmful or destructive of the purposes of the measure. It is generally used when neither discussion nor amendment is necessary or desired. Some of the most important bills ever enacted into law by the American Congress have been passed under a motion to suspend the rules.

While a two-thirds vote is the usual, as well as the House of Representatives' requirement to suspend the rules, it may be more or less, as each assembly authorized to make its own rules may determine; but as a matter of fair play, as well as good judgment, it should never be less than two-thirds.

Discretion in Use of Motion

Rules to govern the procedure of parliamentary bodies are made primarily for the purpose of bringing the best possible results in legislation. It has been found by the experience of deliberative bodies that a fixed code of rules governing their procedure is the best method yet devised. It has also been found that in the long run the best results are obtained by making these rules so as not only to give reasonable opportunity for adequate consideration, but to provide against the arbitrary abuse of the power of a majority. In other words, the rules of an assembly should be such as to not only allow the majority to work its will, but in the meantime protect the minority in its rights and in the performance of its proper function as the opposition.

Suspension of the rules removes all the safeguards thus provided and therefore should not be used, except under clearly prescribed restrictions, and with the exercise of a wise discretion.

Seconding the Motion to Suspend the Rules

Paragraph 2 of Rule XXVII—"All motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded."

The effect of paragraph 2, of Rule XXVII is similar to that which provides for raising the question of consideration when taking up bills for consideration under the rules. It gives the House an instant opportunity to decide by a majority vote whether it is desired to take up the proposed bill for consideration in this extraordinary manner.

The provision for a second by a majority vote also tends to prevent waste of time for usually unless at least a majority of the membership favor the measure before it is considered, it is not likely that by the discussion of it, two-thirds can be brought to vote for it.

The procedure in the case of motions to suspend the rules is for the member in charge of the bill having secured the promise of the Speaker to recognize him for the purpose to rise and upon being recognized, to say, "Mr. Speaker, I move to suspend the rules and pass the bill (describing it by number and title)," or, "I move to suspend the rules and pass the bill that I send to the Clerk's desk."

In either case the Speaker directs the Clerk to report the bill. When the reading of the bill is finished the

Speaker asks, "Is a second demanded?" Even if there be no real opposition to the measure some one usually demands a second, for under paragraph 3 of this rule, the member demanding a second has control of the time in opposition to the bill. If there is genuine opposition to the measure, the leader of the opposition should demand a second. He simply rises and says, "Mr. Speaker, I demand a second." The member in charge of the bill usually responds, "Mr. Speaker, I ask unanimous consent that a second may be considered as ordered."

Ordinarily, there is no objection, in which case the Speaker announces, "The Chair hears no objection and the gentleman from —— (the one moving to suspend the rules) will be recognized to control twenty minutes and the gentleman from —— (the one demanding a second) for twenty minutes."

If there is objection, the Speaker says, "Objection is heard. The gentleman from —— (the one making the motion to suspend the rules) and the gentleman from —— (either the member objecting or the one demanding a second) will take their places as tellers. As many as favor ordering a second will pass between the tellers and be counted." When those voting in the affirmative have passed, the teller reports the number voting in the affirmative. The negative side is taken and reported in the same way and the Chair announces the result. If in favor of ordering a second, the Chair adds the announcement in regard to the control of the time for debate.

Since by the terms of the motion all rules are to be suspended, no amendments are in order and none of the usual parliamentary motions apply. The proposal in the exact form presented in the motion to suspend the rules must be either voted up or voted down. The motion may include amendments, but may not be changed thereafter.

Debate on Motions to Suspend the Rules

Paragraph 3 of Rule XXVII—"When a motion to suspend the rules has been seconded, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate."

Paragraph 3 of this rule provides for forty minutes' debate to be divided equally between those in favor and those opposed, and controlled as explained in the preceding paragraph.

The last clause of this paragraph provides for twenty minutes' debate on each side where the previous question has been ordered without any debate whatever; but as explained in connection with the reference to the previous question in paragraph 4, of Rule XVI, this provision is quite frequently nullified in effect by only a few words of alleged debate sufficient to meet the requirements of the rule. Why this provision affecting the rule for ordering the previous question should have been placed in this paragraph of the rule concerning

suspension of the rules, has never been explained satisfactorily.

Motion to Discharge a Committee

Paragraph 4 of Rule XXVII—"A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: Provided, That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. When [Members to the total number of one hundred and forty-five] a majority of the membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of motions to Discharge Committees. On the second and fourth Mondays of each month, except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and

the House shall proceed to its consideration in the manner herein provided with intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal. When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the Committee, the House shall immediately vote on the adoption of said resolution, the Speaker not entertaining any dilatory or other intervening motion except one motion to adjourn, and, if said resolution is adopted, then the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the Committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up, it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: Provided, That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House, it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from

any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: Provided further, That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motion to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress."

Paragraph 4, of Rule XXVII, attempting to provide a rule for the discharge of committees has no appropriate place, either in this rule or in any rational system of parliamentary rules. It might well serve as an excellent example of all that a rule should not be. In a word it is violative of the fundamental principle of majority rule and utterly unnecessary to bring before the House such measures as a majority of the membership desire to consider.

It has no application whatever to assemblies outside of the House of Representatives and may well be dismissed without further comment. It was adopted in its present form at the opening of the 72nd Congress and has since proved a source of much embarrassment to the leadership of the House in finding ways and means to circumvent it so as to avoid the confusion and

other ill effects flowing from it. It will doubtless be eliminated from the rules at no distant date in the future, for surely no such absurdity, to characterize it most charitably, can long continue as a part of the House Rules.

Note.—Since the preceding paragraph was written the Seventy-fourth Congress has convened and in the resolution adopting the rules of the House, paragraph 4, of Rule XXVII, was changed by substituting in place of one hundred and forty-five Members, "a majority of the Membership of the House." This modification, while not entirely eliminating the objectionable provision as prophesied by the author, at least removes the obnoxious feature permitting one-third of the membership of the House to compel the House to consider a proposal whether it so desires or not. As the rule now stands, it simply means that if a majority of the House desires to legislate upon a particular subject, it may do so, which it may do in any event without a rule. It may be truly said that this longest and most involved paragraph in the entire code of rules now means exactly nothing. In the 69th Congress a rule to instruct committees was adopted with a similar provision for a majority of the full membership of the House. It remained in effect through several Congresses but, of course, was to all intents and purposes a dead letter.

It is the firm conviction of the author that in the House of Representatives no rule for the discharge or instruction of committees is necessary or desirable. Other adequate means are always available under the general rules of the House to consider any proposal honestly favored by a sincere and determined majority. Among other things, the question of consideration may be raised when any new proposition is brought forward and consideration refused for all else save the proposal desired by the majority. Other means will readily suggest themselves as occasion may arise, without the necessity of violating the most fundamental principle of parliamentary procedure, that of majority rule.

CHAPTER XIII

RULE XXX—READING OF PAPERS

Objections to Reading of Papers

Rule XXX—"When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any Member, it shall be determined without debate by a vote of the House."

The right to read in debate "a paper other than one upon which the House is called to give a final vote" is so often demanded on the one side and objected to on the other in parliamentary bodies that so far as the House of Representatives is concerned, the practice has long been settled as stated in Rule XXX. Ordinarily, when the members are in a pacific state of mind, objection is seldom made to the reading of papers by the member having the floor. Usually they are not listened to with any great degree of attention, especially if prolonged, but the usual attitude is that if the one having the floor, with his time strictly limited, wishes to consume the time in this way, it is his business.

Full liberty to read papers at will would inevitably permit abuses. In cases of a deliberate and planned filibuster, if a substantial minority of the members chose to secure time and utilize it, or waste it, in reading papers, the obstruction might become serious. On the other hand, if one member by raising an objection, might preclude another from reading a pertinent and possibly enlightening document, even his own written speech, unnecessary and serious inconvenience might be the result. A middle ground is desirable. Hence,

the rule as practiced, usually gives entire freedom in the reading of papers, but upon objection being raised, leaves it to a vote of the House to decide without debate, whether on the whole the member having the floor should be permitted to continue reading. If it appears to the sense of fair play of the membership that good faith is not being exercised, and that the member is trifling with the patience of the House, a majority vote soon puts a stop to it.

The paper "upon which the House is called to give a final vote" should always be read in its entirety at least once, but may not be read again in the face of an objection. Ordinarily, there is no objection to requests for the re-reading of brief resolutions or amendments.

How to Raise Objection

To raise an objection to the reading of a paper, a member should rise and after addressing the Chair should say "Mr. Speaker, I rise to a point of order." The Chair responds, "The gentleman will state it." The member then makes his objection, an acceptable form for doing so, being,—“Mr. Speaker, the gentleman is reading from a paper other than one upon which the House is called to give a final vote, and under the rule, I object to a further reading of it.” The Speaker usually says, "The gentleman will suspend reading." In this crisis, some friendly colleague usually arises and moves that the member be permitted to proceed with the reading and the motion is put to vote without debate, or the presiding officer may call for a vote of his own motion.

CHAPTER XIV

ACTION BY UNANIMOUS CONSENT

The practice of taking action by unanimous consent is one of the most useful as well as convenient parliamentary devices. It is a conservative estimate to say that more motions are agreed to by unanimous consent than by any or all other methods. And yet there is no provision in any rule of parliamentary procedure for such action. It must be borne in mind that theoretically each motion so carried has been put to vote and that the entire membership of the assembly have voted in favor of it, because opportunity having been afforded for making objection and none having been made it is presumed that all favor the motion.

Restrictions Upon Its Use

It is sometimes said that anything can be passed through an assembly by unanimous consent, but this is not literally true. In the rules of practically every assembly there are special provisions regarding certain motions restricting action, except upon compliance with certain prescribed formalities, and in some cases the presiding officer is prohibited from entertaining motions of a prescribed character. Such prohibition would, of course, apply to action by unanimous consent.

Additional Restrictions

Then the presiding officer and all the members are charged with the responsibility of not permitting questionable or even doubtful motions to be agreed to by unanimous consent.

Good sportsmanship also, plays a part in parliamentary proceedings as elsewhere. No self respecting member would think of asking unanimous consent for action in the absence from the floor of a fellow member if he knows that such member would object if present.

Field of Use

After eliminating all restrictions there remains a vast field for the employment of the ready short-cut to quick action afforded by the process of unanimous consent. It is an effective time saver. It cuts down the labors of the presiding officer and spares his throat from much rasping that would be simply monotonous routine. It also encourages, in fact, requires, alertness on the part of members if they would escape the charge of being caught asleep at the switch.

The request for unanimous consent is especially useful in agreeing to amendments of a purely verbal character, correcting typographical errors, changing the section numbers to conform to additions to or eliminations from the bill and to any other matter where it is clear to all that the proposed change should be made.

Reconsideration

When it is desired to reconsider a motion agreed to by unanimous consent, it is in order for any member to make the motion to reconsider, because it is presumed that all voted on the prevailing side. It is just as necessary, however, to move a reconsideration in such cases as if the original motion that had been thus

agreed to had been carried by the most solemn "Yea" and "Nay" vote.

Making and Submitting Request

The member making a request for unanimous consent must secure the floor in the usual way by respectfully addressing the Chair and when recognized by the Chair, simply says, "I ask unanimous consent that (stating the request)." The Chair should repeat the request, so that all may clearly understand, and then say "Is there objection?" Momentarily pausing to give opportunity for objection, he then adds, "The Chair hears no objection and it is so ordered," or "Objection is heard," or "The gentleman from —— objects." The member making the objection should rise and say, "Mr. Speaker (or Mr. Chairman) I object."

Disposing of Objections

Oftentimes a threatened objection is removed by giving the would-be objector an opportunity to ask for an explanation and the one making the request an opportunity to explain. This is usually done by the simple process of reserving the right to object. The member rises and addressing the Chair says, "Mr. Speaker, reserving the right to object, may I ask the gentleman from —— a question?" Unanimous consent is necessary for this proceeding also, but is usually assumed unless some member objects or "demands the regular order," which is tantamount to an objection. If there

be no objection to this implied request, the query is propounded and the explanation heard.

Frequently a number of members wish to ask questions requiring answers, all of which continues by unanimous consent, of course, until all objections have been removed or some one insists upon his objection.

Regular Order

In every assembly a regular order of business is usually provided for by rule and when so provided a demand for the regular order requires that the business then in order be proceeded with. When a request for unanimous consent is pending, the business next in order is to ascertain whether or not there is objection to the request. The right to object being reserved is in effect a request for unanimous consent to ask questions and receive explanations. A demand for the regular order is in effect an objection to this procedure and, if insisted upon, requires the Chair to immediately submit the original question as to there being objection.

Use in Smaller Assemblies

In the meetings of boards, clubs, societies and other small assemblies, where after discussion there is seldom a dissenting voice, it is quite common and entirely proper for all questions to be decided by unanimous consent, so long as there is, in fact, no difference of opinion on the questions discussed. In such cases the presiding officer after stating the question puts it to vote by saying, "Without objection it is so ordered,"

and if no objection is raised, the recording officer records in his minutes that the question was so voted. Ordinarily, the minutes record only that the question was voted in accordance with the facts, but do not state how the vote was taken, because usually this is not material.

CHAPTER XV

FILIBUSTERS

In parliamentary usage a filibuster is the use of obstructive tactics to delay or to prevent final action for the purpose of either defeating the proposal involved or of compelling a modification of it. Where the time for final action is limited, some times the filibuster is directed against an entirely different and perhaps unobjectionable proposal that may happen to serve the purpose of consuming time, and thus indirectly prevent consideration of the real object of opposition.

Filibusters May Be Good, Bad or Silly

In the minds of many persons unfamiliar with parliamentary practice or legislative proceedings, and even with some reputable writers on the subject, the word filibuster has a sinister meaning. The idea in such minds would seem to be that there is something ethically or morally wrong about it, so that any one taking part in or countenancing a filibuster is guilty of something little less heinous than a high crime or at least a moral misdemeanor. There is, of course, no moral quality whatever necessarily connected with a filibuster. It depends entirely upon the object and purpose for which it is conducted. There are filibusters and filibusters.

Filibusters—When Not Justified

It must be conceded at the outset that a filibuster undertaken and carried on without a reasonable hope

of accomplishing something of value is a silly performance. If it takes the time and taxes the vitality of the members to no purpose or with no reasonable expectation of bringing worth-while results, it is worse than silly, it is reprehensible. In case a filibuster should be entered upon in order to compel a course of action for selfish reasons or an unjustifiable purpose, then, of course, it enters the unethical realm.

Filibusters—When Justified

It must be borne in mind that as a rule filibusters are engaged in during the consideration, or proposed consideration, of measures concerning which there is sharp difference of opinion as to whether the passage of the measure would be wise or unwise, good or evil, in its effects. It may also be assumed that in most cases the difference of opinion is an honest one. This being so, each side is justified in using all legitimate parliamentary means to secure the desired objective.

Purpose and Results Determine Filibustering

Mathematically speaking, probably most filibusters are silly performances, because obviously without hope of success from the outset, and therefore futile. Where used solely for purposes of delay, they can rarely be justified and ordinarily should be dealt with accordingly. Some filibusters have been utilized for purposes that could not be justified and that have brought unfortunate results, while in some notable instances, filibusters have prevented unwise legislation that would have been harmful if enacted into law. No one can

say that *per se*, a filibuster is a bad thing or a good thing. Most frequently it is a foolish thing.

Filibusters—How Carried On in the U. S. Senate

In bodies like the United States Senate, where there is great liberality in debate, the favorite method of conducting a filibuster within the very elastic rules of that body, is by long speeches. Even in the Senate, however, ways and means are being gradually devised and utilized to make success along this line more and more difficult.

Filibusters—How Carried On in House of Representatives

In very large bodies, like the House of Representatives, where the time for debate necessarily is strictly limited, the vehicle for killing time most commonly and effectively used is the roll call. The Constitution of the United States, in Article I, Section 5, empowers each House of Congress to make its own rules of procedure, but in the same section this power is limited by the provision that "the Yeas and Nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal." The House has therefore, no power to make a rule that would be in conflict with this provision. A "Yea" and "Nay" vote must be taken when ordered in accordance with its terms.

Time Consumed in Roll Calls

The average time consumed in a House of Representatives' roll call is at least half an hour. The num-

ber of roll calls that can be forced by a determined minority of at least one-fifth, skillfully led by a resourceful parliamentarian, is quite considerable, as against any majority equally well handled by its leadership. Thus it will be seen that this one instrument alone can be used to obstruct proceedings for a considerable length of time, if every possible opportunity for a roll call is utilized.

The Constitution provides that one-fifth of those present may demand and require a "Yea" and "Nay" vote, and the rules of the House require a roll call if those present fail to constitute a quorum, so that between "Yea" and "Nay" votes and "No quorum" calls much time may be consumed.

Why Permit Filibustering

It may be asked "Why permit filibusters at all?—Why not adopt rules that will effectually suppress filibustering?" With the exception of necessarily complying with certain constitutional provisions under our system, which necessity can be whittled to a minimum, rules can be formulated that will put a stop to filibustering; and if the practice is to be correctly looked upon as an unmixed evil, it should be stopped. In fact, it cannot be shown to be such and cannot be properly or safely brushed aside in this way. The price to be paid for so doing is far too great. It might mean the sacrifice of certain dearly bought liberties.

No General Rule Possible

When entered upon with a motive honest and be-

lieved to be worthy and carried on in a legitimate fashion, strictly within and according to parliamentary rules established for the guidance and government of the body, a filibuster is no more to be condemned as reprehensible than any other action taken under the same rules. All depends upon the purpose for which it is employed and the probability of its effectiveness as an instrument for accomplishing this purpose.

Depends Upon Point of View

To those who pin their faith to legislation as a solvent for all problems and still more legislation as a cure for all ills of the body politic, filibustering is an evil, because it may delay or entirely prevent proposed additional legislation, while to those who doubt the wisdom of the new proposal and fear harmful, rather than helpful results from it, the same filibuster is a praiseworthy instrument to be utilized in defeating it. Much depends upon whose ox is gored.

Attitude of Presiding Officer

Ordinarily, it may be assumed that the presiding officer is not in sympathy with the filibuster, because he is usually in his present position by reason of a majority vote, but some times the majority favoring a particular proposal is made up along lines different from those prevailing in the selection of the presiding officer. Entirely within the limits of propriety, he can materially aid the side favored by him, but he must be fair in his rulings so as to give no just ground for com-

plaint. His proper function is to enforce the rules fairly, justly, firmly and in all, good naturedly.

Discretion Required

It being made clear that delay is the real purpose of the obstructionists, the presiding officer is justified in ruling motions as dilatory that on ordinary occasions would not be so construed, but even under these unusual circumstances, a wise and tolerant discretion should be exercised, because rulings made become precedents which sometimes return to plague the maker.

CHAPTER XVI

COMMITTEES

In parliamentary usage committees are the creatures and servants of the parent body. They can have no power or authority beyond that conferred upon them by the creating power, and this only at the will and pleasure of the source of their authority. They are of the very highest importance in the work of parliamentary assemblies because it is through the means of committees that they perform some of the most important functions of deliberative bodies.

Classification of Committees

Committees may be classified under two general heads: Standing Committees and Special Committees. Committees of the Whole are in a distinct class by themselves, although they are, in fact, also creatures of the parent assembly and subject to most of the same limitations as other committees. House Rule XXIII, *supra*, deals with the subject of Committees of the Whole.

Standing Committees

Standing committees are usually raised for a definite but prolonged term of service and, in legislative assemblies, ordinarily for the entire period covered by the life of the legislative body creating them.

Such committees usually have their fields of activity outlined, their jurisdiction fixed, and the names attached to them more or less clearly indicate the character of the proposals they are supposed to consider.

Special Committees

Special committees, as the name would indicate, are raised for a particular purpose described in the motion or resolution by which they are created. The number and variety of such committees are limited only by the needs or supposed needs of the assembly creating them. Few assemblies, with important business to transact, proceed very far without realizing the need for the kind of work that can be best performed by committees.

Committees—How Selected

Assemblies requiring standing committees, such as legislative bodies of all kinds, usually select them at the beginning of the session. The method of selection varies somewhat among legislative bodies. Sometimes the selections are made by the presiding officer, especially where he is chosen by the assembly. Sometimes the selections are made by committees designated for the purpose, which selecting committees are themselves selected in different ways.

Selection of Committees in House of Representatives

While not applicable to assemblies generally, it is of sufficient general interest to warrant stating here how the members of the standing committees of the U. S. House of Representatives are chosen. Prior to the 62nd Congress all the standing committees were selected by the Speaker. During the 61st Congress this was changed. At the present time, the Democratic members of the standing committees are selected by a committee composed of the Democratic members of

the Ways and Means Committee, and the members of this committee are selected by the party caucus of Democratic members.

The Republican members of the standing committees are selected by a special party Committee on Committees, composed of one Republican member from each State having a Republican member, each member of the committee having as many votes as there are Republican members from his State.

Each of these plans has its glaring faults and many experienced legislators have become convinced that neither of these methods is calculated to bring as good results in the way of capable, working committees as the original plan of permitting the Speaker to make the selections so that the responsibility of making up the best possible committees may rest upon the Speaker and be squarely placed upon his shoulders.

The matter of selecting the personnel of the standing committees of the House of Representatives is of such vital importance to the individual members, to the effectiveness of the House itself as a legislative body, and to the public welfare, that no method yet devised has been found satisfactory to all concerned. One thing appears to have been demonstrated since the original method was abandoned. It is that seniority of service is now more blindly followed in making committee selections, which in some instances, has brought to the chairmanship of important committees men lacking in floor ability and not otherwise equal to the task.

Selection by Presiding Officer

It is sometimes objected that the power to select the committees of Congress is far too great to be lodged in the hands of one man. This objection is more apparent than real. His freedom to make selections at will is limited in many respects that are very real and effective. Seniority of service is one, and few clothed with the power to do so, would choose to ignore it, except for the best of reasons. On the other hand, having good reasons, it is a distinct loss to be deprived of the benefits that would flow from the better selection. Finally, it should be said that especially in legislative bodies, under a two-party system, there is advantage in being able to fasten responsibility for failure upon certain very definite shoulders.

Raising Committees in Other Assemblies

In other than legislative assemblies, committees are raised if and when there is deemed to be need for them. Bodies having regular meetings, whether weekly, monthly or even annually, usually have standing committees with specified duties, but in practically all assemblies occasions arise for the appointment of special committees. Often the member proposing the resolution creating the committee is made a member of the committee, and except in legislative bodies where party affiliations control, is usually made chairman of it, though this is only custom and in no sense a settled parliamentary practice.

Appointing the Chairman

Usually the chairman is designated when a committee is appointed, but if not, the one first named is ordinarily understood to be the chairman.

Reports of Committees

Committees report back to the parent body any matter necessary to be finally acted upon by the body and no motion is necessary to receive a committee's report. The normal function of a committee is to report and this report usually takes the form of a bill or resolution and ends with a recommendation that the resolution be adopted or that the bill do pass.

The report agreed to by a majority of the committee is the only report of the committee, although those not in agreement with the report have the right to present minority views, sometimes inaccurately referred to as the minority report. The minority views should be signed by those members of the committee in accord with them, but the committee report itself, as a rule, is not signed. The chairman or some other member of the committee approving the report is designated to make the report to the assembly. While no motion is necessary to receive the report, any further disposition of it is made only upon appropriate motion.

When the report of a committee is made, the matter is in the possession of the assembly and ready for consideration when reached or when properly called up under the rules.

Committees "Sit" and "Rise"—Do Not "Adjourn"

As explained under Rule XXIII, in Committee of the Whole, committees do not "meet" and "adjourn," they "sit" and "rise." The rules of the body appointing them govern their procedure so far as applicable, though the formal subsidiary motions such as to lay on the table and to order the previous question are not used.

Function of Committees

The function of committees is to consider in smaller groups and less formal sessions matters to be finally acted upon by the parent body. If it be only a resolution to voice the concensus of opinion of a hurriedly called mass meeting, it is apt to be a better and clearer expression of that opinion if the resolution is either formulated in advance by a small informal group, or whipped into shape, after the meeting has adjourned, by a small select committee. To reduce to definite, clear-cut, logical form a statement of considerable length by debate and formal amendment on the floor of a large assembly is almost an impossibility.

In Legislative Assemblies

In law-making assemblies, where matters of great public interest are at stake, it is especially necessary that there be committees. In such assemblies, it is not practicable for the public, or representatives of the public, or for private interests, or their representatives, to appear and be heard. Through committees and subcommittees it is possible to hear all that should be

heard and to gather such information as may be helpful in forming legislation from all available sources. Hence the transcendent importance of committees in such bodies. In truth, it is but a moderate statement of a well known fact, that the work of committees in Congress is of far greater importance in the shaping of our laws than all the speeches made in both House and Senate, and doubtless, the same may be said of State legislatures as well.

In Other Assemblies

In other than legislative assemblies the importance and function of committees depend upon the nature of the business to be transacted and to some extent upon the size of the assembly itself. In a small assembly there may be little need for committees. If questions of policy only are to be decided larger groups are to be preferred and the entire assembly may serve the purpose better; but even here if language is to be used for the purpose of clearly expressing thought, or transactions involving details are to be dealt with, a committee and a small committee at that will probably be called upon to complete the task.

Large Civic Organizations

In large civic bodies, such as Boards of Trade and Chambers of Commerce, where the meetings as a rule are mostly devoted to educational and inspirational addresses, or to entertainment, the most important business is usually transacted in and through large committees, each covering a particular field of public or

community interest. In such cases, it is more satisfactory for these large committees to adopt and follow the parliamentary procedure of an independent assembly rather than the more informal procedure of a committee. Ordinarily, smaller sub-committees do the work of making studies, surveys, and other means of accumulating desired information for submission to the parent committee. The procedure of such sub-committees would be that hereinbefore indicated as applicable to committees.

CHAPTER XVII

MISCELLANEOUS

Parliamentary Inquiries

A parliamentary inquiry is properly one addressed to the presiding officer of an assembly for the purpose of ascertaining, or having made clear to the assembly, the effect of a pending motion, or of a vote to be taken, or as to the existing parliamentary situation. When made for this purpose, such an inquiry should be fully and clearly answered so that there may be no room for doubt on the part of any one. The presiding officer should at all times have the entire parliamentary situation so clearly in mind that, without a moment's warning he is able to make it plain and clear to the assembly upon proper inquiry.

The member desiring to propound a parliamentary inquiry should address the Chair and state his desire to make such an inquiry. If no one has the floor at the time, the presiding officer should say, "The gentleman will state it." If the inquiry be a proper one, the Chair should respond accordingly.

On the other hand, if as sometimes happens the alleged parliamentary inquiry turns out to be but a shrewd device to make a speech when debate is not in order, then the presiding officer should promptly wield the gavel to interrupt the pseudo-inquiry and inform the inquirer that what he is stating is not, in fact, a parliamentary inquiry.

It is not in order to interrupt one having the floor for the purpose of making a parliamentary inquiry and

the presiding officer should not permit it without ascertaining whether the one interrupted is willing to yield for this purpose.

If a member rises and addresses the Chair while another has the floor, the presiding officer should rap the gavel to cause the one having the floor to suspend and ask, "For what purpose does the gentleman rise?" This is necessary because if a point of order is to be raised it is proper to suspend until it is disposed of. If it is desired to make only a parliamentary inquiry or to ask a question of the one speaking, the presiding officer should first say, "Does the gentleman yield for that purpose?"

Interruptions and Yielding

When a member has the floor it is not in order to interrupt him, except to raise a pertinent point of order, and he has the right to insist upon not being interrupted, unless it be for this purpose. In practice, however, interruptions are permitted for all sorts of purposes. It depends largely upon the one holding the floor. If he desires to proceed without interruptions he should so inform the Chair, whereupon it becomes the duty of the Chair to protect him in his rights. Some speakers delight in responding to interruptions and often deliberately invite them. In such cases the presiding officer practically ceases to play a part in the succession of colloquies.

Before interrupting, the member should rise and address the Chair, so as to ascertain whether the one

holding the floor is willing to yield, but having been granted this permission the colloquy proceeds between the two members without further aid from the Chair. When it is desired to end the colloquy it may again become necessary to invoke the aid of the Chair.

Most frequently the purpose of interrupting a speaker is to ask a question, which may be friendly or otherwise, and often in yielding it is specified that it is for a question only. If the question be extended beyond the bounds thought to be reasonable it may be brought to an end by a counter interruption to the effect that "I decline to yield further," or "I yielded for a question, I decline to yield for a speech."

It is not a thing unknown to have repeated interruptions for the apparent purpose of disconcerting the one speaking, or at least to break the continuity and thereby detract from the effectiveness of his remarks. In such case, if properly brought to his attention, the presiding officer should use the authority of his position to the end that the rules be observed so that the person having the floor for the time being may be fully protected in his parliamentary rights. The presiding officer may be a partisan in other matters, but in the enforcement of the rules justice and fair play should govern his action.

The Holman Rule

The so-called Holman Rule is not one of general application and would probably never be made a special rule of any other assembly than the House of Representatives. However, it plays a part so prominent in

the parliamentary proceedings of that body as to warrant brief mention of it here.

It is provided for in paragraph 2, of House Rule XXI. This rule first states that no general appropriation bill and no amendment to such bill shall provide for any expenditure not already authorized by law. The purpose is to keep separate and apart general legislation and the appropriation of money authorized by such legislation. Such a rule is absolutely necessary in a legislative body such as the House of Representatives. The paragraph continuing, adds another necessary restriction forbidding in such bill or amendment, any change in existing law.

Then follows what has come to be known as the "Holman Rule," named some fifty years ago for a member of the House from Indiana, who was notable in those days as a "watch dog" of the Treasury. The rule is somewhat complicated and readily lends itself to lengthy discussion on points of order, but attempts to simplify or clarify its language have never been successful. In brief, it is to the effect that a proposal otherwise germane to the subject matter of the bill, even though it proposes to change existing law, shall nevertheless be in order provided it retrenches expenditures in any one of a number of different ways specified.

The Holman Rule is based upon the theory that it is worth while making an exception to a very necessary and wholesome rule if, by so doing, expenditures of public funds may be thereby reduced. It is an economy

provision, and, if so used without abuse, serves a good purpose. Sometimes, however, it is made the means and occasion for fastening upon an appropriation bill legislation the real purpose of which is not to retrench expenditures.

As stated at the outset the Holman Rule is not a rule of general parliamentary procedure, but an important and noteworthy exception to one of the very necessary and valuable special rules of the House of Representatives. It is referred to here only because of the frequent references to it in the proceedings of that body and sometimes in the public press.

Riders

To the average mind the word "rider" has not a sinister meaning such as is usually attached to the word "filibuster," although it is quite as much deserving of it. Like a filibuster, a rider may be good or bad. It has no necessary moral quality.

The term "rider" gives an indication of one distinguishing characteristic. It usually means that it is unable to travel under its own power and must therefore rely upon something else to carry it along.

In the practice of parliamentary bodies a "rider" is usually understood to be a proposition which, if left standing alone, would not be able to make its way over the numerous hurdles to be encountered in such bodies, and consequently would stand little chance of being acted upon; but if securely attached to some proposition of sufficient importance will surely receive consider-

ation and, of necessity, come up for final action with the matter to which it is attached.

General appropriation bills in Congress are the favorite vehicles for riders because appropriations are necessary for carrying on the governmental activities, so that a rider once firmly attached to one of the government supply bills, unless it be possible to detach it in conference between the House and Senate, is sure to be enacted into law.

On account of somewhat stricter rules in the House than in the Senate, the latter body is much the worse sinner in the matter of attaching riders to bills in Congress, although even in the House, under the so-called Holman Rule, there is opportunity for doing the same. The practice is not to be commended. With the strictest observance of the best parliamentary practice the laws enacted in many legislative bodies are a sorry jumble of more or less loosely related subjects. The practice of attaching riders makes them much worse.

Each bill proposed should relate to a single subject and should be kept so until it is enacted or rejected. The excellent rule of germaneness applied to amendments in the House of Representatives should be adhered to and the principle underlying the rule should be extended to all legislation. Otherwise it becomes difficult to separate the wise from the unwise, the good from the bad, and sometimes forces legislators to make the uncomfortable choice between either voting to accept the bad and voting to reject the good, both being inseparably connected.

Pairs in Voting

The use of pairs in voting is common only in legislative bodies, but may be adopted by any assembly if found to suit its purposes. It in no wise affects the result of the vote, because pairs are disregarded in tabulating the vote. Its principal and proper use is for the convenience of members when, for good reasons, they desire to be absent when a certain vote is to be taken and know in advance on which side they would vote if present. Under such circumstances, two members realizing that if both were present and voting, the two votes would neutralize each other, agree that neither shall vote. When the time for the vote comes, if one of the pair be present, he simply withholds his vote, but is recorded as present and is counted for purposes of a quorum.

In the House of Representatives, as well as in the Senate, where there is much important committee work and other work off of the floor, pairs are much used and serve a beneficial purpose. It may be asked why it is important to take notice of the fact that certain members do not vote, since the result is in no way affected. It is sufficient to say that legislative assemblies are constituent bodies and that it may be a matter of considerable importance in the eyes of a member's constituency as to why he did not vote and how he would have voted if present and permitted to do so.

So-called "General Pairs" are more or less a farce, especially in the House of Representatives. In the United States Senate they amount to a gentlemen's

agreement that when a vote is taken, each Senator of the pair shall be recorded as paired with some other Senator who would vote on the opposite side of the question. In practice, if either Senator is present, he simply picks from the list of absentees some one who, if present, would vote opposite to the one with whom he is paired and transfers the pair to him. If he knows the absent Senator would vote the same way as himself, he so states and proceeds to vote.

In the House of Representatives, pairs agreed upon in advance, signed by both Members and left with the Clerk, are scrupulously observed and serve a beneficial purpose as heretofore indicated. "General Pairs," usually listed in the *Congressional Record* "until further notice," are practically meaningless. Ordinarily they are arranged by the pair clerk after the vote is finished and entirely without the knowledge of the Members paired. The Clerks simply take the list of those not voting and arrange the names so as to show each Member not voting as paired with another in the same list. Since it does not appear from the list how either would have voted, if present, it follows that if later called upon to state his position, each may claim that if he had been present and permitted to vote, he would have voted as prudent hindsight may now reveal would have been proper. Some times there is an advantage in this over one who is present at the time and must make up his mind on the spot.

Where a two-thirds vote is required, as in passing a bill over a Presidential veto, or suspending the rules,

two in the affirmative are paired with one in the negative.

Nominations

In the organization of assemblies for the transaction of business, the election of a chairman and other necessary officers is a matter of great importance. Much depends upon the wisdom of the selection. If the officers are to be elected from nominations made from the floor, the procedure adopted in making the nominations may become highly important. The subject is deserving of at least a brief reference here.

It will help prevent confusion to remember the one inviolable parliamentary rule of "one thing at a time." Only one motion at any one time may be "the question before the house," and no motion is in order while a motion of equal or superior rank is pending. Apply this rule to nominations.

The immediate objective is to ascertain the person desired by a majority of the assembly to serve in the position proposed. In order to illustrate, assume that no special rule on the subject has been adopted by the assembly. One member rises and says: "I move that Mr. A. be elected chairman of this meeting." The one acting as temporary presiding officer should say: "Mr. X moves that Mr. A. be elected chairman of this meeting," and if no one rises to discuss the question, after a momentary pause, he should put the question to a vote.

It should be understood that the motion to elect Mr. A, like all other main motions, is debatable. When Mr. X makes the motion, it is his right to proceed to

extol Mr. A, giving the reasons why he should be elected chairman. Others are also free to debate the question, and so Mr. Y may rise, either to support the nomination made by Mr. X, or to oppose it. The best way to oppose it is for Mr. Y to indicate to the assembly that he intends, as soon as Mr. A is rejected, to move the election of Mr. B. This would be the regular parliamentary procedure. As soon as the motion of Mr. X is voted down, it being now in order, Mr. Y makes his motion that Mr. B be elected.

While the example given is the regular parliamentary procedure, it is more honored in the breach than in the observance. An apparently easier method, or at least one more easily understood, and which in the end amounts to the same thing, is for Mr. X to say: "I nominate as chairman of this meeting Mr. A." This statement on the part of Mr. X is equivalent to saying: "I move that Mr. A. be elected chairman of this meeting." It is, of course, open to debate. It would not be in order now for Mr. Y to move to elect Mr. B, but it is entirely proper for him to say: "I nominate Mr. B," which he has the right to do, as a matter of debate, while the first motion is pending, and so on by Mr. Z and by any number of other members until the list of nominations is either closed by a vote—which is, in fact, a method of closing debate,—or by exhaustion, which means that no other member cares to nominate any one for the position. It is thus seen that nominations simply amount to a series of motions to elect, and they are put in the order of nomination.

The procedure outlined amounts to the same from a parliamentary standpoint as making the several motions and voting upon them in order. It is exactly the same principle as the rule for amendment. While one amendment is pending no other amendment of equal rank can be made, but under debate, a member may indicate the amendment he intends to offer when the pending amendment is disposed of and his amendment shall be in order.

The advantage of a list of nominations, and doubtless the reason why it has become the more general rule, is that the assembly has before it a list from which the members may select their choice. There is one objection inherent in both these methods. Members may well hesitate to vote down an earlier motion to elect, lest thereby they defeat a more competent person than the one who may be elected before their real choice is reached for a vote.

A method of electing officers entirely consistent with the plan explained in the preceding paragraph, in effect an abridgement of the method there described, is recommended for use by assemblies not electing their officers by ballot. The nominations are made as described and if more than one be nominated, instead of taking an affirmative and negative vote on each nominee, in the order nominated, the presiding officer says: "Those in favor of electing Mr. A will rise and stand until counted." Then instead of taking the negative vote, omit it and proceed in the same manner to determine the number in favor of electing Mr. B, and so

on to the end of the list of those nominated. When the total vote cast for all candidates is determined, if some one has received a majority of the votes cast, the presiding officer will so announce, stating the number cast for each person voted for. If no one has received a majority another vote is taken and continued until there is a majority for some one.

This method commends itself not only by its brevity, but also on account of being fair and just to those voted for, as well as better enabling the members to express their preference among all those nominated, before some one is actually chosen. In fact, it has the same advantage in this regard as taking the vote by ballot, except that it is not secret.

Advice to Presiding Officers

In making nominations and electing the officers of an assembly, and throughout the session, the presiding officer should strive to expedite in every reasonable and proper way the business to be transacted. Without appearing to press too strongly, and at all times observing closely the temper of the membership, he should take advantage of every opportunity to forward the matter in hand. In this way only may he avoid the danger of permitting the meeting to drag, thereby losing the important element of interest. He should avoid making suggestions which, if acted upon, will consume further time, such as "Are there other nomination?" and "Will you nominate further?" Such urging may be necessary in an assembly where the mem-

bers are not familiar with parliamentary procedure, or their rights under the rules, but it is undoubtedly a reflection upon members that they must be instructed by the presiding officer, or, at least, have their attention called to what each one should know to be his rights in the premises. In large assemblies, even when highly organized, all the members may not fully understand all of their parliamentary rights, but there are sure to be enough who know the rules and their rights under them, to insist upon those rights without being prodded by the presiding officer. It is his function to promptly submit for action that which is properly brought before the assembly for its consideration. The members from the floor should attend to the rest.

Suggestions to Presiding Officers and Members

It is hoped that such presiding officers as may chance to read these closing words of this chapter will not resent a few suggestions, mostly negative, in the form of "Don'ts."

If the purpose of the meeting over which one presides is to have as many as possible of those present express themselves in oratory and time is no object, then much of what is here suggested may be passed over unheeded. If the members of the assembly are entirely unfamiliar with parliamentary practice and need to be constantly reminded of their rights and duties under the rules governing procedure in the assembly, then even more of what is here suggested may be ignored. Assuming, however, that the purpose of

the meeting is to take action by bill or resolution, after proper consideration, that the members of the assembly know the rules governing its procedure and that they are reasonably well informed in practice so as to not need coaching by the presiding officer, then and in that event the following admonitions will not be considered amiss.

Don't say "the question is now open to debate." Members know, or should know, that when the question is stated by the Chair it is open for debate.

Don't say "Will you remark?" or "Will you remark on the motion?" If members desire to discuss the motion, they should be ready when the question is stated. It should not be necessary to call their attention to the fact. Such a question on the part of the presiding officer should be resented. It is the equivalent of saying in the language of the street, "You dumb bunnies may not find it out unless I tell you, but you can talk about the question before the meeting now if you wish to speak." Members should be presumed to know their rights under the rules of the assembly and in accordance with parliamentary practice. If volume of debate is desired, it is better to work it up in advance by requesting members to take the floor, or even to send a messenger quietly suggesting it after debate is in progress. At any rate it is usually not the function of the presiding officer to openly bid for more oratory.

Don't say "If there is no further debate the Chair will put the motion." Be positive in the matter. Leave no doubt in any one's mind about it. If no one is on

his feet claiming recognition assume that no one wishes to remark further and proceed to put the question.

Don't say "Are there amendments to be offered?" Members should know their own minds by the time the main motion reaches the amending stage and be competing with each other for recognition to offer their amendments. Robert in his Rules of Order suggests the asking of such a question, but surely there is no parliamentary rule or good reason for requiring the presiding officer to use the goad in order to prod alert members to a sense of their duty or their opportunity. The others might be permitted to continue their slumbers without serious risk of great loss.

Don't say "Are you ready for the question?" Alert members, aware of their parliamentary rights and how to secure them, will probably resent such an inquiry. If desirous of continuing the debate, the members should be on their feet demanding recognition before the chairman has a chance to ask such a question.

Don't say "Do I hear a second?" As explained earlier in this volume, the practice of seconding motions has long since disappeared from most legislative bodies and many other assemblies, but even where still used it should not be necessary for the chairman to go out of his way to drum up some one to do it. If it be required by the rules of the assembly that a motion shall be seconded and no one offers to do it, the chairman should either ignore the motion or second it himself, which he would have the right to do as a member of the assembly.

In offering motions members should not say, "I move you," or "I make a motion." The simplest words possible are the correct words, "Mr. Chairman, I move—— (stating the motion in the clearest most concise language possible).

Don't say "Vote, vote." Say "I move the previous question," if it is order, or "I move to close debate." The desired objective will thus be reached if the votes are forthcoming in favor of the motion.

Adoption of Rules—A Suggestion

Every independent assembly is a law unto itself so far as its rules of procedure are concerned. It can set up for its own government and control any code or system of rules it deems best adapted to the business to be transacted, which having been adopted, should be observed. However, it will be found more satisfactory in the long run to adopt as a basis a procedure that has been tested out by experience and add to it only such special rules as subsequent experience may require. In following out such a policy the author suggests that in the adoption of rules of procedure for societies, clubs, associations and other assemblies, instead of providing for any particular manual or guide to govern, it is suggested that after the regular order of business, the following be included:

The rules and practice of the United States House of Representatives, so far as applicable, shall govern the parliamentary procedure of this (society), except as modified by these rules, the constitution and by-laws

of the (society) and such special rules and orders as may be adopted hereafter; provided, that none of the rules of the House of Representatives relating to calendars, the appointment or jurisdiction of committees, the printing or engrossing of documents, the reading or signing of bills or resolutions, to conferences or other joint action with the Senate, or to any other matter not suitably adapted to the procedure of parliamentary assemblies generally, shall be deemed applicable; and, provided further, that the maximum time limit for any one speech in debate shall be (five) minutes, unless extended by vote or unanimous consent, and that it shall be in order at any regular meeting to suspend the rules by a two-thirds vote.

APPENDIX

A Mass Meeting

Among a self-governing people, where public opinion in the last analysis controls, mass meetings should in no wise be despised as effective means for forming and directing mass psychology. Such meetings are usually brought together by a group of persons interested in some particular proposition believed to be for the public good. The public is usually informed of the proposed meeting by posters, circulars or through the newspapers.

Assume for purposes of illustration such a group has assembled and those comprising it are ready to organize themselves into a parliamentary body. Mr. A. and others for some distance down the alphabet, who have been his co-adjutors, stand ready to help. Watch them proceed in typical American fashion.

Mr. A.: (Somewhat timidly tapping the table) "Will the meeting please come to order?" (States in a few words the purpose of the meeting). "Please nominate a chairman to preside over this meeting."

Mr. B.: "I nominate as chairman of this meeting Mr. A., and to relieve him of any embarrassment, I shall proceed to put the motion. As many as favor the election of Mr. A. as chairman of this meeting, say 'Aye.' (Pauses for responses). As many as are opposed say 'No.'" (If there be a substantial number of "Noes," Mr. B., if in his opinion the "Ayes" are more, should say) "The 'Ayes' seem to have it." (Momentary pause to allow time for any one to rise and demand a division, and if no one rises) "The 'Ayes' have it and Mr. A. will act as Chairman."

The Chairman: "The first order of business is the election of a Secretary. Please nominate."

Mr. B.: "Mr. Chairman, I nominate Mr. C. as Secretary of this meeting."

Mr. D.: "Mr. Chairman, I nominate Mr. E."

Mr. F.: "Mr. Chairman, I nominate Mr. G."

The Chairman: (After a momentary pause for other nominations) "As many as favor the election of Mr. C. as Secretary of this meeting, will rise and stand until counted. (Counts) 75 have voted for Mr. C. (Raps gavel to seat those standing). As many as favor the election of Mr. E. will rise. (Counts) 42 have voted for Mr. E. (Raps the gavel to seat those standing). As many as favor the election of Mr. G. will rise (Counts) 25 have voted for Mr. G. (Raps gavel). On this vote Mr. C. has received 75 votes, Mr. E. 42 votes and Mr. G. 25 votes. Mr. C. having a majority of the votes cast is elected Secretary of this meeting." (Mr. C. takes post.)

Mr. B.: "Mr. Chairman."

The Chairman: "Mr. B."

Mr. B.: "Mr. Chairman, I have here a resolution which I desire to have considered. I send it to the Secretary's desk to be read and move its adoption."

The Chairman: "The Secretary will report the resolution." (The resolution is read.)

Mr. B.: (Remains standing during the reading.)

(Mr. D., Mr. E. and others rise when it is finished.)

Mr. B.: "Mr. Chairman."

The Chairman: "Mr. B. is recognized."

Mr. B.: (Proceeds to discuss resolution.)

Mr. D.: (Interrupting) "Mr. Chairman, will the gentleman yield?"

The Chairman: (Rapping) "Will the gentleman yield?"

Mr. B.: "I prefer not to yield till I have completed a short statement that I have prepared."

The Chairman: "The gentleman declines to yield." (Mr. B. continues and finishes prepared statement.)

Mr. B.: "Now I will yield to Mr. D. for a question."

Mr. D.: (Asks his question.)

Mr. B.: (Answers question and continues discussion till he concludes.)

Mr. D.: "Mr. Chairman."

The Chairman: "Mr. D. is recognized."

Mr. D.: (Proceeds with discussion.)

Mr. G.: "Mr. Chairman, will the gentleman yield?"

The Chairman: "Will the gentleman yield?"

Mr. D.: "I yield for a question."

Mr. G.: (Asks question and proceeds with a lengthy statement.)

Mr. D.: (Interrupting) "Mr. Chairman, I yielded for a question only, not for a speech."

The Chairman: (Rapping for Mr. G. to suspend) "The gentleman declines to yield further."

Mr. D.: (Proceeds, answers question and concludes.)

Mr. E.: "Mr. Chairman."

The Chairman: "The gentleman in the center."

Mr. E.: "I move to amend the resolution by an amendment I have sent to the Secretary's desk." (Remains standing.)

The Chairman: "The Secretary will report the amendment."

(The Secretary reports the amendment.)

(A number of persons rise to ask recognition.)

The Chairman: "The Chair recognizes Mr. E."

Mr. E.: (Speaks to his amendment and concludes.)

Mr. F.: "Mr. Chairman."

The Chairman: "The gentleman on the left."

Mr. F.: "I rise to oppose the amendment." (Speaks and concludes.)

Mr. H.: "Mr. Chairman."

The Chairman: "The gentleman on the right."

Mr. H.: "I move to amend the amendment." (Remains standing.)

The Chairman: "The Secretary will report the amendment to the amendment."

(The Secretary reads.)

Mr. H.: (Speaks and concludes.)

Mr. J.: "Mr. Chairman."

The Chairman: "The gentleman in the rear."

Mr. J.: "I offer an amendment to the amendment of Mr. H."

Mr. B.: "I make the point of order that to amend an amendment to

an amendment would be an amendment to the third degree and is therefore not in order."

The Chairman: "The point of order is sustained."

Mr. B.: "Mr. Chairman."

The Chairman: "Mr. B."

Mr. B.: "I move the previous question on the resolution and all amendments thereto."

The Chairman: "Mr. B. moves the previous question on the resolution and all amendments thereto. As many as favor ordering the previous question, say 'Aye' (Pause). As many as are opposed, say 'No' (Pause). The 'Ayes' seem to have it (Pause). The 'Ayes' have it and the previous question is ordered."

Mr. D.: "Mr. Chairman."

The Chairman: "For what purpose does the gentleman rise?"

Mr. D.: "To make a preferential motion."

The Chairman: "The gentleman will submit his motion."

Mr. D.: "I move to lay the resolution on the table."

Mr. B.: "Mr. Chairman, I make the point of order that the gentleman's motion is not a preferential motion at this stage."

The Chairman: "Mr. B. is correct. If the gentleman had made his motion to lay on the table before the vote was taken on the previous question, it would have then been in order, for at that stage the motion to lay on the table takes precedence of the motion to order the previous question. However, after the meeting has just voted to proceed to vote on the resolution and amendments, a motion is not in order, the effect of which would be to prevent a vote. Therefore, the point of order is sustained."

"The question is on agreeing to the amendment to the amendment. As many as favor, say 'Aye' (Pause). As many as are opposed, say 'No' (Pause). The 'Ayes' seem to have it (Pause). The 'Ayes' have it and the amendment to the amendment is agreed to."

"The question is now on agreeing to the amendment, as amended. As many as are in favor, say 'Aye' (Pause). As many as are opposed, say 'No' (Pause). The 'Ayes' seem to have it (Pause). The 'Ayes' have it and the amendment as amended is agreed to."

"The question is now the adoption of the resolution as amended. As many as are in favor say 'Aye' (Pause). As many as are opposed say 'No' (Pause). The 'Ayes' seem to have it, (Pause), the 'Ayes' have it, and the resolution is adopted."

Mr. B.: "Mr. Chairman."

Mr. Chairman: "Mr. B."

Mr. B.: "I move that the meeting do now adjourn."

Mr. D.: "Mr. Chairman."

The Chairman: "For what purpose does the gentleman rise?"

Mr. D.: "To propound a parliamentary inquiry."

The Chairman: "The gentleman may propound his inquiry."

Mr. D.: "Having provided for no further meeting of this assembly, is not Mr. D's motion to adjourn equivalent to a motion to adjourn sine die."

The Chairman: "The gentleman is correct."

"All those in favor of the motion to adjourn, say 'Aye' (Pause). As many as are opposed, say 'No' (Pause). The 'Ayes' seem to have it (Pause). The 'Ayes' have it, and the meeting is adjourned sine die."

A Typical Session of the House

As an illustration of the practice under the rules of the House of Representatives and one that may serve as a model for assemblies adopting these rules so far as applicable, the record of a typical session of the House is here outlined:

The Speaker: "The House will be in order. The Chaplain will offer prayer."

The Chaplain: (Offers prayer.)

The Speaker: "The Clerk will read the journal."

The Clerk: (Reads the journal.)

The Speaker: "The Chair lays before the House a message from the President announcing his signature to sundry bills and resolutions."

The Clerk: (Reads the note of transmittal and the titles to the bills.)

The Speaker: "The Chair lays before the House the following requests for leaves of absence."

The Clerk: (Reads the requests.)

The Speaker: "Without objection the requests will be granted." (There is no objection.)

Mr. E.: "Mr. Speaker."

The Speaker: "For what purpose does the gentleman rise?"

Mr. E.: "I desire to ask unanimous consent to correct the Record."— (States the correction desired.)

The Speaker: "Without objection the Record will be corrected." (There is no objection.)

Mr. B.: "Mr. Speaker."

The Speaker: "The gentleman from Texas."

Mr. B.: "I move that the House resolve itself into Committee of the Whole House on the State of the Union to consider H. R. —, a bill making appropriations for —, and pending that motion I ask unanimous consent that the time for general debate be limited to six hours, half the time to be controlled by the gentleman from New York and the other half by myself."

The Speaker: "The gentleman from Texas (repeating the motion and the request). Is there objection to the request of the gentleman from Texas?"

Mr. T.: "Mr. Speaker, reserving the right to object, I wonder if the gentleman from Texas would be willing to extend the time for two additional hours? There is considerable demand for time on this side."

Mr. B.: "Mr. Speaker, I am willing to compromise with the gentleman and make it seven hours, if that will be satisfactory."

Mr. T.: "Mr. Speaker, I'll try to get along with it."

Mr. B.: "Then, Mr. Speaker, I modify my request by making the time seven hours instead of six."

The Speaker: "The gentleman from Texas moves (repeating the motion and the modified request limiting debate). Is there objection to the modified request of the gentleman from Texas? (Pause). The Chair hears none. The question is on the motion of the gentleman from Texas (repeating the motion). As many as are in favor, say 'Aye.' (Pause for response). As many as are opposed, say 'No.' (Pause.) The 'Ayes' seem to have it.

(Pause.) The 'Ayes' have it, and the House resolves itself into Committee of the Whole. The gentleman from North Carolina, Mr. N., will please take the Chair."

Mr. N.: (Approaches the Speaker's desk, receives the gavel from the Speaker, takes the place vacated by him, raps the gavel and says): "The Committee will be in order. The House is in Committee of the Whole House on the State of the Union to consider H. R. —, which the Clerk will report."

The Clerk: (Reads the number and title of the bill).

Mr. B.: "Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with."

The Chairman: "The gentleman from Texas asks unanimous consent (repeating the request). Is there objection? (Pause.) The Chair hears none."

Mr. B.: "Mr. Chairman, I yield myself 40 minutes."

The Chairman: "The gentleman is recognized for 40 minutes."

Mr. B.: (Addresses the Committee for 40 minutes.)

The Chairman: (Rapping the gavel.) "The gentleman has consumed 40 minutes."

Mr. B.: "I yield myself 20 minutes more."

The Chairman: "The gentleman is recognized for 20 additional minutes."

Mr. B.: (Continues for 20 minutes.)

The Chairman: (Rapping the gavel.) "The gentleman has consumed 20 additional minutes."

Mr. B.: "I yield myself 10 additional minutes."

Mr. X.: "Mr. Chairman, I make the point of order that the gentleman has consumed an hour and that he cannot yield himself more time."

Mr. B.: "Mr. Chairman, the House has given me control of 3½ hours."

Mr. X.: "It makes no difference. The rules of the House limit the time to one hour."

The Chairman: "The gentleman from Illinois is correct. Rule XIV, paragraph 2, reads, 'No member shall occupy more than one hour in debate on any question in the House or in Committee.' There is a single exception to this rule, but it is not applicable in this case. Even though a Member has been given control of more time it must be assumed that the time is to be controlled in conformity with the rules of the House. The point of order is sustained."

Mr. B.: "Mr. Chairman, I ask unanimous consent that I may yield myself 20 minutes additional from the time controlled by me."

The Chairman: "Is there objection? (Pause.) The Chair hears none."

Mr. B.: (Concludes his remarks.)

Mr. T.: "Mr. Chairman."

The Chairman: "The gentleman from New York."

Mr. T.: "I yield 30 minutes to the gentleman from Michigan, Mr. M."

Mr. M.: (Mr. M. addresses the committee.)

(Others address the Committee until all time for general debate is exhausted.)

The Chairman: "The time for general debate has expired. The Clerk will read the bill for amendment."

The Clerk: (Reads first paragraph.)

Mr. Y.: "Mr. Chairman, I move to strike out the last word."

The Chairman: "The gentleman from Maine is recognized for five minutes."

Mr. Y.: (Addresses the Committee.)
Mr. G.: "Mr. Chairman."
The Chairman: "The gentleman from Georgia."
Mr. G.: "I offer an amendment which I send to the Clerk's desk."
The Chairman: "The Clerk will report the amendment."
The Clerk: (Reads the amendment.)
Mr. S.: "Mr. Chairman, I make the point of order that the amendment is not germane."
The Chairman: "Does the gentleman wish to be heard on his point of order."
Mr. S.: "Mr. Chairman, I think the gentleman will concede that my point of order is good."
Mr. G.: "Mr. Chairman, will the gentleman reserve his point of order until I make a statement?"
Mr. S.: "I reserve the point of order."
Mr. G.: (Makes statement.)
Mr. S.: "Mr. Chairman, I insist upon the point of order."
The Chairman: (After a brief statement giving reasons.) "The Chair sustains the point of order."
Mr. B.: "Mr. Chairman, I offer a committee amendment."
The Chairman: "The Clerk will report the amendment."
The Clerk: (Reads amendment.)
Mr. B.: (Remains standing during the reading, proceeds to explain the amendment and concludes.)
Mr. T.: "Mr. Chairman, I rise in opposition to the amendment."
The Chairman: "The gentleman is recognized for five minutes."
Mr. T.: (After discussing the amendment.) "I offer a substitute for the gentleman's amendment."
The Chairman: "The Clerk will report the substitute amendment."
The Clerk: (Reads the substitute amendment.)
Mr. T.: (Remains standing during the reading, proceeds to explain and concludes.)
Mr. W.: "Mr. Chairman, I offer an amendment to the substitute."
Mr. X.: "Mr. Chairman, I offer an amendment to the original amendment offered by the gentleman from Texas."
The Chairman: "The amendment to the original amendment is first in order. The Clerk will report it."
The Clerk: (Reads amendment.)
Mr. X.: (Remains standing during the reading and proceeds to debate.)
The Chairman: "The time of the gentleman from Minnesota has expired."
Mr. W.: "Mr. Chairman, I now offer my amendment to the substitute."
The Chairman: "The Clerk will report the amendment to the substitute."
The Clerk: (Reads the amendment.)
Mr. W.: (Discusses his amendment and concludes.)
Mr. L.: "Mr. Chairman, I offer an amendment to the amendment of the gentleman from Minnesota."
Mr. B.: "Mr. Chairman, I make the point of order that this would be an amendment to the third degree and therefore is not in order."
The Chairman: "The point of order is sustained."
Mr. B.: "Mr. Chairman, I now move to close debate on the paragraph and all amendments thereto."
The Chairman: (States the motion.)

Mr. T.: "Mr. Chairman, I shall not oppose the motion if my friend from Texas will limit his request to pending amendments."
Mr. B.: "Mr. Chairman, then I ask unanimous consent that debate be closed on the pending amendments and all amendments thereto."
The Chairman: "Is there objection to the request of the gentleman from Texas? The Chair hears none and it is so ordered."
Mr. R.: "Mr. Chairman."
The Chairman: "For what purpose does the gentleman rise?"
Mr. R.: "To move that the enacting clause be stricken out."
Mr. J.: "Mr. Chairman, I rise to a point of order."
The Chairman: "The gentleman will state his point of order."
Mr. J.: "There is an amendment pending."
The Chairman: "The Chair over-rules the point of order. The motion to strike out the enacting clause takes precedence over the motion to amend. The gentleman from Iowa is recognized for five minutes."
Mr. R.: (Debates the motion and concludes.)
Mr. B.: (Obtains the floor, opposes the motion and concludes.)
The Chairman: "The question is on the motion of the gentleman from Iowa that the enacting clause be stricken out. As many as are in favor, say 'Aye.' (Pause for response.) As many as are opposed, say 'No.' (Pause.) The 'Noes' seem to have it. (Pause.) The 'Noes' have it and the motion is lost. The question now is on agreeing to the amendment of the gentleman from Minnesota to the amendment of the gentleman from Texas." (Puts the question and the amendment is rejected.) "The question now is on agreeing to the amendment of the gentleman from Washington, Mr. W., to the substitute offered by the gentleman from New York, Mr. T." (The question is put and the amendment to the substitute is agreed to.)
 "The question now is on agreeing to the substitute offered by the gentleman from New York, as amended by the amendment of the gentleman from Washington, Mr. W." (The question is put and the substitute amendment is agreed to.) "The question now is on agreeing to the amendment offered by the gentleman from Texas, Mr. B., as amended by the substitute offered by the gentleman from New York, Mr. T., as amended by the amendment of the gentleman from Washington, Mr. W." (The question is put and carried.)
 (Other amendments are offered, some being agreed to and more being rejected until the reading of the bill for amendment is concluded.)
Mr. B.: "Mr. Chairman."
The Chairman: "The gentleman from Texas."
Mr. B.: "I move that the Committee do now rise and report the bill back to the House, with sundry amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass."
The Chairman: "The gentleman from Texas moves that the Committee do now rise and report the bill back to the House with the recommendation that the amendments be agreed to and the bill as amended do pass. As many as favor the motion say 'Aye.' (Pause.) As many as are opposed, say 'No.' The 'Ayes' seem to have it. (Pause.) The 'Ayes' have it and the Committee determines to rise and report."
 The Speaker resumes the Chair. The Chairman takes position in front of the Speaker's desk, addresses Mr. Speaker, is recognized as "Mr. Chairman" and says: *The Chairman:* "The Committee of the Whole House on the state of the Union having had under consideration the bill (describing it

by number and title) has directed me to report (describing the motion as voted)."

(The Speaker repeats the report to the House.)

Mr. B.: "Mr. Speaker, I move the previous question on the bill and all amendments to final passage."

The Speaker: (Puts the question and, if carried, adds) "Is a separate vote demanded on any amendment?"

Mr. B.: "I demand a separate vote on my amendment."

The Speaker: "A separate vote is demanded on the B. amendment. The Chair will put the others en bloc." (They are agreed to and by a separate vote the B. amendment as amended by the T. substitute is either agreed to or rejected.)

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

(If carried—and this vote is usually but a formality—the Speaker directs the Clerk to read the engrossed bill—which is usually not engrossed at all at this stage—the Clerk reads the bill by title and the Speaker announces the question is now on the final passage of the bill.)

Mr. T.: "Mr. Speaker, I move to recommit the bill to the Committee on _____ with instructions to report the bill back forthwith with the following amendment." (The Clerk reads the amendment by direction of the Speaker.)

Mr. B.: "Mr. Speaker, I move the previous question on the motion to recommit." (It is usually ordered by a perfunctory vote.)

The Speaker: "The question is on the motion to recommit the bill." (The question is put and the motion usually voted down.) "The question now is on the final passage of the bill." (The vote is taken and the result announced by the Speaker when the bill is passed.)

Mr. B.: "Mr. Speaker, I move to reconsider the vote by which the bill was passed and to lay that motion on the table."

The Speaker: "Is there objection? The Chair hears none, and it is so ordered."

Mr. B.: "Mr. Speaker, I move that the House do now adjourn."

The Speaker: (Puts the question, and when carried announces) "The House stand adjourned until _____" (the time fixed for adjournment).

Passing a Bill Under Suspension of the Rules

Under House Rule XXVII, supra, the subject of suspending the rules is touched upon and the procedure in using this important parliamentary vehicle is explained. As an illustration, a typical session of the House of Representatives at which a bill is passed under a suspension of the rules, is here simulated. It is assumed that it is a day on which suspensions are in order and that the Speaker has agreed in advance to recognize Mr. A. to suspend the rules and pass the bill agreed upon.

* * * * *

Mr. A.: "Mr. Speaker."

The Speaker: "The gentleman from Alabama."

Mr. A.: "I move that the rules be suspended and H. R. No. 49, a bill entitled _____, be passed."

The Speaker: "The gentleman from Alabama moves that the rules be suspended and H. R. No. 49, a bill entitled _____, be passed. The Clerk will report the bill."

(The Clerk reads the bill.)

The Speaker: "Is a second demanded?"

Mr. P.: "I demand a second."

Mr. A.: "I ask unanimous consent that a second may be considered as ordered."

The Speaker: "Is there objection to the request of the gentleman from Alabama?"

(Speaker pauses to allow opportunity for objection. Ordinarily there is no objection and the time is immediately divided.)

* * * * *

Procedure when objection is made:

Mr. P.: "Mr. Speaker, I object."

The Speaker: "Objection is heard. The gentleman from Alabama and the gentleman from Pennsylvania will take their places as tellers."

(They do so.)

The Speaker: "Those in favor of ordering a second will first pass between the tellers and be counted."

(The members voting in the affirmative pass between the tellers and the teller counting the affirmative vote reports to the Speaker the number so voting.)

The Speaker: "Those opposed will now pass between the tellers."

(The same procedure is followed and the result reported by the teller taking the negative vote. Opportunity is given for members coming into the chamber during the vote, after the initial reports, and these votes are added to the first totals.)

The Speaker: (When the vote is complete) "On this vote by tellers, the 'Ayes' are 150, and the 'Noes' are 125. The 'Ayes' have it and a second is ordered."

* * * * *

The Speaker: "The gentleman from Alabama will be recognized for twenty minutes and the gentleman from Pennsylvania for twenty minutes."

Mr. A.: "Mr. Speaker."

The Speaker: "The gentleman from Alabama is recognized."

Mr. A.: "I yield five minutes to the gentleman from Georgia, Mr. G."

The Speaker: "The gentleman from Georgia is recognized for five minutes."

Mr. G.: (Addresses the House for five minutes.)

The Speaker: (Rapping the gavel) "The time of the gentleman has expired."

Mr. P.: "Mr. Speaker, I yield five minutes to the gentleman from Vermont, Mr. V."

The Speaker: "The gentleman from Vermont is recognized for five minutes."

Mr. V.: (Addresses the House.)

Mr. C.: (Interrupting) "Mr. Speaker, will the gentleman yield?"

Mr. V.: "I yield for a question."

Mr. C.: (Asks a question.)

Mr. V.: (Answers question and continues.)
The Speaker: (Rapping the gavel) "The time of the gentleman has expired."
Mr. A.: "Mr. Speaker, I yield five minutes to the gentleman from Mississippi, Mr. M."
The Speaker: "The gentleman from Mississippi is recognized for five minutes."
Mr. M.: (Addresses the House for five minutes.)
The Speaker: (Rapping the gavel) "The time of the gentleman has expired."
Mr. P.: "Mr. Speaker, I yield myself seven minutes."
The Speaker: "The gentleman from Pennsylvania is recognized for seven minutes."
Mr. P.: (Addresses the House for seven minutes.)
The Speaker: (Rapping the gavel) "The gentleman has consumed seven minutes."
Mr. P.: "I yield myself three additional minutes."
 (Continues for three minutes.)
The Speaker: (Rapping the gavel) "The gentleman has consumed three additional minutes."
Mr. A.: "Mr. Speaker, there will be but one more speech on this side, so I suggest that the gentleman from Pennsylvania use the remainder of his time."
Mr. P.: "Mr. Speaker, I yield to the gentleman from Washington, Mr. W., the balance of my time."
The Speaker: "The gentleman from Washington is recognized for five minutes."
Mr. W.: (Addresses the House for three minutes) "Mr. Speaker, I yield back the balance of my time."
The Speaker: "The gentleman yields back two minutes."
Mr. P.: "Mr. Speaker, I yield myself the balance of my time."
The Speaker: "The gentleman is recognized for two minutes."
Mr. P.: (Addresses the House for two minutes.)
The Speaker: "The time of the gentleman has expired."
Mr. A.: "Mr. Speaker, how much time have I remaining?"
The Speaker: "The gentleman has ten minutes."
Mr. A.: "I yield myself the balance of my time."
The Speaker: "The gentleman is recognized for ten minutes."
Mr. A.: (Addresses the House.)
Mr. V.: (Interrupting) "Mr. Speaker, will the gentleman yield?"
The Speaker: "Will the gentleman yield to the gentleman from Vermont?"
Mr. A.: "I decline to yield at this point." (Continues for a time.)
Mr. V.: (Interrupting) "Mr. Speaker, I rise to a point of order."
The Speaker: (Rapping gavel) "The gentleman will state his point of order."
Mr. V.: "The gentleman from Alabama does not confine himself to the question under debate."
Mr. A.: "Mr. Speaker, my remarks thus far are preliminary to what I have to say on the question under debate and I can assure my friend from Vermont that it will be properly connected up so as to be entirely within the rules of the House, if he will only possess his soul in patience. I trust this is not being taken out of my time."

The Speaker: "It is not. The gentleman will proceed in order."
Mr. A.: (Continues for some time.)
Mr. V.: (Interrupting) "Mr. Speaker, will the gentleman yield now?"
Mr. A.: "I yield for a brief question."
Mr. V.: (Asks a question somewhat lengthy and argumentative.)
Mr. A.: (Interrupting) "Mr. Speaker, I did not yield for a speech, and I decline to yield further."
The Speaker: (Rapping) "The gentleman from Alabama declines to yield further."
Mr. A.: (Continues until time is consumed.)
The Speaker: (Rapping the gavel) "The time of the gentleman has expired. All time has expired. (The Speaker stands.) The question is on suspending the rules and passing the bill. As many as are in favor, say 'Aye.' (Pause for responses.) As many as are opposed, say 'No.' (Pause.) In the opinion of the Chair two-thirds have voted in the affirmative."
Mr. P.: "Mr. Speaker, I demand a division."
The Speaker: "A division is demanded. As many as are in favor of suspending the rules and passing the bill will rise and stand until counted. (The Speaker counts, rapping the gavel to seat those voting in the affirmative and announces the number so voting for notation by the Clerk.) Those opposed will rise and stand until counted. (The same procedure with the negative vote.) On this vote the 'Ayes' are 220 and the 'Noes' are 99. Two-thirds have voted in the affirmative, the rules are suspended and the bill passed."

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