

question had been ordered (IV, 3395–3399; VII, 1062). A privileged motion may not intervene before the third reading (IV, 3405), and the question on engrossment and third reading is not subject to a demand for division of the question (Aug. 3, 1989, p. 18544). A vote on passage must first be reconsidered to remedy the omission to read a bill a third time (IV, 3406). Senate bills are not engrossed in the House; but are ordered to a third reading. The demand for the reading of the engrossed copy of a Senate bill cannot be made in the House (VIII, 2426).

A bill in the House (as distinguished from the Committee of the Whole) is amended pending the engrossment and third reading (V, 5781; VI, 1051, 1052). The question on engrossment and third reading being decided in the negative the bill is rejected (IV, 3420, 3421). A bill must be considered and voted on by itself (IV, 3408). Where the two Houses pass similar but distinct bills on the same subject it is necessary that one or the other House act again on the subject (IV, 3386). The requirement of a two-thirds vote for proposed constitutional amendments has been construed in the later practice to apply only to the vote on the final passage (V, 7029, 7030; VIII, 3504). A bill having been rejected by the House, a similar but not identical bill on the same subject was afterwards held to be in order (IV, 3384).

RULE XVII

DECORUM AND DEBATE

Decorum

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

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

This clause (formerly clause 1 of rule XIV) was adopted in 1880, but was made up, in its main provisions, from older rules, which dated from 1789 and 1811 (V, 4979). A rule of comity prohibiting most references in debate to the Senate was first enunciated in Jefferson's Manual and was strictly enforced in the House through the 108th Congress (albeit with certain exceptions adopted in the 100th and 101st Congresses and were outlined in paragraph (b)) (§ 371, *supra*; H. Res. 5, Jan. 6, 1987, p. 6; H. Res. 5, Jan. 3, 1989, p. 72). In the 109th Congress the exceptions were deleted and the parenthetical in paragraph (b) was inserted (sec. 2(g), H. Res. 5, Jan. 4, 2005, p. —). The rule continues to require Members to avoid personality, and the Chair remains under a duty to call to order a Member who violates the rule. Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). This clause, and rulings of the Chair with respect to references in debate to the Senate, are discussed in §§ 361, 371, *supra*.

The Speaker, who has a responsibility under rule I to maintain and enforce decorum in debate, and the Chairman of the Committee of the Whole, who enforces decorum in debate under rule XVIII, have reminded and advised Members of the following: (1) clause 1 requires Members seeking recognition to rise and to address themselves to the question under debate, avoiding personality; (2) Members should address their remarks to the Chair only and not to other entities such as the press or the television audience, and the Chair enforces this rule on its own initiative (see, *e.g.*, Nov. 8, 1979, p. 31519; Sept. 29, 1983, p. 26501; Dec. 17, 1987, p. 36139); (3) Members should not refer to or address any occupant of the galleries; (4) Members should refer to other Members in debate only in the third person, by State designation (Speaker O'Neill, June 14, 1978, p. 17615; Oct. 2, 1984, p. 28520; Mar. 7, 1985, p. 5028); (5) Members should refrain from using profanity or vulgarity in debate (Mar. 5, 1991, p. 5036; Feb. 18, 1993, p. 2973; Nov. 17, 1995, p. 33744; July 23, 1998, p. 17032; Oct. 11, 2000, p. 22189; Oct. 2, 2003, p. —; Mar. 10, 2004, p. —); (6) the Chair may interrupt a Member engaging in personalities with respect to another Member of the House, as the Chair does with respect to such references to the Senate or the President (Jan. 4, 1995, p. 551); (7) Members should refrain from discussing the President's personal character (May 10, 1994, p. 9697); (8) Members should heed the gavel (*e.g.*, Mar. 16, 1988, p. 4081; May 22, 2003, p. —; Oct. 2, 2003, p. —; May 19, 2004, p. —), and remarks uttered in debate while not under recognition do not appear in the Congressional Record (*e.g.*, May 22, 2003, p. —; Oct. 2, 2003, p. —; May 19, 2004, p. —); (9) Members may not use audio devices during debate (May 24, 2005, p. —). The Speaker has deplored the tendency to address remarks directly to the President (or others not in the Chamber) in the second person, and cautions Members on his own initiative (see, *e.g.*, Oct. 16, 1989, p. 24715; Oct. 17, 1989, p. 24764; Jan. 24, 1990, p. 426; Oct. 9, 1991, p. 25999). Even when referring in debate

to the Speaker, himself, a Member directs his remarks to the occupant of the Chair and addresses him as “Mr. Speaker” pursuant to this clause (Nov. 1, 1983, p. 30267).

Members should refrain from speaking disrespectfully of the Speaker or arraigning the personal conduct of the Speaker, and under the precedents the sanctions for such violations transcend the ordinary requirements for timeliness of challenges (II, 1248; Jan. 4, 1995, p. 551; Jan. 18, 1995, p. 1441; Jan. 19, 1995, p. 1599). Engaging in personalities with respect to the Speaker’s conduct is not in order even though possibly relevant to a pending resolution granting him certain authority (Sept. 24, 1996, p. 24485).

This clause also has been interpreted to proscribe the wearing of badges by Members to communicate a message, since Members must rise and address the Speaker to deliver any matter to the House (Speaker O’Neill, Apr. 15, 1986, p. 7525; Feb. 22, 1995, p. 5435; Mar. 29, 1995, p. 9662; Oct. 19, 1995, pp. 28522, 28540, 28646; Nov. 17, 1995, p. 5435; Mar. 7, 1996, p. 4083; Sept. 26, 1996, p. 25117; July 24, 1998, p. 17157; Sept. 28, 2000, p. 19940; Sept. 22, 2004, p. —). A Member’s comportment may constitute a breach of decorum even though the content of that Member’s speech is not, itself, unparliamentary (July 29, 1994, p. 18609). Under this standard the Chair may deny recognition to a Member who has engaged in unparliamentary debate and ignored repeated admonitions by the Chair to proceed in order, subject to the will of the House on the question of his proceeding in order (Sept. 18, 1996, p. 23535).

For further discussion of personalities in debate with respect to references to the official conduct of a Member, see §§ 361–363, *supra*; with respect to references to the President, see § 370, *supra*; and with respect to references to the Senate, see §§ 371–374, *supra*.

Aside from “special-order,” “morning-hour,” or “one-minute” debate, where no question is pending and recognition is by unanimous consent or leadership listings, it is a general rule that a motion must be made before a Member may proceed in debate (V, 4984, 4985), and this motion may be required to be reduced to writing (V, 4986). A motion must also be stated by the Speaker or read by the Clerk before debate may begin (V, 4982, 4983, 5304). The withdrawal of a motion precludes further debate on it (V, 4989). But sometimes when a communication or a report has been before the House it has been debated before any specific motion has been made in relation to it (V, 4987, 4988). In a few cases, such as conference reports and reports from the Committee of the Whole, the motion to agree is considered as pending without being offered from the floor (IV, 4896; V, 6517).

In presenting a question of personal privilege the Member is not required in the first instance to offer a motion or offer a resolution, but such is not the rule in presenting a case involving the privileges of the House (III, 2546, 2547; VI, 565, 566, 580; see § 708, *supra*). Personal explanations merely are made by unanimous consent (V, 5065).

RULES OF THE HOUSE OF REPRESENTATIVES

§ 946–§ 947

Rule XVII, clause 1

A Member having the floor may not be taken off his feet by an ordinary motion, even the highly privileged motion to adjourn (V, 5369, 5370; VIII, 2646), or the motion to table (Mar. 18, 1992, p. 6022). He may not be deprived of the floor by a parliamentary inquiry (VIII, 2455–2458), a question of privilege (V, 5002; VIII, 2459), a motion that the Committee rise (VIII, 2325), or a demand for the previous question (VIII, 2609; Mar. 18, 1992, p. 6022), but he may be interrupted for a conference report (V, 6451; VIII, 3294). It is a custom also for the Speaker to request a Member to yield for the reception of a message. A Member may yield the floor for a motion to adjourn or that the Committee of the Whole rise without losing his right to continue when the subject is again continued (V, 5009–5013), but where the House has by resolution vested control of general debate in the Committee of the Whole in designated Members, their control of general debate may not be abrogated by another Member moving to rise, unless they yield for that purpose (May 25, 1967, p. 14121; June 10, 1999, p. 12471). A Member may also resume his seat while a paper is being read in his time without losing his right to the floor (V, 5015). A Member who, having the floor, moved the previous question was permitted to resume the floor on withdrawing the motion (V, 5474). But a Member may not yield to another Member to offer an amendment without losing the floor (V, 5021, 5030, 5031; VIII, 2476), and a Member may not offer an amendment in time secured for debate only (VIII, 2474), or request unanimous consent to offer an amendment unless yielded to for that purpose by the Member controlling the floor (Sept. 24, 1986, p. 25589). A Member recognized under the five-minute rule in the Committee of the Whole may not yield to another Member to offer an amendment, as it is within the power of the Chair to recognize each Member to offer amendments (Apr. 19, 1973, p. 13240; Dec. 12, 1973, p. 41171). A Member desiring to interrupt another in debate should address the Chair for permission of the Member speaking (V, 5006; VI, 193), but the latter may exercise his own discretion as to whether or not he will yield (V, 5007, 5008; VI, 193; VIII, 2463, 2465). It is not in order to disrupt a Member's remarks in debate by repeatedly interrupting to ask whether he will yield after he has declined to do so (Apr. 9, 1992, p. 9040; Nov. 13, 1997, p. 26533). Where a Member interrupts another during debate without being yielded to or otherwise recognized (as on a point of order), his remarks are not printed in the Record (Speaker O'Neill, Feb. 7, 1985, p. 2229; July 21, 1993, p. 16545; July 29, 1994, p. 18609). Members should not engage in disruption while another is speaking (Dec. 20, 1995, p. 37878; June 27, 1996, p. 15915).

The Speaker may of right speak from the Chair on questions of order and be first heard (II, 1367), but with this exception he may speak from the Chair only by leave of the House and on questions of fact (II, 1367–1372). On occasions comparatively rare Speakers have called Members to the Chair and participated in debate on questions of order or matters relating their own conduct

or rights, usually without asking consent of the House (II, 1367, 1368, 1371; III, 1950; V, 6097). In more recent years, Speakers have frequently entered into debate from the floor on substantive legislative issues before the House for decision, and the right to participate in debate in the Committee of the Whole is without question (see, *e.g.*, Apr. 30, 1987, p. 10811).

It has always been held, and generally quite strictly, that in the House the Member must confine himself to the subject under debate (V, 5043–5048; VI, 576; VIII, 2481, 2534). The Chair normally waits for the question of relevancy of debate to be raised and does not take initiative (Sept. 27, 1990, p. 26226; Mar. 23, 1995, p. 8986; Nov. 14, 1995, pp. 32354–57, 32374; Dec. 15, 1995, p. 37118; Mar. 12, 1996, p. 4149; Mar. 20, 2002, p. —).

During debate on a bill, a Member under recognition must confine his remarks to the pending legislation; that is, he must not dwell on another measure not before the House (Nov. 4, 1999, p. 28524), rather he must maintain a constant nexus between debate and the subject of the bill (Nov. 14, 1995, pp. 32354–57; Mar. 12, 1996, p. 4450; Mar. 20, 2002, p. —; June 3, 2003, p. —, p. —, p. —). Debate on a motion to amend must be confined to the amendment, and may neither include the general merits of the bill (V, 5049–5051), nor range to the merits of a proposition not included in the underlying resolution (Jan. 31, 1995, p. 3032). Similarly, debate on a motion to recommit with instructions should be confined to the subject of the motion rather than dwelling on the general merits of the bill (Mar. 7, 1996, p. 4092). However, the Chair has accorded Members latitude in debating a series of amendments in the nature of a substitute to a concurrent resolution on the budget (Mar. 25, 1999, p. 5734). On a motion to suspend the rules, debate is confined to the object of the motion and may not range to the merits of a bill not scheduled for such consideration (Nov. 23, 1991, p. 34189; June 11, 2002, p. —). Debate on a special order providing for the consideration of a bill may range to the merits of the bill to be made in order (Sept. 26, 1989, p. 21532; Oct. 16, 1990, p. 29668; Oct. 1, 1991, p. 24836), because the question of consideration of the bill is involved, but should not range to the merits of a measure not to be considered under that special order (Sept. 27, 1990, p. 26226; July 25, 1995, p. 20323; Sept. 20, 1995, p. 15838; Dec. 15, 1995, p. 37118; May 1, 1996, p. 9888; May 8, 1996, p. 10511; May 15, 1996, p. 1131; Mar. 13, 1997, p. 3833; Mar. 20, 2002, p. —) or to the Rules of the House in general (July 9, 2004, p. — (sustained by tabling of appeal)). Debate on a resolution providing authorities to expedite the consideration of end-of-session legislation may neither range to the merits of a measure that might or might not be considered under such authorities nor engage in personalities with respect to the official conduct of the Speaker, even as asserted to relate to the question of granting the authorities proposed (Sept. 24, 1996, pp. 24485, 24486). If a unanimous-consent request for a Member to address the House for one hour specifies the subject of the address,

the occupant of the Chair during that speech may enforce the rule of relevancy in debate by requiring that the remarks be confined to the subject so specified (Jan. 23, 1984, p. 93). Debate on a question of personal privilege must be confined to the statements or issue which gave rise to the question of privilege (V, 5075–5077; VI, 576, 608; VIII, 2448, 2481; May 31, 1984, p. 14623). Debate on a privileged resolution recommending disciplinary action against a Member, while it may include comparisons with other such actions taken by or reported to the House for purposes of measuring severity of punishment, may not extend to the conduct of another sitting Member not the subject of a committee report (Dec. 18, 1987, p. 36271). The question whether a Member should be relieved from committee service is debatable only within very narrow limits (IV, 4510; June 16, 1975, p. 19056). Debate on a resolution electing a Member to a committee is confined to the election of that Member and should not extend to that committee's agenda (July 10, 1995, p. 18258).

While the Speakers have entertained appeals from their decisions as to irrelevancy, they have held that such appeals were not debatable (V, 5056–5063).

Under prior practice in Committee of the Whole, a Member did not have to confine himself to the subject during general debate (V, 5233–5238; VIII, 2590; June 28, 1974, p. 21743); but under modern practice a special order providing for consideration of a measure in the Committee of the Whole typically does require such relevance in debate. All five-minute debate in Committee of the Whole is confined to the subject (V, 5240–5256), even on a pro forma amendment (VIII, 2591), in which case debate must relate to an issue in the pending portion of the bill (VIII, 2592, 2593); thus, where a general provisions title is pending debate may relate to any agency funded by the bill (June 13, 1991, p. 14692).

Recognition

§ 949. Speaker's power of recognition.

2. When two or more Members, Delegates, or the Resident Commissioner rise at once, the Speaker shall name the Member, Delegate, or Resident Commissioner who is first to speak. * * *

This provision was adopted in 1789 (V, 4978). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

In the early history of the House, when business proceeded on presentation by individual Members, the Speaker recognized the Member who arose first; and in case of doubt there was an appeal from his recognition (II, 1429–1434). But as the membership and business of the House increased it became necessary to establish and adhere to a fixed order of business, and recognitions, instead of pertaining to the individual Member,

necessarily came to pertain to the bill or other business which would be before the House under the rule regulating the order of business. Hence the necessity that the Speaker should not be compelled to heed the claims of Members as individuals was expressed in 1879 in a report from the Committee on Rules, which declared that “in the nature of the case discretion must be lodged with the presiding officer” (II, 1424). And in 1881 the Speaker declined to entertain an appeal from his decision on a question of recognition (II, 1425–1428), establishing thereby a practice which continues (VI, 292; VIII, 2429, 2646, 2762). It also has been determined that a Member may not invoke clause 6 of rule XIV (formerly rule XXV) (§ 884, *supra*), providing that questions relating to the priority of business shall be decided by a majority without debate, to inhibit the Speaker’s power of recognition under this clause (Speaker Albert, July 31, 1975, p. 26249).

Recognition for one-minute speeches by unanimous consent and the order of recognition are entirely within the discretion of the Speaker (Nov. 15, 1983, p. 32657; Mar. 7, 2001, p. 3027). When the House has a heavy legislative schedule, the Speaker may refuse to recognize Members for that purpose until the completion of legislative business (Deschler-Brown, ch. 29, § 73; July 24, 1980, p. 19386). It is not in order to raise as a question of the privileges of the House a resolution directing the Speaker to recognize for such speeches, since a question of privilege cannot amend or interpret the Rules of the House (July 25, 1980, pp. 19762–64). The modern practice of limiting recognition before legislative business to one minute began August 2, 1937 (p. 8004) and was reiterated by Speaker Rayburn on March 6, 1945 (Deschler, ch. 21, § 6.1).

Since the 98th Congress the Speaker has followed announced policies of (1) alternating recognition for one-minute speeches and special-order speeches between majority and minority Members and (2) recognizing for special-order speeches of five minutes or less before longer speeches (Speaker O’Neill, Aug. 8, 1984, p. 22963; Jan. 4, 1995, p. 551). In the 101st Congress, the Chair continued the practice of alternating recognition for one-minute speeches but began a practice of recognizing Members suggested by their party leadership before others in the well (Apr. 19, 1990, p. 7406). From August 8, 1984, through February 23, 1994, the Speaker also followed an announced policy of recognizing Members of the same party within a given category in the order in which their unanimous-consent requests for special orders were granted (Speaker O’Neill, Aug. 8, 1984, p. 22963; Jan. 5, 1993, p. 106). However, on February 24, 1994, the Speaker announced a new policy governing recognition for special-order speeches. With respect to recognition for five-minute special orders, the Speaker announced that the Chair would recognize for speeches of five minutes or less first, before longer speeches, and that Members may not enter requests for five-minute special orders earlier than one week in advance. With respect to recognition for longer special orders, the Speaker announced a policy of recognition that would depend not on orders by unan-

§ 950. One-minute and special-order speeches.

imous consent but, rather, on lists submitted by the respective party Leaders. This policy, the result of bipartisan negotiations, was a departure from the modern practice as described in Deschler, ch. 21, § 7.1 (special-order speeches following legislative business are enabled only by unanimous consent). Under the Speaker's policy: (1) recognition does not extend beyond midnight; (2) recognition for longer speeches occurs after five-minute speeches and is limited (except on Tuesdays) to four hours equally divided between the majority and minority; (3) the first hour for each party is reserved to its respective Leader or his designees; (4) time within each party is allotted in accord with a list submitted to the Chair by the respective Leader; (5) recognition for the first hour alternates between the parties from day to day; (6) the respective Leaders may establish additional guidelines for entering requests; and (7) a Member recognized for a five-minute special order may not be recognized for a longer special order (Feb. 11, 1994, p. 2244; May 23, 1994, p. 1154; June 10, 1994, p. 12684; Jan. 4, 1995, p. 551; Feb. 16, 1995, p. 5096; May 12, 1995, p. 12765; Jan. 21, 1997, p. 460; Jan. 31, 2001, p. 1078).

While the Chair's calculation of time consumed under one-minute speeches is not subject to challenge, the Chair endeavors to recognize majority and then minority Members by allocating time in a nonpartisan manner (Aug. 4, 1982, p. 19319). Before legislative business, the Speaker will traditionally recognize a Member only once by unanimous consent for a one-minute speech, and will not entertain a second request (May 1, 1985, p. 9995). The Chair will not entertain a unanimous-consent request to extend a five-minute special order (Mar. 7, 1995, p. 7152) or to extend a special order beyond midnight (Oct. 7, 1998, p. 24394). The Chair will recognize for subdivisions of the first hour reserved for special orders only on designations (and reallocations) by the leadership concerned (Oct. 2, 1998, p. 23151; Dec. 12, 2001, p. —). A Member who is recognized to control time during special orders may yield to colleagues for such amounts of time as the Member may deem appropriate but may not yield blocks of time to be enforced by the Chair. Members regulate the duration of their yielding by reclaiming the time when appropriate (Jan. 31, 2001, p. 1078).

Beginning in the second session of the 103d Congress, the House has by unanimous consent agreed (without prejudice to the Speaker's ultimate power of recognition under this rule) to convene early on Mondays and Tuesdays for morning-hour debate (Feb. 11, 1994, p. 2244; May 23, 1994, p. 11459; June 8, 1994, p. 12305; June 10, 1994, p. 12684; Jan. 4, 1995, p. 551; Feb. 16, 1995, p. 5096; Jan. 21, 1997, p. 460; Jan. 19, 1999, p. 602; Jan. 3, 2001, p. 38; Jan. 23, 2002, p. —; Jan. 7, 2003, p. —; Jan. 20, 2004, p. —; Jan. 4, 2005, p. —). On May 12, 1995, the House extended and modified the above order to accommodate earlier convening times after mid-May of each year. The modified order changes morning-hour debates on Tuesdays after mid-May of each year as follows: (1) the House convenes one

§ 951. Morning-hour debates.

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XVII, clause 2

§ 952-§ 953

hour early (rather than 90 minutes); (2) time for debate is limited to 25 minutes for each party (rather than 30 minutes); and (3) in no event is morning-hour debate to continue beyond 10 minutes before the House is to convene (May 12, 1995, p. 12765). The House extended such order in a modified form to accommodate early convening times on any Monday or Tuesday (Jan. 20, 2004, p. —; Jan. 4, 2005, p. —). The above-cited orders of the House also: (1) postpone the Prayer, approval of the Journal, and the Pledge of Allegiance during morning-hour debates; and (2) require the Chair to recognize Members for not more than five minutes each, alternating between the majority and minority parties in accord with lists supplied by their respective Leaders. Under the customary order of the House establishing morning-hour debate, the Chair does not entertain a unanimous-consent request to extend a five-minute period of recognition (Apr. 28, 1998, p. 6924; Nov. 12, 2002, p. —). During morning-hour debate it is not in order to request that a name be removed from a list of cosponsors of a bill (Apr. 26, 1994, p. 8544).

In the 103d Congress the House agreed by unanimous consent to conduct at a time designated by the Speaker structured debate

§ 952. “Oxford”-style debates. on a mutually agreeable topic announced by the Speaker, with four participants from each party in a format announced by the Speaker (Feb. 11, 1994, p. 2244; Mar. 11, 1994, p. 4772; May 23, 1994, p. 11459; June 8, 1994, p. 12305; June 10, 1994, p. 12648). Pursuant to that authority the House conducted three “Oxford”-style debates (Mar. 16, 1994, p. 5088; May 4, 1994, p. 9300; July 20, 1994, p. 17245). As a precursor to those structured debates, special-order time was used for a “Lincoln-Douglas”-style debate involving five Members, with one Member acting as “moderator” by controlling the hour under this clause (Nov. 3, 1993, p. 27312).

Although there is no appeal from the Speaker’s recognition, he is not a free agent in determining who is to have the floor.

§ 953. Speaker governed by usage in recognitions. The practice of the House establishes rules from which he should not depart. For example, on February 24, 1994, the Speaker announced a policy with respect to recognition for special-order speeches that departed from the established practice of recognition by unanimous consent (Deschler, ch. 21, § 7.1; see § 26, *supra*). The Speaker’s new policy was the product of bipartisan negotiations, which justified the departure from the then-established practice. The policy became the new established practice of the House, from which the Speaker should not depart except by unanimous consent. When the order of business brings before the House a certain bill he must first recognize, for motions for its disposition, the Member who represents the committee which has reported it (II, 1447; VI, 306, 514). This is not necessarily the chairman of the committee, for a chairman who, in committee, has opposed the bill, must yield the prior recognition to a member of his committee who has favored the bill (II, 1449). Usually, however, the chairman has charge of the bill and is entitled at all stages to prior recognition for

allowable motions intended to expedite it (II, 1452, 1457; VI, 296, 300). This principle does not, however, apply to the Chairman of the Committee of the Whole (II, 1453). Once the proponent of a pending motion has been recognized for debate thereon, a unanimous-consent request to modify the motion may be entertained only if the proponent yields for that purpose (Jan. 5, 1996, p. 348). The Member who originally introduces the bill which a committee reports has no claims to recognition as opposed to the claims of the members of the committee, but in cases where a proposition is brought directly before the House by a Member the mover is entitled to prior recognition for motions and debate (II, 1446, 1454; VI, 302–305, 417; VIII, 2454, 3231). This principle applies to the makers of certain motions. Thus, the Member on whose motion the enacting clause of a bill is stricken in Committee of the Whole is entitled to prior recognition when the bill is reported to the House (V, 5337; VIII, 2629). Where a Member raised an objection in a joint session to count the electoral vote, and the Houses separated to consider the objection, the Chair first recognized the Member who raised the objection (III, 1956; Jan. 6, 2005, p. —) or a co-signer of the objection (Jan. 6, 1969, pp. 145–7). But a Member may not, by offering a debatable motion of higher privilege than the pending motion, deprive the Member in charge of the bill of possession of the floor for debate (II, 1460–1463; VI, 290, 297–299; VIII, 2454, 3193, 3197, 3259). The Member in charge of the bill and having the floor may demand the previous question, although another Member may propose to offer a motion of higher privilege (VIII, 2684); but the motion of higher privilege must be put before the previous question (V, 5480; VIII, 2684). The Member who has been recognized to call up a measure in the House has priority of recognition to move the previous question thereon, even over the chairman of the committee reporting that measure (Oct. 1, 1986, p. 27468). The fact that a Member has the floor on one matter does not necessarily entitle him to prior recognition on a motion relating to another matter (II, 1464). It is because the Speaker is governed by these usages that he often asks, when a Member seeks recognition, “For what purpose does the gentleman rise?”. By this question he determines whether the Member proposes business or a motion which is entitled to precedence and he may deny recognition (VI, 289–291, 293; Aug. 13, 1982, pp. 20969, 20975–78; Speaker Wright, Feb. 17, 1988, p. 1583; Feb. 27, 1992, p. 3656). For example, a Member’s mere revelation that he seeks to offer a motion to adjourn does not suffice to make that motion “pending,” and thus the Chair remains able to declare a short recess under clause 12 of rule I (Oct. 28, 1997, p. 23524; June 25, 2003, p. —). There is no appeal from such denial of recognition (II, 1425; VI, 292; VIII, 2429, 2646, 2762; Feb. 27, 1992, p. 3656). Recognition for parliamentary inquiry lies in the discretion of the Chair (VI, 541), who may take a parliamentary inquiry under advisement (VIII, 2174), especially where not related to the pending proceedings (Apr. 7, 1992, p. 8273).

The Chair may follow a tradition of the House to allow the highest ranking elected leaders (Speaker, Majority Leader, and Minority Leader) addi-

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XVII, clause 2

§ 954-§ 955

tional time to make their remarks in debate (Dec. 18, 1998, p. 27834; May 18, 2004, p. —).

When an essential motion made by the Member in charge of a bill is decided adversely, the right to prior recognition passes to the Member who the Speaker perceives to be leading the opposition to the motion (II, 1465-1468; VI, 308).

§ 954. Loss of right to recognition by Member in charge.

Under this principle control of a measure passes when the House disagrees to a recommendation of the committee reporting the measure (II, 1469-1472) or when the Committee of the Whole reports the measure adversely (IV, 4897; VIII, 2430). Similarly, this principle applies when a motion for the previous question is rejected (VI, 308). However, a Member who led the opposition to ordering the previous question may be preempted by a motion of higher precedence (Aug. 13, 1982, pp. 20969, 20975-78). On the other hand, the mere defeat of an amendment proposed by the Member in charge does not cause the right to prior recognition to pass to an opponent (II, 1478, 1479).

Rejection of a conference report after the previous question has been ordered thereon does not cause recognition to pass to a Member opposed to the report, and the manager retains control to offer the initial motion to dispose of amendments in disagreement (Speaker Albert, May 1, 1975, p. 12761). Similarly, the invalidation of a conference report on a point of order, which is equivalent to its rejection by the House, does not give the Member raising the question of order the right to the floor (VIII, 3284) and exerts no effect on the right to recognition (VI, 313). In most cases, when the House refuses to order the previous question on a conference report, it then rejects the report (II, 1473-1477; V, 6396). However, control of a Senate amendment reported from conference in disagreement passes to an opponent when the House rejects a motion to dispose thereof (Aug. 6, 1993, p. 19582).

In debate the members of the committee—except the Committee of the Whole (II, 1453)—are entitled to priority of recognition for debate (II, 1438, 1448; VI, 306, 307), but a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks (V, 5391-5395; VI, 412; VIII, 2649, 2650).

§ 955. Prior right of Members to recognition for debate.

In recognizing for debate under general House rules the Chair alternates between those favoring and those opposing the pending matter, preferring members of the committee reporting the bill (II, 1439-1444). When a member of a committee has occupied the floor in favor of a measure the Chair attempts to recognize a Member opposing next, even though he be not a member of the committee (II, 1445). The principle of alternation is not insisted on rigidly where a limited time is controlled by Members, as in the 40 minutes of debate on motions for suspension of the rules and the previous question (II, 1442).

As to motions to suspend the rules, which are in order on Mondays and Tuesdays of each week, the Speaker exercises a discretion to decline to recognize (V, 6791–6794, 6845; VIII, 3402–3404). He also may decline to recognize a Member who desires to ask unanimous consent to set aside the rules in order to consider a bill not otherwise in order, this being the way of signifying his objection to the request. But this authority did not extend to the former Consent Calendar. Where the previous question was ordered to passage of a bill without intervening motion except recommittal, the Chair declined to entertain a unanimous-consent request to further amend the pending bill as an exercise of his discretionary power of recognition under this clause (Feb. 10, 2000, p. 1019). The Chair has declined to entertain a unanimous-consent request to print a separate volume of tributes given in memory of a deceased former Member absent concurrence of the Joint Committee on Printing (Aug. 1, 1996, p. 21247). The Speaker has announced and enforced a policy of conferring recognition for unanimous-consent requests for the consideration of certain legislation only when assured that the majority and minority floor and committee leaderships have no objection (see, *e.g.*, Dec. 15, 1981, p. 31590; May 4, 1982, p. 8613; Nov. 16, 1983, p. 33138; Jan. 25, 1984, p. 354; Jan. 26, 1984, p. 449; Jan. 31, 1984, p. 1063; Oct. 2, 1984, p. 28516; Feb. 4, 1987, p. 2675; Jan. 3, 1989, p. 89; Jan. 3, 1991, p. 64; Jan. 5, 1993, p. 106; Apr. 4, 1995, p. 12097). This policy includes: (1) requests relating to reported bills (July 23, 1993, p. 16820); (2) requests for immediate consideration of matters (separately unreported) comprising a portion of a measure already passed by the House (Dec. 19, 1985, p. 38356); (3) requests to consider a motion to suspend the rules and pass an unreported bill (on a nonsuspension day) (Aug. 12, 1986, p. 21126; Mar. 30, 1998, p. 5153); (4) requests to permit consideration of (nongermane) amendments to bills (Nov. 14, 1991, p. 32083; Dec. 20, 1995, p. 37877; June 27, 2002, p. —; July 28, 2005, p. —); (5) requests to permit expedited consideration of measures on subsequent days, as by waiving the requirement that a bill be referred to committee for 30 legislative days before a motion to discharge may be presented under clause 2 of rule XV (formerly clause 3 of rule XXVII) (June 9, 1992, p. 13900); (6) requests relating to Senate-passed bills on the Speaker’s table (Oct. 25, 1995, p. 29347; Jan. 3, 1996, p. 58; Aug. 2, 1999, p. 18942), including one identical to a House-passed bill (Feb. 4, 1998, p. 799) and a Senate concurrent resolution to correct an enrollment (Oct. 20, 1998, p. 27358); and (7) requests to dispose of Senate amendments to House bills on the Speaker’s table (Jan. 4, 1996, pp. 200, 210; Nov. 22, 2002, p. —). The Speaker will recognize for an “omnibus” unanimous-consent request (one request disposing of various measures) only when assured that the request, and each constituent part of the request, has been cleared under this policy (Oct. 10, 2002, p. —; Oct. 16, 2002, p. —; Nov. 14, 2002, p. —). The Speaker’s enforcement of this policy is not subject to appeal (Apr. 4, 1995, p. 10298). “Floor leadership” in this

context has been construed to apply only to the Minority Leader and not to the entire hierarchy of minority leadership, where the Chair had been assured that the Minority Leader had been consulted (Apr. 25, 1985, p. 9415). It is not a proper parliamentary inquiry to ask the Chair to indicate which side of the aisle has failed under the Speaker's guidelines to clear a unanimous-consent request (Feb. 1, 1996, p. 2260; Nov. 22, 2002, p. —), but the Chair may indicate his cognizance of a source of objection for the Record (Feb. 4, 1998, p. 799). In addition, with respect to unanimous-consent requests to dispose of Senate amendments to House bills on the Speaker's table, the Chair will entertain such a request only if made by the chairman of the committee with jurisdiction, or by another committee member authorized to make the request (Apr. 26, 1984, p. 10194; Feb. 4, 1987, p. 2675; Jan. 3, 1996, p. 86; Jan. 4, 1996, pp. 200, 210; Deschler, ch. 21, § 1.23). For a discussion of recognition for unanimous-consent requests to vary procedures in the Committee of the Whole governed by a special order adopted by the House, see § 993, *infra*.

2. * * * A Member, Delegate, or Resident Commissioner may not occupy more than one hour in debate on a question in the House or in the Committee of the Whole House on the state of the Union except as otherwise provided in this rule.

§ 957. The hour rule in debate.

This provision (formerly clause 2 of rule XIV) dates from 1841, when the increase of membership had made it necessary to prevent the making of long speeches which sometimes occupied three or four hours each (V, 4978). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 2 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

This provision applies to debate on a question of privilege, as well as to debate on other questions (V, 4990; VIII, 2448). When the time for debate has been placed within the control of those representing the two sides of a question, it must be assigned to Members in accordance with this rule (V, 5004, 5005; VIII, 2462). A Member recognized to call up a privileged resolution may yield the floor upon expiration of his hour without moving the previous question, thereby permitting another Member to be recognized for a successive hour (Dec. 18, 1998, p. 27838). Under this clause a Member recognized for one hour for a "special-order" speech in the House may not extend that time, even by unanimous consent (Feb. 9, 1966, p. 2794; July 12, 1971, pp. 24594, 24603; Oct. 23, 1997, p. 23254). The Chair has advised that he will recognize the managers of a measure (as so designated by a special rule governing consideration of the measure) for unanimous-consent requests to enlarge the time for debate (Oct. 8, 2002, p. —). In the 104th Congress the Speaker announced his intention to strictly enforce

time limitations on debate (Jan. 4, 1995, pp. 457–552). The Chair has announced that he would accommodate as many unanimous-consent requests to insert remarks in debate as necessary provided they comprise a simple, declarative statement of the Member’s attitude toward the pending measure; however, any embellishment of such a request with other oratory may become an imposition on the time of the Member who yielded for that purpose (see, *e.g.*, Mar. 24, 1995, p. 9215; June 22, 2002, p. —; May 9, 2003, p. —; June 26, 2003, p. —; July 24, 2003, p. —; Nov. 21, 2003, p. —).

For a discussion of morning-hour debates and “Oxford”-style debates, see §§ 951–952, *supra*.

Managing debate

3. (a) The Member, Delegate, or Resident Commissioner who calls up a measure may open and close debate thereon. When general debate extends beyond one day, that Member, Delegate, or Resident Commissioner shall be entitled to one hour to close without regard to the time used in opening.

§ 958. The opening and closing of general debate.

(b) Except as provided in paragraph (a), a Member, Delegate, or Resident Commissioner may not speak more than once to the same question without leave of the House.

§ 959. Member to speak but once to the same question; right to close controlled debate.

(c) A manager of a measure who opposes an amendment thereto is entitled to close controlled debate thereon.

Paragraphs (a) and (c) (formerly clause 3 of rule XIV) were adopted in 1847 and perfected in 1880 (V, 4996). Paragraph (b) (formerly clause 6 of rule XIV) was adopted in 1789, and amended in 1840 (V, 4991). Before the House recodified its rules in the 106th Congress, paragraphs (a) and (c) were found in former clause 3 of rule XIV and paragraph (b) was found in former clause 6 of rule XIV. The recodification also added paragraph (c) to codify modern practice (H. Res. 5, Jan. 6, 1999, p. 47).

In the later practice this right to close may not be exercised after the previous question is ordered (V, 4997–5000). This clause applies to general debate in Committee of the Whole (Mar. 26, 1985, p. 6283). A majority

manager of the bill who represents the primary committee of jurisdiction is entitled to close general debate; for example, as against another manager representing an additional committee of jurisdiction (May 13, 1998, p. 9042, 9050); or as against the subject of a disciplinary resolution (July 24, 2002, p. —). Where an order of the House divides debate on an unreported measure among four Members, the Chair will recognize for closing speeches in the reverse order of the original allocation (Mar. 24, 1999, p. 5454). Where a special order of the House allocates time for debate, which is further fractionalized under a later order by unanimous consent, the Chair recognizes for closing speeches in the reverse order of their original recognitions, concluding with the Member who opened the debate. This is true even when the manager who opened debate is opposed, as in the case of a measure reported adversely (July 22, 1998, p. 16726; July 27, 1999, p. 18012; June 21, 2000, pp. 11704, 11721; July 26, 2000, p. 16437). In response to a parliamentary inquiry, the Chair advised that time unused by a minority manager in general debate is considered as yielded back upon recognition of the majority manager to close general debate (Feb. 27, 2002, p. —). For further discussion of management of time for general debate and for debate on amendments in the Committee of the Whole, see § 978, *infra*.

A Member who has spoken once to the main question may speak again to an amendment (V, 4993, 4994). It is too late to make the point of order that a Member has spoken already if no one claims the floor until he has made some progress in his speech (V, 4992). Paragraph (b) is often circumscribed by modern practice and by special orders of business that vest control of debate in designated Members and permit them to yield more than once to other Members (Apr. 5, 2000, p. 4497). For a discussion of the right of a Member to speak more than once under the five-minute rule, see § 981, *infra*. The right to close may not be exercised after the previous question has been ordered (V, 4997–5000). The right to close does not belong to a Member who has merely moved to reconsider the vote on a bill which he did not report (V, 4995). The right of a contestant in an election case to close when he is permitted to speak in the contest has been a matter of discussion (V, 5001).

As codified in paragraph (c), the manager of a bill or other representative of the committee position and not the proponent of an amendment has the right to close debate on an amendment on which debate has been limited and allocated under the five-minute rule in Committee of the Whole (VIII, 2581; July 16, 1981, p. 16043; Apr. 4, 1984, p. 7841; June 5, 1985, p. 14302; July 10, 1985, p. 18496; Oct. 24, 1985, p. 28824; May 2, 1988, p. 9638; May 5, 1988, p. 9961; July 26, 2002, p. —), including the minority manager (June 29, 1984, p. 20253; Aug. 14, 1986, p. 21660; July 26, 1989, p. 16403; Oct. 27, 1997, p. 23212; July 26, 2002, p. —) and including the manager of a measure that was reported adversely (Feb. 13, 2002, p. —). This is so even where the manager is also the proponent of a pending amendment to the amendment (Mar. 16, 1983, p. 5792). The Chair

will assume that the manager of a measure is representing the committee of jurisdiction even where the measure called up is unreported (Apr. 15, 1996, p. 7421; July 24, 1998, p. 17263), where an unreported compromise text is made in order as original text in lieu of committee amendments (Oct. 19, 1995, p. 28650), or where the committee reported the measure without recommendation (Feb. 12, 1997, pp. 2108, 2109). Where the pending text includes a provision recommended by a committee of sequential referral, a member of that committee is entitled to close debate against an amendment thereto (June 15, 1989, pp. 12084–87). Where the rule providing for the consideration of an unreported measure designates managers who do not serve on a committee of jurisdiction, those managers are entitled to close controlled debate against an amendment thereto (Sept. 18, 1997, p. 19325). The majority manager of the bill will be recognized to control time in opposition to an amendment thereto, without regard to the party affiliation of the proponent, where the special order allocated control to “a Member opposed” (May 13, 1998, p. 9110). The right to close debate in opposition to an amendment devolves to a member of the committee of jurisdiction who derived debate time by unanimous consent from a manager who originally had the right to close debate (Sept. 10, 1998, pp. 19961–63). Such right to close may not devolve to the manager of a bill who derived debate time by unanimous consent from a non-committee Member controlling time in opposition because that right may be transferred only where there has been an unbroken line of committee affiliation in opposition to the amendment (July 17, 2003, p. —). The proponent of a first-degree amendment who controls time in opposition to a second-degree amendment that favors the original bill over the first-degree amendment does not qualify as a “manager” within the meaning of clause 3(c) of rule XVII in opposing (June 15, 2000, pp. 11040, 11047).

Under certain circumstances, however, the proponent of the amendment may close debate where he represents the position of the reporting committee (Aug. 14, 1986, p. 21660); for example, the proponent of a “manager’s amendment” may close controlled debate thereon where a member of the committee does not claim time in opposition (May 13, 1998, p. 9092). Similarly, the proponent may close debate where neither a committee representative nor a Member assigned a managerial role by the governing special order oppose the amendment (Aug. 15, 1986, p. 22057; May 6, 1998, pp. 8307, 8316; July 14, 1998, p. 15321; July 17, 2003, p. —). Where a committee representative is allocated control of time in opposition to an amendment not by recognition from the Chair but by unanimous-consent request of a third Member who was allocated the time by the Chair, then the committee representative is not entitled to close debate as against the proponent (July 24, 1997, pp. 15684, 15685, 15689). Similarly, the proponent of the amendment may close debate where no representative from the reporting committee opposes an amendment to a multijurisdictional bill (Mar. 9, 1995, p. 7467); where the measure is unreported and has no “manager” under the terms of a special rule (Apr. 24, 1985, p. 9206); or where

a measure is being managed by a single reporting committee and the Member controlling time in opposition, though a member of the committee having jurisdiction over the amendment, does not represent the reporting committee (Nov. 9, 1995, p. 31964).

Call to order

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

§ 960. The call to order for words spoken in debate.

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

call to order, and may not be subject to the censure of the House therefor, if further debate or other business has intervened.

The first sentence of paragraph (a) and all but the last sentence of paragraph (b) (formerly clause 4 of rule XIV) was adopted in 1789 and amended in 1822 and 1880 (V, 5175). The last sentence of paragraph (a) and the last sentence of paragraph (b) (formerly clause 5 of rule XIV) was adopted in 1837 and amended in 1880, although the practice of writing down objectionable words had been established in 1808. When the House recodified its rules in the 106th Congress, it consolidated former clauses 4 and 5 of rule XIV into a single clause (H. Res. 5, Jan. 6, 1999, p. 47).

Members transgressing the rules of debate and decorum may be called to order by the Speaker (VIII, 2481, 2521, 3479), a Member (II, 1344; V, 5154, 5161–5163, 5175, 5192), or a Delegate (II, 1295). A Member may initiate a call to order either by making a point of order that a Member is transgressing the rules or by formally demanding that words be taken down under this clause (Sept. 12, 1996, pp. 22897, 22899; Sept. 17, 1996, p. 23426; Sept. 18, 1996, p. 23535; Sept. 25, 1996, p. 24759). A Member's comportment in debate may constitute a breach of decorum even though the content of the Member's speech is not, itself, unparliamentary (July 29, 1994, p. 18609). Except for naming the offending Member, the Speaker may not otherwise censure or punish him (II, 1345; VI, 237; Sept. 18, 1996, p. 23535; see also § 366, *supra*). The House may by proper motions under this clause dictate the consequences of a ruling by the Chair that a Member was out of order (May 26, 1983, p. 14048). As an exercise of recognition, the Chair's determination that a Member's time in debate has expired is not subject to appeal (Mar. 22, 1996 p. 6086; see also §§ 622, 629, *supra*). Furthermore, a Member speaking while not under recognition (as when speaking beyond the allotted time) is not entitled to in-House amplification (Mar. 16, 1988, p. 4081; see also § 684, *supra*).

As discussed in § 374, *supra*, it is customary for the Chair to initiate the call to order of a Member who engages in personality in debate with respect to Members of the Senate, including an insertion in the Record (Speaker Albert, Apr. 17, 1975, p. 10458; Oct. 7, 1975, p. 32055; Feb. 27, 1997, pp. 2784, 2785). On the other hand, it is customary for the Chair to await an initiative from the floor to call to order a Member who engages in personality in debate with respect to another Member of the House (June 29, 1987, p. 18072; Jan. 4, 1995, p. 551; Feb. 27, 1997, pp. 2784, 2785). The Chair may take initiative to call to order a Member engaging in verbal outburst either following expiration of his recognition for debate (Mar. 16, 1988, p. 4081) or during recognition of another Member (June 5, 2003, p. —). He may order the offending Member to take his seat (June 5, 2003, p. —) or may deny further recognition, subject to the

will of the House on the question of his proceeding in order (Speaker O'Neill, June 16, 1982, p. 13843; July 29, 1994, p. 18609; Sept. 18, 1996, p. 23535). The Chair may admonish a Member for words spoken in debate and request that they be removed from the Record even before a demand that the words be taken down (Sept. 24, 1992, p. 27345).

This clause (formerly clause 5) prohibits the taking down of words after intervening business (V, 5177; VIII, 2536; Sept. 16, 1991, p. 23032; Mar. 28, 1996, p. 6934). However, a Member on his feet and seeking recognition at the appropriate time may yet be recognized to demand that words be taken down even though brief debate may have intervened, and a request that a Member uttering objectionable words yield does not forfeit the right to demand that the words be taken down (VIII, 2528). Action taken by the Chair to determine whether a point of order from the floor is intended as a demand that words be taken down is not such intervening debate or business as would render the demand untimely (Oct. 2, 1984, p. 28522). Similarly, a parliamentary inquiry concerning the propriety of words just spoken in debate does not render untimely a demand that the words be taken down as unparliamentary (May 6, 2004, p. —). However, an improper parliamentary inquiry concerning the substantive content of the words does render untimely such demand (July 20, 2005, p. —). Although under this clause a Member may not be held to answer a call to order if further debate or business has intervened, the Chair may under clause 2 of rule I generally admonish Members to preserve proper decorum even after intervening debate (Dec. 5, 2001, p. —). For instances in which the Chair admonished Members for improper references to the Senate after brief intervening debate, see § 371, *supra*.

While a demand that a Member's words be taken down is pending, that Member should be seated immediately (July 29, 1994, p. 18609; Jan. 25, 1995, p. 2352), and no Member may engage the Chair until the demand has been disposed of (Nov. 9, 1995, p. 31913; Nov. 14, 1995, p. 32472). Where two Members consecutively demand that each others' words be taken down as unparliamentary, the Chair advises both Members to be seated and then directs the Clerk to report the first words objected to (June 19, 1996, p. 14655). An offending Member may be directed by the Chair to be seated even if a formal demand that the Member's words be taken down is not pending; for example, where a Member declines to proceed in order at the directive of the Chair after points of order have been sustained against unparliamentary references in debate, the Chair may, under rule I and this rule, deny the Member further recognition as a disposition of the question of order, subject to the will of the House on the question of proceeding in order (Sept. 12, 1996, p. 22900; Sept. 17, 1996, p. 23427; Sept. 18, 1996, p. 23535; see also § 366, *supra*).

The Chair may entertain a unanimous-consent request to withdraw or modify words taken down either before (Deschler-Brown, ch. 29, § 51.1) or after (Deschler-Brown, ch. 29, § 51.2) the words have been reported to the House. Unanimous consent is not required for a Member to withdraw

his demand that words be taken down before a ruling by the Chair (June 18, 1986, p. 14232).

The words having been read from the desk, the Chair decides whether they are in order (II, 1249; V, 5163, 5169, 5187), as read by the Clerk and not as otherwise alleged to have been uttered (June 9, 1992, p. 13902). When a Member denies that the words taken down are the exact words used by himself, the question as to the words is put to the House for decision (V, 5179, 5180). Where demands are made to take down words both as spoken in a one-minute speech and as reiterated when the offending Member is permitted by unanimous consent to explain, the Chair may rule simultaneously on both (July 25, 1996, p. 19170). A decision of the Chair on words taken down is subject to appeal (Sept. 28, 1996, p. 25780; Apr. 9, 2003, p. —).

The rule permits a motion that an offending Member be permitted to explain before the Chair rules on the words taken down, and the Chair has discretion to ask for explanation before ruling on the words (Feb. 1, 1940, p. 954). The Chair also may recognize an offending Member, permitted by unanimous consent, to explain words ruled out of order (Nov. 10, 1971, p. 40442).

If words taken down are ruled out of order, the Member loses the floor (V, 5196–5199; Jan. 25, 1995, p. 2352) and may not proceed on the same day without the permission of the House (Jan. 29, 1946, p. 533; Aug. 21, 1974, p. 29652; Jan. 25, 1995, p. 2352; Apr. 17, 1997, p. 5832), even on yielded time (V, 5147), and may not insert unspoken remarks in the Record (Jan. 25, 1995, p. 2352), but still may exercise his right to vote or to demand the yeas and nays (VIII, 2546). The ruling does not take the issue off the floor, and other Members may proceed to debate the same subject (July 25, 1996, p. 19170). The offending Member will not lose the floor if the House permits the Member to proceed in order (see, *e.g.*, May 10, 1990, p. 9992), which motion may be stated on the initiative of the Chair (Oct. 8, 1991, p. 25757; Mar. 29, 1995, p. 9676; July 25, 1996, p. 1970; June 13, 2002, p. —) or offered by any Member (July 25, 1996, p. 1970). The motion is not inconsistent with the immediate consequence of the call to order because this clause (formerly clause 4) also permits the House to determine the extent of the sanction for a given breach (Oct. 10, 1991, p. 26102). The motion is debatable within narrow limits of relevance under the hour rule, and consequently also is subject to the motion to lay on the table (Speaker Foley, Oct. 8, 1991, p. 25757).

Where a Member has been called to order not in response to a formal demand that words be taken down but in response to a point of order, the former practice was to test the opinion of the House by a motion “that the gentleman be allowed to proceed in order” (V, 5188, 5189; VIII, 2534). Under the modern practice the Chair either may invite the offending Member to proceed in order (see, *e.g.*, Sept. 12, 1996, p. 22898) or, particularly where admonitions have been ignored, may deny the Member recognition for the balance of the time for which he was recognized, subject to the

will of the House, as by a vote on the question whether the Member should be permitted to proceed in order (Sept. 12, 1996, p. 22899; Sept. 17, 1996, p. 23426; Sept. 18, 1996, p. 23535; Sept. 25, 1996, p. 24759).

Words taken down and ruled out of order by the Chair are subject to a motion that they be stricken or expunged from the Record. This motion has precedence (VIII, 2538–2541; Aug. 21, 1974, p. 29652). Unanimous consent to expunge such words often is granted upon the initiative of the Chair (May 10, 1990, p. 9992; June 13, 2002, p. —), and is debatable within narrow limits (VIII, 2539; Speaker Martin, June 12, 1947, p. 6896). However, the motion may not be entertained in the Committee of the Whole (Feb. 18, 1941, p. 1126) or offered by the Member called to order (Feb. 11, 1941, pp. 894, 899), although that Member may ask unanimous consent to withdraw his words (VIII, 2528, 2538, 2540, 2543, 2544; July 16, 1998, p. 15827; June 28, 2000, pp. 12771, 12776).

When disorderly words are spoken in the Committee of the Whole, they are taken down and read at the Clerk’s desk, and the Committee rises automatically (VIII, 2533, 2538, 2539) and reports them to the House (II, 1257–1259, 1348). Action in the House on words reported from the Committee of the Whole is limited to the words reported (VIII, 2528), and it is not in order as a question of privilege in the House to propose censure of a Member for disorderly words spoken in Committee of the Whole but not reported therefrom (V, 5202). After words reported to the House from Committee of the Whole have been disposed of (by decision of the Chair and any associated action by the House), the Committee resumes its sitting without motion (VIII, 2539, 2541).

The House has censured a Member for disorderly words (II, 1253, 1254, 1259, 1305; VI, 236). The House may proceed to censure or other action although business may have intervened in certain exceptional cases, such as when disorderly words are part of an occurrence constituting a breach of privilege (II, 1657), when a Member’s language has been investigated by a committee (II, 1655), when a Member has reiterated on the floor certain published charges (III, 2637), when a Member has uttered words alleged to be treasonable (II, 1252), or when a Member has uttered an attack on the Speaker (II, 1248; Jan. 4, 1995, p. 551; Jan. 19, 1995, p. 1599).

For a discussion of resolving the use of objectional exhibits that are a breach of decorum, see § 622, *supra*; and for a discussion of resolving the use of objectional exhibits that are not necessarily a breach of decorum, see clause 6, § 963, *infra*.

Comportment

5. When the Speaker is putting a question or addressing the House, a Member, Delegate, or Resident Commissioner may not walk out of or across the Hall. When a

§ 962. Decorum of Members in the Hall.

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

Until the 104th Congress this clause (formerly clause 7 of rule XIV) was made up of provisions adopted in 1789, 1837, 1871, and 1896. In the 104th Congress a reference to the former Doorkeeper was deleted and a prohibition against using any personal electronic office equipment was added (secs. 201 and 223, H. Res. 6, Jan. 4, 1995, pp. 463, 469). However, that prohibition was modified in the 108th Congress to cover only a wireless telephone or personal computer (sec. 2(k), H. Res. 5, Jan. 7, 2003, p. —). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 7 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47).

Originally Members wore their hats during sessions, as in Parliament, and the custom was not abolished until 1837 (II, 1136). In the 103d Congress the Speaker announced that the prohibition against Members wearing hats included doffing the hat in tribute to a group (Speaker Foley, June 22, 1993, p. 13569; June 10, 1996, p. 13560). In the 96th Congress the Speaker announced that he considered as proper the customary and traditional attire for Members, including a coat and tie for male Members and appropriate attire for female Members (where thermostat controls had been raised in the summer to conserve energy); the House then adopted a resolution, offered as a question of the privileges of the House, requiring Members to wear proper attire as determined by the Speaker, and denying noncomplying Members the privilege of the floor (July 17, 1979, pp. 19008, 19073). In the 106th Congress Members were reminded of the need to be in proper attire in the Chamber (June 28, 2000, p. 12654), and the Chair has so admonished a Member speaking in debate without his jacket (Apr. 3, 2001, p. 5361). In the 97th Congress, the Speaker announced during a vote by electronic device that Members were not permitted under the traditions of the House to wear overcoats on the House floor (Dec. 16, 1981, p. 31847).

The prohibition against using personal electronic office equipment was affirmed by response to a parliamentary inquiry (Feb. 23, 1995, p. 5639). The Chair announced that the use of cellular telephones was not permitted on the floor of the House or in the gallery (July 13, 1999, p. 15744; Oct. 7, 1999, p. 24415; Jan. 27, 2000, p. 132) and that Members should disable wireless telephones on entering the Chamber (*e.g.*, June 12, 2000, p. 10369; July 19, 2000, p. 15344; Oct. 10, 2000, p. 22021; Oct. 19, 2000, p. 23616; May 13, 2004, p. —).

Smoking is not permitted in the Hall during sessions of the House (Oct. 15, 1990, p. 29248), nor during sittings of the Committee of the Whole (Aug. 14, 1986, p. 21707); and the prohibition extends to smoking behind the rail (Feb. 23, 1995, p. 5640).

On the opening day of the 101st Congress, the Speaker prefaced his customary announcement of policies concerning such aspects of the legislative process as recognition for unanimous-consent requests and privileges of the floor with a general statement concerning decorum in the House, including particular adjurations against engaging in personalities, addressing remarks to spectators, and passing in front of the Member addressing the Chair (Jan. 3, 1989, p. 88; see also Jan. 5, 1993, p. 105; Jan. 4, 1995, p. 551). In the 104th Congress the Speaker announced: (1) that Members should not traffic, or linger in, the well of the House while another Member is speaking (Feb. 3, 1995, p. 3541; Mar. 3, 1995, p. 6721; Dec. 15, 1995, p. 37111), including Members who may have been invited to the well by the Member speaking (June 12, 2003, p. —); and (2) that Members should not engage in disruption while another Member is speaking (Dec. 20, 1995, p. 37878). Under this provision the Chair may require a line of Members waiting to sign a discharge petition to proceed to the rostrum from the far right-hand aisle and require the line not to stand between the Chair and Members engaging in debate (Oct. 24, 1997, p. 23293).

Hissing and jeering is not proper decorum in the House (May 21, 1998, p. 10282).

A former Member must observe proper decorum under this clause, and the Chair may direct the Sergeant-at-Arms to assist the Chair in maintaining such decorum (Sept. 17, 1997, p. 19027). In the 105th Congress the House adopted a resolution offered as a question of the privileges of the House alleging indecorous behavior of a former Member and instructing the Sergeant-at-Arms to ban the former Member from the floor, and rooms leading thereto, until the resolution of a contested election to which he was party (H. Res. 233, Sept. 18, 1997, p. 19340).

Exhibits

6. When the use of an exhibit in debate is objected to by a Member, Delegate, or Resident Commissioner, the Chair,

§ 963. Objections to use of exhibits.

in his discretion, may submit the question of its use to the House without debate.

This provision was rewritten in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) to address the use of exhibits in debate rather than the reading from papers. As rewritten in the 103d Congress, an objection to the use of an exhibit automatically triggered a vote by the House on its use. The clause was amended in the 107th Congress to permit the Chair in his discretion to submit the question of its use to the House (sec. 2(o), H. Res. 5, Jan. 3, 2001, p. 25). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXX (H. Res. 5, Jan. 6, 1999, p. 47).

When the use of an exhibit in debate was objected to before the clause was rewritten in the 107th Congress, the Chair immediately put the question on whether use of the exhibit would be permitted (the Chair was not determining a breach of decorum under clause 2 of rule I) (Nov. 1, 1995, p. 31154; Nov. 10, 1995, p. 20689; July 31, 1996, p. 20689). The Chair put the question without debate, and without requiring the objecting Member to state the basis for the objection (Nov. 10, 1995, p. 20689). As such, an objection under this rule was not a point of order: it could have been resolved by withdrawal of the exhibit; that failing, it amounted to a demand that the Chair put to the House the question whether the exhibit may be used (July 31, 1996, p. 20700).

It is not a proper parliamentary inquiry to ask the Chair to judge the accuracy or authenticity of the content of an exhibit (Nov. 10, 1995, p. 32142; July 11, 2001, p. —). The Chair has held that a second virtually consecutive invocation of this provision, resulting in a second pair of votes on use of a chart and on reconsideration thereof, was not dilatory under former clause 10 of rule XVI (current clause 1 of rule XVI) or former clause 4(b) of rule XI (current clause 6(b) of rule XIII) (July 31, 1996, p. 20700). It is not in order to request that the voting display be turned on during debate as an exhibit to accompany a Member's debate (Oct. 12, 1998, p. 25770). For a discussion of the Speaker's responsibility to preserve decorum that may require that he disallow the use of exhibits in debate that would be demeaning to the House, or to any Member of the House, or that would be disruptive of the decorum thereof, see § 622, *supra*.

The earlier form of the rule (formerly rule XXX), originally adopted in 1794 and amended in 1802 and 1880 (V, 5257), addressed reading from papers. It recognized the right of a Member under the general parliamentary law to have read the paper on which the House is to vote (V, 5258), but when that paper had been read once, the reading could not be repeated unless by order of the House (V, 5260). The right could be abrogated by suspension of the rules (V, 5278–5284; VIII, 3400); but was not abrogated simply by the fact that the current procedure was taking place under the rule for suspension (V, 5273–5277). On a motion to refer

§ 964. History of former rule on reading of papers.

a report, the reading of it could be demanded as a matter of right, but the latest ruling left to the House to determine whether or not an accompanying record of testimony should be read (V, 5261, 5262). In general the reading of a report was held to be in the nature of debate (V, 5292); but where a report presented facts and conclusions but no legislative proposition, it was read if submitted for action (IV, 4663). Where a paper is offered as involving a matter of privilege it may be read to the House (III, 2597; VI, 606; VIII, 2599), rather than by the Speaker privately (III, 2546), but a Member may not, as a matter of right, require the reading of a book or paper on suggestion that it contains matter infringing on the privileges of the House (V, 5258).

The former rule XXX prohibiting the reading of papers in debate was held to apply to the exhibition of articles as evidence or in exemplification in debate (VIII, 2452, 2453; June 2, 1937, p. 6104; Aug. 5, 1949, p. 10859), and the new form of the rule adopted in the 103d Congress (H. Res. 5, Jan. 5, 1993, p. 49) marks the modern relevance of that application. While Members may use exhibits such as charts during debate subject to this rule, the Speaker may, pursuant to his authority to preserve order and decorum under rule I (see § 622, *supra*), direct the removal of a chart from the well of the House which is not being utilized during debate (Apr. 1, 1982, p. 6304), or which is otherwise disruptive of decorum.

The reading of papers other than the one on which the vote was about to be taken was usually permitted without question (V, 5258), and the Member in debate usually read such papers as he pleased. However, this privilege was subject to the authority of the House if another Member objected (V, 5285–5291; VIII, 2597, 2602; Dec. 19, 1974, p. 41425; Dec. 10, 1987, p. 34669). This principle applied even to the Member's own written speech (V, 5258; VIII, 2598), to a report which he proposed to have read in his own time or to read in his place (V, 5293), and to excerpts from the Congressional Record (VIII, 2597). After the previous question was ordered, a Member could not ask the decision of the House on a request for the reading of a paper not before the House for action (V, 5296), even though it be the report of the committee (V, 5294, 5295). For further discussion, see §§ 432–436, *supra*. Pursuant to the former form of this rule, the consent of the House for a Member to read a paper in debate only permitted the Member seeking such permission to read as much of the paper as possible in the time yielded or allotted to that Member, and did not necessarily grant permission to read or to insert the entire document (Mar. 1, 1979, p. 3748). Where a Member objected to another's reading from a paper, the Chair put the question without debate. It was not in order under the guise of parliamentary inquiry to debate that question by indicating that the objection was a dilatory tactic (Dec. 10, 1987, p. 34672).

Galleries

7. During a session of the House, it shall not be in order for a Member, Delegate, or Resident Commissioner to introduce to or to bring to the attention of the House an occupant in the galleries of the House. The Speaker may not entertain a request for the suspension of this rule by unanimous consent or otherwise.

§ 966. Gallery occupants not to be introduced.

This clause was adopted April 10, 1933 (VI, 197). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 8 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). The Chair enforces this clause on his own initiative (Deschler-Brown, ch. 29, §§ 45.4, 45.7).

Congressional Record

8. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member, Delegate, or Resident Commissioner making the remarks.

§ 967. Revisions of remarks in debate.

(b) Unparliamentary remarks may be deleted only by permission or order of the House.

(c) This clause establishes a standard of conduct within the meaning of clause 3(a)(2) of rule XI.

§ 968. Standard of conduct.

This clause was adopted in the 104th Congress (sec. 213, H. Res. 6, Jan. 4, 1995, p. 468). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 9 of rule XIV (H. Res. 5, Jan. 6, 1999, p. 47). Under paragraph (a) a unanimous-consent request to revise and extend remarks permits a Member (1) to make technical, grammatical, and typographical corrections to remarks uttered and (2) to include in the Record additional remarks not uttered to appear in a distinctive typeface; however, such a unanimous-consent request does not permit a Member to remove remarks actually uttered (Jan. 4, 1995, p. 541). For example, remarks held irrelevant by the Chair may be removed from the

Record by unanimous consent only (Mar. 20, 2002, p. —). Remarks uttered while not under recognition (such as when a Member fails to heed the gavel at the expiration of debate time) do not appear in the Record (e.g., May 22, 2003, p. —; Oct. 2, 2003, p. —; May 19, 2004, p. —). Paragraph (a) also applies to statements and rulings of the Chair (Jan. 20, 1995, p. 1866). For a discussion of rules relating to the Congressional Record, see §§ 685–692, *supra*.

Secret sessions

9. When confidential communications are received from the President, or when the Speaker or a Member, Delegate, or Resident Commissioner informs the House that he has communications that he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members, Delegates, Resident Commissioner, and officers of the House for the reading of such communications, and debates and proceedings thereon, unless otherwise ordered by the House.

§ 969. Secret session of the House. This provision (formerly rule XXIX), in a somewhat different form, was adopted in 1792, although secret sessions had been held by the House before that date. They continued to be held at times with considerable frequency until 1830. In 1880, at the time of the general revision of the rules, the House concluded to retain the rule, although it had been long in disuse (V, 7247; VI, 434). Before the House recodified its rules in the 106th Congress, this provision was found in former rule XXIX (H. Res. 5, Jan. 6, 1999, p. 47).

The two Houses have legislated in secret session, transmitting their messages also in secrecy (V, 7250); but the House has declined to be bound to secrecy by act of the Senate (V, 7249). Motions to remove the injunction of secrecy should be made with closed doors (V, 7254). In 1843 a confidential message from the President was referred without reading; but no motion was made for a secret session (V, 7255).

The House and not the Committee of the Whole determines whether the Committee may sit in executive session, and an inquiry relative to whether the Committee of the Whole should sit in secret session is properly addressed to the Speaker and not to the Chairman of the Committee of the Whole (May 9, 1950, p. 6746; June 6, 1978, p. 16376; June 20, 1979, p. 15710). A Member seeking to offer the motion that the House resolve itself into secret session must qualify, as provided by the rule, by asserting

that the Member has a secret communication to make to the House (June 6, 1978, p. 16376).

On June 20, 1979, the House adopted by voice vote a motion that the House resolve itself into secret session pursuant to this rule (the first such occasion since 1830), where the Member offering the motion had ensured the Speaker that he had confidential communications to make to the House as required by the rule (pp. 15711–13). The Speaker pro tempore announced on that occasion before the commencement of the secret session that the galleries would be cleared of all persons, that the Chamber would be cleared of all persons except Members and those officers and employees specified by the Speaker whose attendance was essential to the functioning of the secret session, who would be required to sign an oath of secrecy, and that all proceedings in the secret session must be kept secret until otherwise ordered by the House (June 20, 1979, pp. 15711–13). Where the House has concluded a secret session and has not voted to release the transcripts of that session, the injunction of secrecy remains and the Speaker may informally refer the transcripts to appropriate committees for their evaluation and report to the House as to ultimate disposition to be made (June 20, 1979, pp. 15711–13).

The following procedures apply during a secret session. The motion for a secret session is not debatable (June 20, 1979, p. 15711; Mar. 31, 1998, p. 5229). The Member who offers the motion may be recognized for one hour of debate after the House resolves into secret session, and the normal rules of debate, including the principle that no motions would be in order unless he yields for that purpose, apply. The Speaker having found that a Member has qualified to make the motion for a secret session, having confidential communications to make, no point of order lies that the material in question must be submitted to the Members to make that determination (the motion for a secret session having been adopted by the House). No point of order lies in secret session that employees designated by the Speaker as essential to the proceedings, who have signed an oath of secrecy, may not be present. A motion in secret session to make public the proceedings therein is debatable for one hour, within narrow limits of relevancy. At the conclusion of debate in secret session, a Member may be recognized to offer a motion that the session be dissolved (July 17, 1979, pp. 19057–59).

The House conducted another secret session in the 96th Congress to receive confidential communications consisting of classified information in the possession of the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence, which those committees had authorized to be used in a secret session of the House if ordered; on that occasion the Speaker overruled a point of order against the motion for a secret session since the Speaker must rely on the assurance of a Member that he has confidential communications to make to the House, and since the Speaker was aware that the committee with possession of the materials had authorized those materials to be used in a secret session (Feb. 25,

1980, p. 3618). Another secret session was held in the 98th Congress pending consideration of a bill amending the Intelligence Authorization Act to prohibit United States support for military or paramilitary operations in Nicaragua (July 19, 1983, p. 19776).

The House may subsequently by unanimous consent order printed in the Congressional Record proceedings in secret session, with appropriate deletions and revisions agreeable to the committees to which the secret transcript has been referred for review (July 17, 1979, p. 19049).

Under his authority in clause 3 of rule I, the Speaker may convene a classified briefing for Members on the House floor when the House is not in session (*e.g.*, Mar. 18, 1999, p. 4863).

RULE XVIII

THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Resolving into the Committee of the Whole

1. Whenever the House resolves into the Committee of the Whole House on the state of the Union, the Speaker shall leave the chair after appointing a Chairman to preside. In case of disturbance or disorderly conduct in the galleries or lobby, the Chairman may cause the same to be cleared.

§ 970. Selection of
Chairman of
Committee of the
Whole; and his power
to preserve order.

This provision (formerly clause 1(a) of rule XXIII), adopted in 1880, was made from two older rules dating from 1789 and modified in 1794 to provide for the appointment of the Chairman instead of the inconvenient method of election by the committee (IV, 4704). It was amended in the 103d Congress to permit Delegates and the Resident Commissioner to preside in the Committee of the Whole (H. Res. 5, Jan. 5, 1993, p. 49), but that authority was repealed in the 104th Congress (sec. 212(b), H. Res. 6, Jan. 4, 1995, p. 468). Delegates presided in two instances during the 103d Congress (Oct. 6, 1994, p. 28533; Oct. 7, 1994, p. 29167). Before the House recodified its rules in the 106th Congress, this provision was found in former clause 1(a) of rule XXIII (H. Res. 5, Jan. 6, 1999, p. 47).