

# Chapter 6

## Bills and Resolutions

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**Research References**

4 Hinds §§ 3266-3297, 3364-3390

7 Cannon §§ 846-871, 1027-1053

Deschler Ch 16; Deschler Ch 24 §§ 1-4, 9, 10

**A. Generally****§ 1. In General; Resolutions Distinguished**

Bills are used for purposes of general legislation. Joint resolutions are used to propose constitutional amendments and for special or subordinate legislative purposes. Simple or concurrent resolutions are used primarily to regulate the administrative or internal business of the House (or Houses), to express facts or opinions, or to dispose of some other nonlegislative matter. Deschler Ch 24 § 1. However, unlike simple or concurrent resolutions, a joint resolution is a bill so far as the rules of the House are concerned. 4 Hinds § 3375.

The various stages in the passage and enactment of a bill (reading, engrossment, enrollment, etc.) are treated elsewhere. See **READING, PASSAGE, AND ENACTMENT**; see also **CONSIDERATION AND DEBATE**; **VOTING**; and **VETO PROCEDURE**.

**§ 2. Public and Private Bills Distinguished**

Bills and resolutions may be either public or private. A private bill is a bill for the benefit of one or several specified persons or entities, and a public bill relates to public matters and deals with individuals by classes only. 3 Hinds § 2614; 4 Hinds § 3285; 7 Cannon § 856; Deschler Ch 24 § 1. The introduction of certain types of private bills is prohibited by clause 4 of rule XII. See § 17, *infra*. Whether a law is to be regarded as public or private depends on the attendant circumstances, having regard to the effect rather than the form of the legislation. *Bollinger v. Watson*, 63 S.W. 2d 642 (Ark. 1933). The distinction is important because the procedures followed in the enactment of private bills are significantly different from those applicable to public bills. § 15, *infra*.

A bill may be regarded as a public bill, and thus referred to the House or Union Calendar when reported, where it:

- Contains provisions applicable to the general public, although benefiting a named individual. 4 Hinds § 3286.
- Relates to classes or groups of persons and not to persons as individuals. 7 Cannon § 870; Deschler Ch 24 § 3.3.

- Indemnifies a foreign government for injury to one of its nationals. 7 Cannon § 865; Deschler Ch 24 § 3.2.
- Includes among provisions for the relief of private persons one item to pay a claim of a foreign nation. 4 Hinds § 3287.
- Grants an easement over public lands to a private company. 7 Cannon § 864.
- Authorizes an exchange of government-owned land for privately owned land. 7 Cannon § 862.
- Provides for the reimbursement of “all the depositors” of a certain bank, the depositors not being identified by name. 8 Cannon § 2373.

### § 3. Form; Component Parts

#### Generally

The form of bills in the House is governed by statute and by the practices and customs of the House. Any deviation from the form so prescribed may be authorized by joint resolution or be waived by passage under suspension of the rules. 7 Cannon § 1035. Alleged errors in the drafting of a bill are to be resolved by the House during its consideration of the measure and not by the Speaker on a point of order. Deschler Ch 24 § 2.2.

Although there is no mandatory uniform style that is to be followed in the drafting of legislative measures, general guidelines are available through the Office of the Legislative Counsel.

The component parts of a bill introduced in the House include:

- A bill title (an identifying bill number is subsequently added thereto).
- A preamble—used often in simple and concurrent resolutions, less often in joint resolutions, and, in modern practice, never in bills. § 5, *infra*.
- An enacting or resolving clause, which must appear in the first section of the Act. 1 USC § 103.
- The text of the bill.

On rare occasions, a bill may contain an illustration, as where it shows a required warning label. 99-2, Feb. 3, 1986, p 1326. Also rare, one House may pass a bill with blanks to be filled in by the other House. 5 Hinds § 5781. Members distributing copies of bills on the floor containing personal interpretations or notations must abide by the Speaker’s announced policies regarding handouts. *Manual* § 622; see also Deschler Ch 24 § 2.1.

#### Enacting Clauses

The form prescribed by section 101 of title 1, United States Code for the enacting clause of a bill is as follows:

*Be it enacted by the Senate and House of Representatives  
of the United States of America in Congress assembled.*

**Resolving Clauses**

The form prescribed by section 102 of title 1, United States Code for the resolving clause of a joint resolution is:

*Resolved by the Senate and House of Representatives of  
the United States of America in Congress assembled.*

If the joint resolution proposes to amend the Constitution, it is customary to add to the resolving clause the words “two-thirds of both Houses concurring.” 4 Hinds § 3367.

**Sections; Headings and Subheadings**

The United States Code requires that each section of a bill be numbered and that it “contain, as nearly as may be, a single proposition of enactment.” 1 USC § 104. Section headings and subheadings may be used, and in cases of ambiguity it is proper to consult both a section heading and the section’s content in order to ascertain the clear meaning of the legislation. *House v. Commissioner*, 453 F.2d 982 (5th Cir. 1972).

**Page and Line Numbers**

When a bill is introduced or reported, each page of the text is numbered and each line in the text is given a separate number in the margin so that reference may quickly be made to specific provisions of the bill. However, the pagination and marginal numerals are not part of the text of the bill, and after amendment they may be altered, changed, or transposed by the Clerk to conform to the amended text without the necessity of a House order. 5 Hinds § 5781; 8 Cannon § 2876.

**§ 4. Titles**

All bills are given a title that indicates the subject matter of the bill. A title is used strictly for purposes of identification and is not considered in passing on points of order relating to the provisions of the bill. 7 Cannon § 1489; Deschler Ch 24 § 9.1. The title, also known as the “long title,” should be distinguished from the “short title” of a bill, which is merely legislative text that is typically contained in a separate section of the bill, and indicates a proposed legal citation for the bill.

Under the guidelines suggested by the Office of the Legislative Counsel, a title should accurately and briefly describe what a bill does. For bills amending primarily a particular law, the form “To amend [citation of law] to . . .” is ordinarily used. For constitutional amendments, the form “Proposing an amendment to the Constitution of the United States concerning

. . .” is used. If the bill covers multiple items, the phrase “and for other purposes” may be used at the end of the title.

The title is retained on the bill during the various stages of enactment, including engrossment and is entered on the Journal and printed in the *Congressional Record. Manual* §§ 431, 831. However, it is not considered to be part of the enacted statute and is generally published only in the *Statutes at Large*. Indeed, when an enacted statute is codified and included in the United States Code, its title may be excluded or greatly abbreviated.

A title cannot be used to negate the obvious meaning of the statute. However, a title may, as part of the legislative history, assist in resolving ambiguities. 4 Hinds § 3381. In such cases the title of an Act may be resorted to by courts as an aid in determining legislative intent. *Brotherhood of R.R. Trainmen v. Baltimore and Ohio Railroad Co.*, 331 U.S. 519 (1947); *United States v. Windsor*, 570 U.S. \_\_\_\_ (2013). In this context, the title of a bill at the time of its enactment is said to be indicative of the true intention of Congress in enacting it. *Corpus Juris Secundum, Statutes* § 351.

## § 5. Preambles

Preambles are sometimes used to indicate the underlying reason for a measure. 4 Hinds § 3413. Preambles (“whereas” clauses) often appear in concurrent or simple resolutions. Such clauses appear less often in joint resolutions (and, in modern practice, never in bills) because sections containing separate statements of findings serve the same purpose. 4 Hinds § 3412.

The House may amend or delete the preamble from a joint resolution before its passage or the preamble from a concurrent or simple resolution following its adoption. *Manual* § 414. This is done either by unanimous consent or pursuant to a motion to strike the preamble. This cannot be done simply by moving to strike all after the enacting or resolving clause because the preamble always precedes that clause. Deschler Ch 24 § 9.5. Preambles to simple resolutions may also be disposed of pursuant to a motion to lay on the table, and the adoption of such motion does not affect the status of the resolution. 5 Hinds § 5430. The motion for the previous question may be applied at once to the resolution and the preamble. *Manual* § 996. Of course, where no action is taken to strike the preamble, and the joint resolution is passed, the preamble remains part of the joint resolution. Deschler Ch 24 § 9.5.

## B. Introduction and Reference

### § 6. Introduction of Measures in the House; Sponsorship

#### Bills and Resolutions

Bills and resolutions are introduced by being deposited in the hopper at the rostrum anytime the House is in session. Deschler Ch 16 § 1. A Member may introduce a bill during a pro forma meeting even though no legislative business is being conducted. *Manual* § 816.

At its organization for the 106th Congress, the House adopted an order reserving the first ten bill numbers for assignment by the Speaker during a specified period. For the 107th and 108th Congresses, the House adopted the same order and extended the applicable time period to the entire first session. For subsequent Congresses, the time period has been extended to the entire Congress. Beginning in the 112th Congress, the second ten bill numbers were reserved for the Minority Leader, and this policy has been extended in each successive Congress. *Manual* § 825.

A bill or resolution may be introduced by any Member who has taken the oath, and one need not seek recognition for that purpose. Deschler Ch 16 § 1. A Member may introduce a bill even though personally opposed to its passage. Deschler Ch 16 § 1.6. The rules do not limit the number of bills a Member may introduce.

Once introduced, the bill becomes the property of the House. As such, the House may consider it notwithstanding the death, resignation, or replacement of its sponsor. Deschler Ch 16 § 1.9.

Beginning in the 112th Congress, the House has adopted a rule requiring that all introduced bills and joint resolutions be accompanied by a statement describing the constitutional authority of Congress to enact the measure. 112-1, H. Res. 5, Jan. 5, 2011, p 80. Beginning in the 113th Congress, an order of the House has required, to the extent practicable, United States Code citations for amendatory instructions contained in a bill or joint resolution proposing to amend or repeal a law not codified. *Manual* § 826b.

#### Bills Introduced “By Request”

Only a Member, Delegate, or the Resident Commissioner may introduce a bill. The House does not permit the names of citizens requesting the introduction of a bill to be printed in the *Congressional Record*, but the rules do permit the words “by request” to be entered on the Journal, printed on the bill, and printed in the *Record*. *Manual* § 826. These words appear following the name of the primary sponsor or the names of some or all of the initial cosponsors. Deschler Ch 16 § 1.2.

### **Petitions and Memorials**

Petitions and memorials addressed to the House are delivered to the Clerk and may be presented by the Speaker as well as by any Member. *Manual* § 818; 4 Hinds § 3312. Members may present petitions from the citizens of states other than their own. 4 Hinds §§ 3315, 3316. In the 114th and 115th Congresses, the House required memorials from state legislatures purporting to call for a constitutional convention pursuant to Article V of the Constitution (or rescinding such call) be made publicly available. 114-1, H. Res. 5, Jan. 6, 2015, p\_\_\_\_; 115-1, H. Res. 5, Jan. 3, 2017, p\_\_\_\_.

### **Sponsorship; Endorsements and Signatures**

By House rule, all bills and resolutions must be endorsed with the name of the Member or Members introducing or presenting them. *Manual* §§ 818, 825. By directive of the Speaker, all such measures must bear the original signature of the chief sponsor or first-named Member. *Manual* § 825a. A bill falsely introduced in a Member's name involves a question of privilege, and the House may agree to an order providing for its cancellation. 4 Hinds § 3388.

### **Cosponsorship**

Unlimited cosponsorship of a public bill is permitted until such time as all committees authorized to report the bill have filed their reports with the House or have been discharged from consideration thereof. Before the bill is reported, Members may remove their names as cosponsors by unanimous consent. *Manual* § 825. Alternatively, a cosponsor may announce withdrawal of support for a bill, or a statement indicating that an error was made in the listing of a cosponsor's name may be made on the floor for publication in the *Congressional Record*. Deschler Ch 16 §§ 2.5, 2.6; 114-1, Sept. 10, 2015, p\_\_\_\_. At its organization for the 104th Congress, the House resolved that each of the first 20 bills and each of the first two joint resolutions introduced in that Congress could have more than one Member reflected as a first sponsor.

By unanimous consent, Members may add their own names as cosponsors of an unreported bill where the primary sponsor is no longer a Member of the House. Similarly, a designated Member may be authorized to sign and submit lists of additional cosponsors where the primary sponsor is no longer a Member. However, the Chair will not otherwise entertain a unanimous-consent request to add cosponsors, whether such request includes only the Member making the request, all Members, or a specified additional sponsor. Such requests must be made by a primary sponsor through the hopper not later than the last day on which all committees authorized to report

the bill have filed their reports with the House. *Manual* § 825. In the case of an unreported bill considered pursuant to a special order of business, cosponsors may be added or removed prior to the calling up of such bill pursuant to the special order of business. For other unreported bills (such as those considered by suspension), cosponsors may be added prior to the vote on final passage. A unanimous-consent request to add cosponsors has been vacated where it was discovered that the request came after the bill had already been reported. 113-1, June 17, 2013, p\_\_\_\_.

## § 7. Reference

### Generally

When a bill is introduced, it is referred by the Speaker to committee in accordance with clause 1 of rule X, the rule fixing the jurisdiction of committees over particular subjects, and in accordance with the referral procedures contained in clause 2 of rule XII. Deschler Ch 16 § 3. However, a bill referred by the House itself may be sent to any committee without regard to the rules of jurisdiction. 4 Hinds § 4375; 7 Cannon § 2131. Jurisdiction in such a case is deemed conferred by the action of the House. 4 Hinds §§ 4362-4364; 7 Cannon § 2105.

Absent specific authority or the authority to originate, a committee may not report a measure that has not been properly referred to it by the Speaker or by the House. 4 Hinds §§ 4355-4360; 7 Cannon §§ 1029, 2101. The following committees are authorized to originate and file from the floor as privileged, pursuant to clause 5 of rule XIII, certain bills and resolutions: Appropriations, the Budget, House Administration, Rules, and Ethics. *Manual* §§ 412, 853.

### Erroneously Referred Bills

Clause 7 of rule XII provides for procedures to be followed in case of an error in the reference of a public bill. For a discussion of erroneous referral of a private bill, see § 14, *infra*. The House rerefers public bills without debate, usually pursuant to a unanimous-consent request. Deschler Ch 16 §§ 3.13-3.15. A motion to rerefer also is available. However, that motion has not been offered since the 82d Congress. *Manual* § 825; Deschler Ch 16 §§ 3.10-3.13. The motion to rerefer:

- Must apply to a bill erroneously referred. 7 Cannon § 2125.
- Must be made immediately following the Pledge of Allegiance. Clause 7 of rule XII; 7 Cannon §§ 1809, 2119, 2120.
- Must apply to a single bill and not to a class of bills. 7 Cannon § 2125.
- May be amended. 7 Cannon § 2127.

- May not be divided. 7 Cannon § 2125.
- May not be debated. 7 Cannon §§ 2126-2128.

### **Bills Reported From Committee; Referrals to Calendars**

Bills reported from committees are ordinarily referred to the proper calendar under the direction of the Speaker. *Manual* §§ 828, 831. Once a bill has been reported by committee, points of order against its reference and motions for its rereferral are not entertained. 7 Cannon § 2110; Deschler Ch 16 § 3.6. Under clause 2 of rule XII, a bill reported from committee (even a bill previously referred to a calendar) may be sequentially referred by the Speaker to other committees. § 8, *infra*. Moreover, once consideration of the reported measure has begun in the House, a motion to refer or recommit is in order in differing situations under the rules of the House. *Manual* §§ 916, 917, 1001; see REFER AND RECOMMIT.

### **§ 8. Multiple Referrals; Sequential or Split Referrals**

Before the 94th Congress, a bill could not be referred to two or more committees, even though it contained matters properly within the jurisdiction of several committees. 4 Hinds § 4372. However, in 1975 the House adopted clause 2(b) of rule XII, stating that every referral must be made so as to ensure “to the maximum extent feasible” that each committee having jurisdiction over the subject matter of a provision will have responsibility for considering it and reporting thereon to the House. Since 1995, clause 2(c)(1) of rule XII has required the Speaker to designate a committee of primary jurisdiction upon the initial referral of a measure to a committee (except where it is determined that extraordinary circumstances justify review by more than one committee as though primary). The Speaker has discretion to:

- Refer the measure to other committees either initially (at the time of introduction) or sequentially (following the primary committee’s report); in either case, subject to time limits imposed after the primary committee has reported.
- Refer designated portions of the same measure to other committees (split referral).
- Refer a measure to a special ad hoc committee, established by the House, consisting of members of committees with shared jurisdiction over the measure.

The Speaker’s referrals are always for consideration of such provisions as fall within a committee’s jurisdiction, and bills referred to more than one committee are endorsed with an explicit statement to that effect.

### § 9. Bills Reported with Amendments

A bill reported from a committee with an amendment may be sequentially referred to another committee where the amendment falls within the jurisdiction of the second committee. *Manual* § 816. In determining whether the matter falls within the jurisdiction of the second committee, the Speaker may base the referral on either (1) the text of an amendment as well as the text of the original bill; or (2) solely on the text of a reported substitute amendment in lieu of the original bill. *Manual* § 816. The second committee may report an amendment to the amendment adopted by the first committee if the amendment to the amendment is within the jurisdiction of the second committee.

The Speaker has exercised the authority to base referrals on committee amendments to reported bills by sequentially referring:

- A reported bill to another committee solely for consideration of provisions of the first committee's amendment within its jurisdiction, and not for consideration of the entire bill.
- A reported bill to two other committees for different periods of time, solely for consideration of designated sections of the first committee's recommended amendment.
- A reported bill solely for consideration of designated portions of the first committee's amendment.
- Only a portion of the original text where the primary committee's amendment would delete portions of the bill within the sequential committee's jurisdiction.

*Manual* § 816.

### § 10. Matters Subject to Referral

#### Generally

Clause 2 of rule XII, the rule establishing the referral procedures to be followed by the Speaker, applies to "each bill, resolution, or other matter" relating to a subject falling within the jurisdiction of a standing committee under clause 1 of rule X. Thus, the Speaker may, pursuant to the rule, refer bills and resolutions, a portion of a bill, a Presidential message, an executive communication, or a select committee report. *Manual* § 816.

#### Senate Amendments to House Bills

Pursuant to clause 2 of rule XIV, the Speaker may refer to a standing committee a Senate amendment to a House-passed bill. Formerly, where a House bill was returned from the Senate with an amendment relating to a new and different subject, the Speaker referred it to the committee having jurisdiction of the original bill. 4 Hinds §§ 4373, 4374. Under the modern

practice, the Speaker rarely exercises the authority to refer Senate amendments at all. When so doing, the Speaker may impose a time limitation for consideration of a certain portion of the amendment. *Manual* § 816. On being reported from a standing committee, the House bill with the Senate amendment is referred to the Committee of the Whole. 4 Hinds § 3108; 8 Cannon § 3187. Under clause 2 of rule XXII, House bills with Senate amendments that do not require consideration in the Committee of the Whole may be disposed of by privileged motion.

### **Senate Bills and Messages**

Pursuant to clause 2 of rule XIV, the Speaker may refer bills and joint and concurrent resolutions messaged from the Senate to committees in the same manner as public bills originating in the House. Senate amendments requiring consideration in the Committee of the Whole and Senate bills (with certain exceptions, as where a similar House measure has been reported or ordered reported) are referred to the appropriate standing committees under the direction of the Speaker without action by the House. 4 Hinds § 3101; 6 Cannon § 727. Simple resolutions of the Senate that do not require any action by the House are not referred. 7 Cannon § 1048.

## **§ 11. Time Limitations on Referred Bills; Extensions**

### **Generally**

Pursuant to clause 2 of rule XII, the Speaker may impose a time limit for the consideration by any committee of a bill that is initially or sequentially referred, but normally does so only for a sequential referral. The Speaker may sequentially refer a bill without setting such limit or may set a limit as short as one day. *Manual* § 816.

On the last day of an expiring sequential referral, a committee has until midnight to file its report with the Clerk. *Manual* § 816.

Clause 2 of rule XII is not construed to prevent another committee from reporting before the primary committee. An additional committee may report at any time after introduction. It is the intent of the rule to allow the primary committee to report before a measure is scheduled for floor consideration. However, the measure may be considered without a report by the primary committee. The measure also may be considered when the Speaker exercises discretion to impose a time limit on the primary committee for reporting (although such discretion is rarely exercised) and such committee fails to meet the deadline. In that case, the primary committee will be considered to have been discharged from further consideration of the measure. *Manual* § 816.

**Extensions of Time**

The Speaker may extend the time limit set for the consideration of a referred bill, and has exercised such authority with respect to bills that have been sequentially referred, or divided for reference. Where the Speaker extends the time limit on a sequentially referred bill, the bill may also be referred to another committee for the same period. More than one extension of time may be given. *Manual* § 816.

**Discharge of Committee**

Where a committee does not report a measure to the House on or before the date specified by the Speaker pursuant to the authority under clause 2 of rule XII, the Speaker may discharge the committee from further consideration of the measure and refer it to the appropriate calendar or to another committee. Also, the House may adopt a special order of business accomplishing the discharge. *Manual* § 816.

**§ 12. Referrals to Select and Ad Hoc Committees**

The Speaker may refer bills, resolutions, and other matters (including messages and communications) to select or ad hoc committees established with the approval of the House. The House order authorizing the select or ad hoc committee may require that referrals to the committee be by initial or sequential reference or by some other method provided by clause 2 of rule XII. *Manual* § 816. For more information on select and ad hoc committees, see COMMITTEES.

**C. Private Bills****§ 13. In General****Background**

The practice of Congress in passing private bills for the benefit of specific persons or entities was taken from the English Parliament and began with the First Congress. The use of private bills steadily increased thereafter, so much so that in some years the Congress enacted more private bills than it did public bills. The 59th Congress, for example, enacted more than 6,000 private bills, while it enacted fewer than 700 public bills. 7 Cannon § 1028. In recent years, and especially since the adoption of the Legislative Reorganization Act of 1946, the number of private bills enacted into law has been steadily declining. Since the beginning of the 112th Congress, only one private bill has been enacted.

Because it lacks the generality of application that is normally found in public laws, a private law is considered a legislative anomaly. Congressional action in passing such laws has been based on the rationale that because public laws cannot cover every situation or extraordinary circumstance that might arise, Congress may, as part of its general law-making function, create “equitable law” to cover such circumstance. *Note, Private Bills in Congress*, 79 Harv. L. Rev. 1684 (1966).

### **Constitutionality**

Although the constitutionality of private laws has not been subjected to extensive critical analysis by the courts, their use is regarded as a proper legislative function. The Supreme Court in 1940 held that the passage of a private law does not constitute a congressional intrusion into the judicial function. *Paramino Lumber Company v. Marshall*, 309 U.S. 370 (1940).

### **Omnibus Bills**

Clause 5 of rule XV permits the use of “omnibus” private legislation—that is, a measure containing two or more private bills that are considered as a single package. *Manual* §§ 895, 897.

## **§ 14. What Constitutes a Private Bill**

A private bill may be generally defined as a bill for the benefit or relief of one or several specified persons or entities. 4 Hinds § 3285; 7 Cannon § 856. It is generally enacted only for those who have no other remedy available to them. Deschler Ch 24 § 3. A bill for the benefit of a named individual is classed as a private bill, even though it deals with government property. 7 Cannon § 859. An “omnibus claim bill,” which contains provisions for payments to many different claimants, also is treated as a private bill rather than a public bill, where all claimants are of the same class and each claimant is specified by name. 4 Hinds § 3293.

## **§ 15. Introduction, Reference, and Consideration**

Private bills may be presented to the House only through a sponsoring Member and may not be cosponsored. They are otherwise introduced in the same manner as public bills. A Member with a private bill to present (1) endorses the bill by signature and (2) delivers the bill to the Clerk through the hopper. Clause 3 of rule XII; *Manual* § 818.

Under clause 6 of rule XII, errors in the referral of private bills may be corrected without action by the House at the suggestion of the committee in possession of the bill. Because an erroneous reference of a private bill

does not confer jurisdiction on the committee to report it, a point of order will lie against the bill when it comes up for consideration in the House or in the Committee of the Whole. *Manual* § 824. A subcommittee may have specific rules governing the consideration of private bills. Committee approval of the bill is generally contingent upon a showing that the applicant has no other remedy. A private bill reported out of committee is referred to the Private Calendar.

Private bills called on the Private Calendar are reviewed by a group of “official objectors” consisting of six Members—three from each party. As a matter of policy, the official objectors have traditionally required that bills must be on the Private Calendar for seven legislative days before being called up. See PRIVATE CALENDAR. A Member serving as an official objector has periodically included in the *Congressional Record* an explanation of how bills on the Private Calendar are considered. *Manual* § 896. If two or more Members of the House object to a bill, it is recommitted to the committee that reported it. *Manual* § 895. However, such a bill may be “passed over without prejudice” by unanimous consent for subsequent consideration. Also, the provisions of a private bill may be reported back in an omnibus bill. See PRIVATE CALENDAR. In modern practice, private bills have not been scheduled by the Speaker for consideration under suspension of the rules. This procedure has been reserved for public bills.

If the bill is unopposed, it is taken up in the House as in the Committee of the Whole. The procedure for an omnibus private bill is as follows:

SPEAKER: This is the day for the call of the Private Calendar. The Clerk will call the first omnibus bill on the calendar. . . . The Clerk will read the bill by title for amendment. [*The Clerk reads the bill, and any committee amendments are reported and disposed of; thereafter, motions to amend are in order.* See § 16, *infra*.]

MEMBER: M\_. Speaker, I offer a motion [*to strike all or part of the pending paragraph.*]

*Note:* Amendments are in order only if they strike or reduce amounts of money or provide limitations. *Manual* § 895. Motions to strike the last word are not permitted, nor are reservations of objection. See PRIVATE CALENDAR.

SPEAKER [*after disposition of amendments*]: The question is on the engrossment and third reading of the bill.

MEMBER: M\_. Speaker, I offer a motion to recommit.

SPEAKER [*after disposition of the motion to recommit*]: The question is on the passage of the omnibus bill.

After being passed by the House, an omnibus private bill is resolved into the various private bills of which it is composed, and each is sent to the Senate as if individually passed. *Manual* § 897. A private bill that has

passed both Houses must be approved by the President or enacted over a veto to become law.

### § 16. — Amendments

A private bill is subject to amendment under the five-minute rule, pursuant to clause 5 of rule XV. *Manual* §§ 895, 897. However, a private bill for the benefit of one individual may not be amended so as to extend its provisions to another individual, even indirectly through a motion to recommit with instructions. 4 Hinds § 3296. Under the germaneness rule, it is not in order to amend a private bill by extending its provisions to a general class of individuals, which would be public in character. 4 Hinds § 3292; 7 Cannon § 860; see GERMANENESS OF AMENDMENTS. Motions to strike the last word—pro forma amendments—are not entertained. Deschler-Brown Ch 29 § 70.7.

When an amendment is offered, members of the reporting committee have priority in recognition to oppose the amendment. Deschler-Brown Ch 29 § 13.23.

### § 17. Uses of Private Bills

#### Generally

Under the modern practice, most private bills granting relief to individuals fall into one of five major categories: (1) bills involving claims *against* the United States or waiving claims *by* the Federal Government against specific individuals; (2) bills excepting named individuals from certain requirements of the immigration or naturalization laws; (3) conveyances of real property rights; (4) tariff treatment for private entries; and (5) authorizing the President to award the Medal of Honor to individuals still living. See §§ 18, 19, *infra*.

Some private bills granting relief to identified individuals merely permit the taking of some action that would otherwise be prohibited by general law. For example, one favorably reported private bill authorized Federal employees of the Social Security Administration in Syracuse, New York, to transfer annual leave to a fellow employee who had exhausted her sick leave during her treatment for cancer. 100-2, H.R. 3625, H. Rept. 100-554. Another private bill authorized the Secretary of Defense to allow the children of a secret service agent killed while on duty to attend school at a United States military facility in Puerto Rico (the family had been notified that his children were no longer eligible to attend the school because the children were no longer dependents of a Federal employee in Puerto Rico). 100-2, H.R. 3439, H. Rept. 100-552.

### Measures Barred From Consideration

Under clause 4 of rule XII, a private bill may not be received or considered if it authorizes or directs the payment of money for property damages or for personal injuries or death for which suit may be instituted under the Federal Tort Claims Act (FTCA). Private pension bills (other than those to carry out a provision of law or treaty stipulation) are also barred, as are bills providing for the construction of a bridge across a navigable stream. Private bills providing for the correction of a military record are likewise proscribed. However, a private bill that merely changes the computation of retired pay for a former member of the armed services has been held permissible. *Manual* § 822. The barring of private bills in such cases is based on the availability to claimants of other judicial or administrative remedies. Deschler Ch 24 § 3. The FTCA, for example, provides both administrative and judicial remedies in certain personal injury cases involving the negligence of Federal employees. 28 USC § 2671.

## § 18. — Claims By or Against the Government

### Generally; Constitutionality

Many private bills grant relief to an individual who has a meritorious claim against the Federal government that cannot otherwise be remedied. Deschler Ch 24 § 3. The constitutional basis for such bills is found in the first amendment, which sets forth the right to petition the government for the redress of grievances, and in article I, which allocates to Congress the power to pay the debts of the United States. U.S. Const. art. I, § 8, cl. 1; *Pope v. United States*, 323 U.S. 1 (1944).

### Procedure

Under clause 2(d) of rule XII, unanimous consent is required for the referral of a private claim bill to a committee other than the Committee on the Judiciary or the Committee on Foreign Affairs. *Manual* § 817. Most private bills involving claims against the government are referred to the Committee on the Judiciary, which has jurisdiction over such claims under clause 1(l) of rule X. For example, a private bill providing to a named individual an entitlement to social security benefits was referred as a private claim only to the Committee on the Judiciary (in accord with clause 2(d) of rule XII) and, when reported by that committee, was referred to the Private Calendar and not sequentially to the Committee on Ways and Means. 106-2, Feb. 14, 2000, p 1170.

The Committee on the Judiciary refers a private claim bill to either its Subcommittee on Immigration and Border Security or its Subcommittee on

the Constitution and Civil Justice (depending on the nature of the claim). The relevant subcommittee may hold a hearing on the matter. The full committee files its report with the House, and the Speaker refers it to the Private Calendar. See also § 15, *supra*.

*Note:* An alternative to this procedure is provided for in law. It authorizes either House of Congress, by adopting a resolution, to refer bills (except pension bills) to the Chief Judge of the U.S. Court of Federal Claims, and stipulates that the Chief Judge is to report the findings of fact and conclusions in each case to the House that made the reference. 28 USC §§ 1492, 2509. These reports are provided to Congress for use in deciding whether certain private claims warrant legislative relief. *Zadeh v. United States*, 111 F. Supp. 248 (Ct. Cl. 1953).

### **Granting Relief; Consideration of Particular Claims**

In exercising its jurisdiction over claims against the government, and in determining whether relief should be granted to persons seeking redress of grievances under its rules, the subcommittee with jurisdiction over private claims has been guided by “principles of equity and justice.” The task of the subcommittee has been to determine whether the equities and circumstances of a case create a “moral obligation” on the part of the government to extend relief to an individual who has no other existing remedy. For example, relief has been granted in private legislation:

- To provide for the payment to settle certain property damage claims of residents arising out of the 1973 occupation of Wounded Knee, South Dakota. 100-2, H.R. 2711, H. Rept. 100-559.
- To provide for a payment to a child who had been sexually assaulted by an employee of the Postal Service, who was delivering mail at the time. A civil action against the United States on behalf of the six-year-old claimant was filed under the FTCA on the basis of negligent supervision of the employee by the Postal Service, but this suit was unsuccessful, intentional torts such as assault being excluded under the provisions of the Act. 100-2, H.R. 4099, H. Rept. 100-556.
- To authorize certain firefighters to sue the United States for injuries or death under the FTCA because the Secretary of Labor had determined that the firefighters were Federal employees covered by another statute—the Federal Employee Compensation Act—which precluded claims under the FTCA. 100-2, H.R. 2682, H. Rept. 100-547.
- To waive the discretionary-function and foreign-country exceptions to the FTCA, thereby granting jurisdiction for a claimant to sue the government for claims arising at a U.S. Army health facility in Germany for improperly administered smallpox vaccination. 100-2, H.R. 2684, H. Rept. 100-442.

## § 19

### HOUSE PRACTICE

- To provide compensatory relief in a contract case based on a moral obligation of the government, such as when money was promised and not paid. 87-1, Priv. L. 87-195, H. Rept. 87-232; 100-2, H.R. 3185, H. Rept. 100-549.
- To adjust or credit the account of a Federal official or to reimburse a government employee for expenditures made by him at the direction of his employer. 7 Cannon § 863; 100-2, H.R. 3388, H. Rept. 100-551.
- To permit claimants to receive an annuity under the Civil Service Retirement System. 100-2, H.R. 2889, H. Rept. 100-548; 100-2, H.R. 1864, H. Rept. 100-546.
- To relieve a Federal employee of liability for repayment of travel expenses erroneously paid to him by his employer. 100-2, H.R. 3941, H. Rept. 100-555; 100-2, H.R. 3347, H. Rept. 100-550.
- To suspend or waive a statute of limitations where the government has been unjustly enriched at the expense of the claimant (87-1, Priv. L. 87-23, H. Rept. 87-176), or where to do so would be in the interests of “justice and equity” (100-1, H.R. 1491, H. Rept. 100-439).
- To provide payment to an individual injured by a government-prescribed fire. 104-2, S. 966, H. Rept. 104-638.
- To provide reimbursement to an entity for emergency work under the Robert T. Stafford Disaster and Emergency Assistance Act. 104-1, H.R. 419, H. Rept. 104-359.

## § 19. — Immigration and Naturalization Cases

Private bills are sometimes used to exempt individuals from the application of the immigration and naturalization laws in hardship cases where the law would otherwise prohibit entry into or require deportation from the United States. Deschler Ch 24 § 3.

Private bills have been used in specific cases to:

- Restore a prospective immigrant to his place on a quota waiting list when that place was lost through no fault of the immigrant. 83-2, Priv. L. 601, H. Rept. 83-2078.
- Grant asylum to a Communist aviator who flew his plane to the West. 83-2, Priv. L. 380, H. Rept. 83-650.
- Grant permanent-residency status to a Philippino woman who became pregnant while visiting the United States under a temporary visa, where the father had acquired permanent-residency status, and where the alternative would have been to separate the family, with the mother and infant returning to the Philippines and the father remaining in the United States. 100-1, S. 393, H. Rept. 100-354.
- Reinstate U.S. citizenship to a man who had renounced citizenship in 1950 due to family obligations when he was married to a Mexican national. 100-1, H.R. 2358, H. Rept. 100-381.

- Enable a record-holding swimmer from East Germany who had defected to the United States to file a petition for naturalization, without regard to residence or Communist Party membership. 100-2, H.R. 446, H. Rept. 100-598.
- Grant the status of permanent residence to a sports and media figure retroactively to 1950 and provide that he be considered to have complied with residential and physical presence requirements of the Immigration and Naturalization Act. 86-2, Priv. L. 86-486, H. Rept. 1506.
- To permit certain individuals who were evacuated from Kuwait during the Persian Gulf War to file for permanent-residency status. 106-2, H.R. 3646, H. Rept. 106-580.

### **D. Restrictions on Certain Public Bills**

#### **§ 20. Appropriations**

##### **Appropriations on Legislative Bills**

Restrictions against the inclusion of appropriations in legislative bills are provided for by clause 4 of rule XXI. A bill or joint resolution carrying appropriations may not be reported by a committee not having jurisdiction to report appropriations; and points of order lie against those provisions when the bill is read for amendment. The rule also prohibits amendments proposing appropriations on a reported legislative bill. *Manual* § 1065; see also APPROPRIATIONS, § 76.

##### **Transportation Obligation Limitations**

Clause 3 of rule XXI provides a restriction against general appropriation bills that provide spending authority from balances in the Highway Trust Fund (other than transfers from the general fund of the Treasury) or reduces or limits the accruing balances of that trust fund for anything other than activities authorized for highway or mass transit programs. A former version of this rule enforced specified minimum levels of surface transportation obligation limitations. *Manual* § 1064; see also APPROPRIATIONS, § 59a.

##### **Funding for Aviation Programs**

Section 206 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. No. 106-181) added a provision establishing points of order to guarantee a certain level of budget resources available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2003 (extended on multiple occasions to subsequent fiscal years), to restrict the uses of those resources, and to guarantee a certain level of appropriations. *Manual* § 1064a; see also APPROPRIATIONS, § 59a.

**§ 21. Tax and Tariff Measures**

Under clause 5(a) of rule XXI, a bill or joint resolution carrying a tax or tariff measure may not be reported by a committee other than the Committee on Ways and Means; and points of order lie against those provisions when the reported bill is read for amendment. The prohibition extends to consideration of an amendment in the House or proposed by the Senate that carries a tax or tariff measure offered during the consideration of such bill or joint resolution. For a discussion of the restrictions against bills and amendments carrying a tax or tariff, see *Manual* § 1066.

Clause 5(c) of rule XXI precludes consideration of a bill, joint resolution, amendment, or conference report that carries a retroactive Federal income tax rate increase. The rule defines a “Federal income tax rate increase” as any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section. The rule further specifies that a Federal income tax rate increase is retroactive if it applies to a period beginning before the enactment of the provision. *Manual* § 1068.

**§ 22. Designation of Public Works**

Clause 6 of rule XXI precludes consideration of a bill, joint resolution, amendment, or conference report that provides for the designation or redesignation of a public work in honor of an individual then serving as a Member, Delegate, Resident Commissioner, or Senator. *Manual* § 1068a.

**§ 23. Prohibition on Commemorations**

Clause 5 of rule XII precludes introduction and consideration of a bill or resolution, or an amendment thereto, if it establishes or expresses a commemoration. The term “commemoration” is defined by the rule as a remembrance, celebration, or recognition for any purpose through the designation of a specified period of time. *Manual* § 823.

**§ 24. Earmarks**

Clause 9 of rule XXI precludes the consideration of bills and joint resolutions unless a list of congressional earmarks, limited tax benefits, and limited tariff benefits, are included in the committee report. For unreported bills and certain amendments, this list must be printed in the *Congressional Record*. In lieu of such a list, a statement that the legislation contains no such earmarks, tax or tariff benefits may also be submitted. Clause 9 of rule

XXI also precludes the consideration of conference reports whose joint explanatory statement fails to include the requisite earmark statement.

The point of order raised against consideration of a measure under this rule must be based solely on the failure to include the requisite earmark statement. The Chair does not rule on the sufficiency or accuracy of such statements, but merely takes cognizance of their presence or absence in the report, the joint explanatory statement, or the *Congressional Record*, as applicable. See 110-1, May 10, 2007, pp 12190, 12191.

Pursuant to clause 9(c) of rule XXI, it is not in order to consider a special order of business or other order of the House that waives the earmark statement requirements in clause 9(a) or (b) of rule XXI. A point of order under that paragraph is decided by the question of consideration. See QUESTION OF CONSIDERATION.

### **§ 25. Budget-Related Restrictions**

Certain budgetary schemes contained in House rules or enacted into law place restrictions on the consideration of measures that violate those budgetary rules. For a detailed discussion of these restrictions, see BUDGET PROCESS.

