Chapter CCXLVII.[1]

MOTIONS IN GENERAL.

1. Rule of precedence of motions. Sections 2609–2611.
2. Rule for stating a motion. Section 2612.
3. Motion to postpone to a day certain. Sections 2613–2615.
4. In relation to the previous question. Sections 2616, 2617.
5. Motion to strike out the enacting words. Sections 2618–2638.
6. Withdrawal of motions. Sections 2639, 2640.

2609. The motion for the previous question takes precedence of the motion to postpone to a day certain.

A Member having the floor may not exclude a privileged motion by offering a motion of lower privilege and demanding the previous question thereon.

The Member in charge of the bill may not by demanding the previous question take a Member from the floor.

On January 8, 1909,[2] during the consideration of the resolution (H. Res. 478) to discharge a special committee from further consideration of a message relating to the Secret Service received from the President, Mr. Augustus P. Gardner, of Massachusetts, offered a motion to postpone consideration until the following Monday at 1 o'clock.

Mr. Sereno E. Payne, of New York, made the point of order that the motion was not admissible.

The Speaker[3] said

The Chair reads from the Manual, in reply to the gentleman from New York, and desires the attention of the House to clause 4 of Rule XVI:

"When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order."

In the absence of a motion of a superior privilege, which would be to adjourn, or lie on the table, or for the previous question—in the absence of any of these motions, it seems to the Chair that the gentleman's motion is in order.

Mr. Gardner moved the previous question on his motion to postpone, and simultaneously Mr. James A. Tawney, of Minnesota, asked recognition to demand the

[1] Supplementary to Chapter CXVII.
[2] Second session Sixtieth Congress, Record, p. 682.
[3] Joseph G. Cannon, of Illinois, Speaker.

previous question on the resolution and the pending amendment offered by Mr. Gardner.

The Speaker continued:

Pending which the gentleman from Minnesota moves the previous question upon the resolution and upon the pending amendment; and that, it seems to the Chair, would have precedence of the motion of the gentleman from Massachusetts.

The gentleman from Massachusetts, having the floor, moves first an amendment. Second, he moves to postpone to a day certain, and upon that motion demands the previous question. Now, that motion that the gentleman makes is a motion inferior in point of privilege to the previous question upon the resolution and the amendment, and, in the opinion of the Chair, it can not be that the gentleman, having the floor, could cut out a motion of higher privilege by simply demanding the previous question upon a motion of lower privilege. Therefore it seems to the Chair that the motion of the gentleman from Minnesota takes precedence of the motion of the gentleman from Massachusetts.

Mr. Gardner raised the further question of order that not having yielded to Mr. Tawney, he might not be deprived of the floor by the latter's demand for the previous question.

The Speaker said:

The gentleman did not commence debate, nor attempt to take the floor for debate. On the contrary, upon being recognized, he proceeded to offer an amendment and to make a motion to postpone consideration. Therefore, so far as the Chair knows, the gentleman did not desire to take the floor for debate. The gentleman having made his motion, availing himself of the floor, must submit to the operation of the rule, for a motion that takes precedence of the gentleman's motion. Of course if the gentleman had commenced debate, he could not be taken off the floor.

The gentleman must see at once that if he obtains the floor and does not proceed to debate, but, exercising his right when he has the floor, makes a motion that is inferior to another motion, that then it is the right of another Member of the House to interpose the superior motion.

2610. The motion to print, even when applied to a privileged report, is not privileged.

Discussion with reference to the "Speaker's table."

On December 17, 1915,[1] the Speaker[2] announced that he was laying before the House a communication from the Secretary of Labor, transmitting, by authority of law, the report of the Industrial Commission, and that he was referring the report with accompanying documents to the Committee on Labor.

Mr. David J. Lewis, of Maryland, offered a motion to print 200,000 additional copies of the report to be distributed through the folding room.

Mr. John J. Fitzgerald, of New York, made the point of order that the motion was not privileged.

Mr. Lewis took the position that the motion was privileged because the report was itself privileged by law and was before the House of reference.

In discussing the point of order, Mr. Swager Sherley, of Kentucky, said:

Mr. Speaker, we are all confusing what is a practice by consent and what is the right of the Chair. Under the rules the Chair has no right to lay before the House this or any other report of its nature. The Chair had the right under the rules to refer this report, and the practice is for the Chair in such matters of importance, in order to inform the House, to say that the Chair

[1] First session Sixty-fourth Congress, Record, p. 411.

[2] Champ Clark, of Missouri, Speaker.

lays before the House certain documents and without objection refers them to a designated committee; frequently without saying that, they are referred to such and such a committee.

The Chair sometimes goes further and orders, without objection and by consent of all Members, the printing either of the report and the accompanying documents or of part of them. But gentlemen are confusing here the practice that is concurred in by consent and the rights and privileges of the Chair. The rule expressly says that the Chair as to certain matters shall lay them before the House for the consideration of the House, and that is so in regard to certain bills that have reached certain stages, but it is not true that anywhere there can be found within the rules the right of the Chair to take such a report that comes to the Congress and submit it in the sense that it is up to the House then for consideration as to what determination shall be made of it.

The Chair has only one power, and that is to refer this report to what he considers to be the proper committee, except by unanimous consent, and then, if anyone felt that that reference was improper, the rules provide a method whereby the change of reference may be made either by proper motion then or subsequently.

Mr. James R. Mann, of Illinois, argued:

Mr. Speaker, this is a report which was required to be made to Congress by the terms of the law creating the commission making the report. When it is sent to the Speaker it comes officially to him as the presiding officer of the House. The rule provides:

"Business on the Speaker's table shall be disposed of as follows:

"'Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments and other communications addressed to the House and bills, resolutions, and messages from the Senate may be referred to the appropriate committee.'"

This was business on the Speaker's table. I think it was his duty to lay it before the House, although the Speaker suggested that he might have referred it without reference in the House. It was "business" on the Speaker's table. The rule does not say that the Speaker shall make the reference, but the rule provides that the only thing that can be done with a communication is to refer it to a committee, or, by implication, to lay it on the table. The House can take no other action in regard to it, and as a matter of common practice the Speaker makes the reference, although it is always in order at the time to make a motion for a reference to some other committee, or afterwards to come in on the motion of a committee itself for a change of reference. This matter being on the Speaker's table and he laying it before the House, under the rules could only do the one thing by unanimous consent—refer it to the Committee on Labor. If he had offered to refer it to some other committee, the gentleman from Maryland, I think, could have made a motion that it be referred to the Committee on Labor. The question of printing is not involved in that proposition at all. While it is the practice of the Speaker on these ordinary propositions to order them printed, that is by unanimous consent only. Any gentleman can stop it if he wishes to object.

The Speaker ruled:

This debate on subjects not pertinent probably is not within its uses in addition to the debate on the point of order. Some gentlemen mix up the matter of the proposition of reference and the importance of these documents, and as to whether or not this resolution to print additional copies which is pending here now is privileged. If the Chair had any opinion about it, he would agree with some of these gentlemen that there is a demand for the printing of this document. Perhaps there is. The Chair has received several requests himself; but that is neither here nor there. The only question the Chair has to decide is whether this resolution of the gentleman from Maryland at this particular juncture is a privileged resolution. The gentlemen in their statements have very clearly stated everything there was to be said about it, except that the phrase "the Speaker's table" is liable to mislead some people. This desk is not the Speaker's table. In the British Parliament they had a table down in front of the Speaker's stand where they put these documents, and that was literally the Speaker's table, and we still hold to the phrase, but the Speaker's table

is around here almost anywhere. The clerks have these documents. The only question is whether or not this report ought to be printed and not whether we ought to print 200,000 or 500,000 copies of it, or whether it ought to be printed at all.

The question is whether, under the rules and practices of the House, this resolution is privileged. The Chair thinks it is not and that it will have to go through the basket and be referred to the Committee on Printing.

2611. The motion to fix the day to which the House shall adjourn is not privileged against a demand for the regular order, but if no objection is made may be entertained and agreed to by the House.

After a motion has been agreed to it is too late to raise the question that the motion was not in order.

On June 23, 1922,[1] Mr. Frank W. Mondell, of Wyoming, moved that when the House adjourn it be to meet at 11 o'clock on the following day.

The question being put by the Speaker was agreed to.

Thereupon, Mr. Edward Voigt, of Wisconsin, made the point of order that the motion to fix the day to which the House shall adjourn might not be entertained.

Mr. James R. Mann, of Illinois, took issue with that contention and said:

Mr. Speaker, the motion to fix the hour to meet is not a privileged motion, but such a motion is in order and no point of order can be made against it unless a demand for the regular order is made. Any motion is in order, whether privileged or not, if nothing else is asked for from the House. A demand for the regular order would have made the motion of the gentleman from Wyoming nonprivileged. But the gentleman from Wisconsin did not ask for the regular order. He did not demand the regular order, and in the absence of such a demand the motion was clearly in order.

The Speaker[2] ruled:

When the gentleman from Wyoming made the motion the Chair took pains to look and see if there was objection to it, and the Chair certainly looked in the direction of the gentleman from Wisconsin, because it occurred to him that it might possibly come from that direction. The Chair did not observe any action by the gentleman until after the vote was taken, and then, of course, it was too late.

The gentleman from Wisconsin, by his own statement, did not come within the rule; he did not demand the regular order. The ayes have it, and the motion is agreed to.

2612. A motion made and stated by the Chair is before the House and the rules do not require that it be reported by the Clerk before being debated.

On May 22, 1922,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 2919) for extension of the District of Columbia rents act.

While the bill was being read for amendment, Mr. Stuart F. Reed, of West Virginia, moved to strike out section 12 of the bill.

The Chairman having stated the motion, Mr. Blanton addressed the chair before the motion was reported by the Clerk.

Mr. Harold Knutson, of Minnesota, made the point of order that the gentleman from West Virginia, Mr. Reed, had the floor.

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[1] Second session Sixty-seventh Congress, Record, p. 9290.

[2] Frederick H. Gillet, of Massachusetts, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 7423.

Mr. Blanton maintained that the proposed amendment, though stated by the Chairman, had not been reported by the Clerk, and was not before the House.

The Chairman [1] held:

It is not necessary. The Chair may state it of his own motion. The question is on the motion of the gentleman from West Virginia.

2613. The motion to postpone to a day certain was held to be applicable to an appeal from the decision of the Chair.

A motion to postpone to a day certain the consideration of a pending resolution was held to include in its application all related propositions.

On March 16, 1910,[2] on motion of Mr. Edgar D. Crumpacker, of Indiana, the House proceeded to the consideration of the joint resolution (H. J. Res. 172) enlarging the scope of inquiry of the schedules relating to population for the Thirteenth Decennial Census.

Mr. James R. Mann, of Illinois, made the point of order that the business was not in order, it being Calendar Wednesday.

Pending the decision of the Speaker on the point of order, Mr. Crumpacker moved that the matter be postponed until the following morning.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that it was not in order to postpone a decision of the Chair on a question of parliamentary procedure.

The Speaker [3] held:

The Chair is prepared to rule. Under Rule XVI a motion to postpone any question is in order, even when under debate; otherwise the majority of the House could not exercise its will. So the question is on the motion to postpone until to-morrow.

The Speaker also ruled:

The motion to postpone the entire matter would carry not only the resolution, but the appeal from the decision of the Chair.

2614. Business postponed to a day certain is in order on that day immediately after the approval of the Journal and the disposition of business on the Speaker's table, unless displaced by more highly privileged business.

It is not in order to move to postpone consideration of pending business to Calendar Wednesday.

On December 22, 1916,[4] the House was considering the joint resolution (S. J. Res. 186) to authorize diversion of waters of the Niagara River.

Mr. Henry D. Flood, of Virginia, moved that the further consideration of the joint resolution be postponed until the 3d day of January.

Mr. James R. Mann, of Illinois, made the point of order that the 3d day of January was Calendar Wednesday and it was not in order to move to postpone consideration of the joint resolution to that day.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session Sixty-first Congress, Record, p. 3247.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-fourth Congress, Record, p. 705.

The Speaker acquiesced and Mr. Flood modified his motion to provide for postponement to the 4th day of January.

Pending that motion, Mr. James R. Mann, of Illinois, asked when the joint resolution would come up if the motion to postpone was agreed to.

The Speaker [1] said:

Answering the gentleman's parliamentary inquiry, if that motion prevails the Chair thinks that it is the duty of the Speaker the first thing after the reading of the Journal, and so forth, on the 4th day of January to declare this bill the unfinished business.

Of course, the consideration of appropriation bills is always in order. The question is on the motion of the gentleman to postpone the consideration of Senate Joint Resolution No. 186 until the 4th day of January.

2615. In Committee of the Whole the motion to recommend postponement to a day certain has precedence of the motion to amend.

Debate on the motion to postpone to a day certain is within narrow limits only and is confined to the question of postponement.

On February 13, 1918,[2] while the bill (H. R. 5667) to provide for deportation of certain aliens, was being read for amendment in the Committee of the Whole House on the state of the Union, Mr. S. Hubert Dent, jr., of Alabama, moved that the committee rise and report the bill back to the House with the recommendation that its consideration be postponed to February 27.

Mr. Irvine L. Lenroot, of Wisconsin, made the point of order that the motion was not in order pending amendment of the bill.

The Chairman [3] held:

The Chair thinks this is a preferential motion. The question is on the motion that the committee do now rise.

Mr. Henry D. Flood, of Virginia, having asked recognition for debate, Mr. Joseph Walsh, of Massachusetts, made the point of order that the motion was not debatable.

The Chairman held that the motion was debatable within narrow limits.

In the course of the ensuing debate, Mr. Flood proceeded to discuss the merits of the pending bill.

Mr. Walsh raised a question of order.

The Chairman said:

The gentleman from Virginia will confine himself to the narrow limits of postponement.

2616. After the previous question is ordered on a bill a motion to postpone the bill is not in order.

The motion to postpone to a day certain does not admit debate on the merits of the pending proposition.

On August 19, 1919,[4] the Speaker laid before the House the message from the President of the United States returning without his approval the bill (H. R. 3854) the daylight saving bill.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 2076.

[3] Joseph J. Russell, of Missouri, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 3981.

Mr. John J. Esch, of Wisconsin, demanded the previous question.

Pending which, Mr. Thomas L. Blanton, of Texas, moved to defer reconsideration of the bill until the following Monday, and proceeded to discuss the bill.

Mr. John M. Baer, of North Dakota, raised a question of order against the debate.

The Speaker[1] sustained the point of order.

Mr. Frank W. Mondell, of Wyoming, made the further point of order that the motion was not in order.

The Speaker ruled:

The gentleman in charge of the bill is entitled to prior recognition and if he moves the previous question that comes first. A motion for the previous question is privileged, and if the House wishes to vote down the previous question, then, of course, other privileged motions can come up.

The gentleman from Texas is not recognized for that purpose (to move postponement). The question before the House is, Will the House on reconsideration pass the bill, the objection of the President to the contrary notwithstanding?—and on that the gentleman from Wisconsin moves the previous question.

The motion for the previous question, being submitted, was agreed to—yeas, 224; nays, 34—and Mr. Blanton was not recognized.

2617. The motion to postpone may not be entertained after the previous question has been ordered.

On February 8, 1914,[2] it being Calendar Wednesday, the Committee of the Whole House on the state of the Union rose and its Chairman reported that the Committee of the Whole having had under consideration the bill (S. 48) to authorize the construction and operation of railroads in Alaska, had directed him to report the bill back to the House with sundry amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

On motion of Mr. William C. Houston, of Tennessee, the previous question was ordered on the bill and amendments to final passage.

Mr. James S. Davenport, of Oklahoma, offered a motion to postpone further consideration of the bill until the following Calendar Wednesday.

Mr. James R. Mann, of Illinois, made the point of order that the motion to postpone is not in order after the previous question has been ordered.

The Speaker[3] held:

The previous question has been ordered on the bill and amendments to final passage, and the motion of the gentleman from Oklahoma is out of order.

2618. As the motion to strike out the enacting clause is not in order until the first section of a bill has been read, or after reading for amendment has been concluded, where a bill contained but one paragraph the motion was entertained at the conclusion of the reading of the bill.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-third Congress, Record, p. 3648.

[3] Champ Clark, of Missouri, Speaker.

The motion to strike out the enacting clause is in the nature of an amendment and debate on the motion is under the five-minute rule and may be closed at any time after debate has begun.

On January 26, 1910,[1] Mr. William A. Cullop, of Indiana, called up under the Calendar Wednesday rule the bill (H. R. 18813) providing traveling expenses for gaugers in the Bureau of Internal Revenue, consisting of one paragraph.

The bill having been read, Mr. John J. Fitzgerald, New York, moved to strike out the enacting clause.

Mr. John W. Langley, of Kentucky, made the point of order that the bill having been read in full, it was then too late to offer the motion to strike out the enacting clause.

The Chairman[2] ruled:

There may be other motions to amend made, and therefore the committee will have a chance to use the preferential motion to strike out the enacting clause. Under these circumstances the Chair therefore entertains the motion to strike out the enacting clause.

Mr. Fitzgerald argued that the motion to strike out the enacting clause was not an amendment but a preferential motion which took precedence of an amendment.

The Chairman held:

The Chair thinks this is an amendment. It is in the nature of an amendment, and is governed by the five-minute rule, as other amendments are.

The question is on the motion of the gentleman from New York to strike out the enacting clause.

2619. The motion to strike out the enacting clause may not be made until the first section of the bill has been read.

Amendments to the title of a bill, whether considered in the House or in Committee of the Whole, are not in order until after its passage.

On June 18, 1930,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10380) adjusting the salaries of the Naval Academy Band.

During general debate on the bill and before reading for amendment had begun, Mr. Burton L. French, of Idaho, moved to strike out the enacting clause.

The Chairman[4] declined recognition for that purpose and held:

The time for making that motion has not yet arrived. It is in order to make it after the first section of the bill is read. If there is no further debate, the bill will be read for amendment. the Clerk will read.

The reading of the bill for amendment having been concluded, Mr. Fred A. Britten, of Illinois, proposed to offer a motion to amend the title.

The Chairman ruled:

The Chair will say to the gentleman from Illinois that the title can be amended after the bill has been passed by the House.

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[1] Second session Sixty-first Congress, Record, p. 1053.

[2] Richard Bartholdt, of Missouri, Chairman.

[3] Second session Seventy-first Congress, Record, p. 11111.

[4] Joseph L. Hooper, of Michigan, Chairman.

2620. A motion to rise and report with the recommendation that the enacting clause be stricken out is in order at any time after the reading of the bill begins and before the stage of amendment has been passed, and takes precedence over the motion to rise and report with favorable recommendation.

On November 9, 1921,[1] the House in the Committee of the Whole House on the state of the Union was considering the bill (S. 843) to provide relief in cases of contracts connected with prosecution of war.

After the reading of the bill for amendment had been concluded, but while amendments were still being offered, Mr. Louis C. Cramton, of Michigan, moved to strike out the enacting clause.

Mr. Marion E. Rhodes, of Missouri, requested recognition to move that the committee rise and report the bill to the House with amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

Mr. Nicholas J. Sinnott, of Oregon, made the point of order that the reading of the bill having been concluded it was too late to offer a motion to strike out the enacting clause.

The Chairman[2] held the motion to report with recommendation that the enacting clause be stricken out to be in order until the stage of amendment was passed, and to be preferential.

2621. On February 22, 1922,[3] the bill (S. 2265) to regulate marine insurance in the District of Columbia, was being considered in the Committee of the Whole House on the state of the Union.

The bill having been read, Mr. Benjamin K. Focht, of Pennsylvania, rose to move that the committee rise and report the bill favorably, when Mr. Thomas L. Blanton, of Texas, offered a motion to strike out the enacting clause.

Mr. Everett Sanders, of Indiana, made the point of order that the motion to strike out the enacting clause was not in order, as the reading of the bill had been concluded and a new section added.

The Chairman[4] said:

The Chair is of the opinion that the motion is in order at any time before the committee rises, and therefore will put the motion of the gentleman from Texas.

2622. The motion to strike out the enacting words has precedence of a motion to amend.

In the Committee of the Whole it is in order to move that the committee rise and report to the House with the recommendation that the enacting clause be stricken out.

On January 19, 1921,[5] during consideration of the bill H. R. 14498, the apportionment bill, in the Committee of the Whole House on the state of the Union, Mr. Oscar E. Bland, of Indiana, offered a motion to strike out the enacting clause.

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[1] First session Sixty-seventh Congress, Record, p. 7608.

[2] Horace M. Towner, of Iowa, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 2916.

[4] Clifton N. McArthur, of Oregon, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 1677.

Mr. Henry E. Barbour, of California, rising simultaneously, asked recognition to propose an amendment.

The Chairman having recognized Mr. Bland, Mr. Bertrand H. Snell, of New York, made the point of order that Mr. Barbour was a member of the Committee on the Census, which had reported the pending bill, and was therefore entitled to recognition in preference to Mr. Bland, who was not a member of that committee.

The Chairman [1] said:

The motion to strike out the enacting clause is a preferential one.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the enacting clause could not be stricken out in the Committee of the Whole and the proper form of the motion should be that the committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman sustained the point of order.

2623. On April 27, 1932,[2] the Committee of the Whole House on the state of the Union was considering the legislative appropriation bill with an amendment pending offered on the recommendation of the select Economy Committee.

Mr. Thomas L. Blanton, of Texas, offered a motion to strike out the enacting clause.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to strike out the enacting clause was not admissible pending disposition of the amendment.

The Chairman [3] held:

The rule of the House states that a motion to strike out the enacting clause has precedence even over a motion to amend. The gentleman from Texas is recognized for five minutes.

2624. The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending.

On January 10, 1933,[4] the Committee of the Whole House on the state of the Union was considering the bill H. R. 13991, the farm relief bill, and an amendment offered by Mr. Harry P. Beam, of Illinois, was pending, when Mr. Clarence Cannon, of Missouri, moved to strike out the enacting clause.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to strike out the enacting clause was not admissible until the pending amendment had been disposed of.

The Chairman [5] ruled:

The gentleman from Wisconsin is aware of the fact that a motion to strike out the enacting clause takes precedence over all other motions and all other amendments. The Chair overrules the point of order.

The gentleman from Missouri (Mr. Cannon) moves to strike out the enacting clause and the gentleman is recognized for five minutes.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] First session Seventy-second Congress, Record, p. 9093.

[3] Lindsay C. Warren, of North Carolina, Chairman.

[4] Second session Seventy-second Congress, Record, p. 1544.

[5] Lindsay C. Warren, of North Carolina, Chairman.

2625. A Member rising to make a parliamentary inquiry may not under that guise offer a motion to strike out the enacting clause, but must have the floor in his own right for that purpose.

On December 4, 1918,[1] the bill (H. R. 12917) to establish a sanatorium for discharged soldiers and sailors, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. William J. Graham, of Illinois, being recognized to propound a parliamentary inquiry, offered a motion to strike out the enacting clause of the bill.

The Chairman[2] held that in order to offer the motion the gentleman from Illinois must secure the floor for that purpose.

2626. The motion to strike out the enacting clause is not subject to amendment.

The motion to strike out the enacting clause has precedence of a motion to amend.

On May 11, 1910,[3] this being Calendar Wednesday, the bill (H. R. 22642) authorizing the sale of certain Indian lands, was called up as the unfinished business, with a motion pending to strike out the enacting clause.

Mr. John H. Stephens, of Texas, as a parliamentary inquiry, asked if it would be in order to offer an amendment.

The Speaker[4] ruled:

The motion to strike out the enacting clause is not amendable. If a motion to strike out the enacting clause is voted down, then an amendment would be in order if the previous question were not moved and ordered upon the amendments that had been agreed to.

2627. The motion to strike out the enacting clause has the status of a motion to amend and is governed by the same rules of debate.

While the motion to strike out the enactment clause is pending in the Committee of the Whole the pro forma amendment to strike out the last word is not entertained.

Five minutes having been consumed in debate in favor of a motion to strike out the enacting clause in Committee of the Whole and five minutes against the motion, further debate was held to be precluded by a demand for the regular order.

The motion to strike out the enacting clause has precedence of a motion to amend.

On February 13, 1923,[5] the bill (H. R. 5823) for the establishment of public shooting grounds was being considered in the Committee of the Whole House on the state of the Union.

While an amendment was pending, Mr. Allen T. Treadway, of Massachusetts, moved to strike out the enacting clause.

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[1] Third session Sixty-fifth Congress, Record, p. 107.

[2] Martin D. Foster, of Illinois, Chairman.

[3] Second session Sixty-first Congress, Record, p. 6076.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Fourth session Sixty-seventh Congress, Record, p. 3580.

Mr. Gilbert N. Haugen, of Iowa, made the point of order that the motion was not in order before the pending amendment was disposed of.

The Chairman held that the motion to strike out the enacting clause took precedence over an amendment, and recognized Mr. Treadway to debate the motion.

After a second speech of five minutes on the motion, Mr. William B. Bankhead, of Alabama, made the point of order that debate on the bill had been exhausted.

The Chairman [1] held:

The motion to strike out the enacting clause has the same status as a motion to amend. Debate upon it is under the five-minute rule. Debate is limited to five minutes on a side, if the point is insisted upon. There are pending a motion to strike out the enacting clause and also a motion to amend. The gentleman from Indiana, Mr. Purnell, would be in order to move to amend and would be entitled to recognition upon that motion to amend; otherwise debate has been exhausted upon the motion to strike out the enacting clause. The motion to strike out the enacting clause is a preferential motion. Ten minutes of debate has been had, and debate upon the amendment is exhausted.

Mr. Nichols Longworth, of Ohio, as a parliamentary inquiry, asked if additional time for debate might be had by moving to strike out the last work of the pending motion.

The Chairman ruled:

No such motion is possible under the motion of the gentleman from Massachusetts. The question is on the motion of the gentleman from Massachusetts to strike out the enacting clause.

2628. In Committee of the Whole the motion to strike out the enacting clause is debatable under the five-minute rule even after the debate has been closed by motion on the pending section and amendments thereto.

On March 29, 1929,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 279) to amend the act incorporating Howard University, in the District of Columbia.

A motion by Mr. Daniel A. Reed, of New York, to close debate on the pending section and all amendments thereto had been agreed to, when Mr. Malcolm C. Tarver, of Georgia, moved to strike out the enacting clause, and proposed to debate the motion.

Mr. Reed made the point of order that debate had been closed.

The Chairman [3] held:

The question in point has been decided by the ruling made by Mr. Chairman MacArthur, that a motion to strike out the enacting clause is debatable, even though the debate has been closed on a pending section.

2629. Debate in the Committee of the Whole on the motion to strike out the enacting clause is under the five-minute rule and is limited to two speeches of five minutes each.

Debate having been exhausted in Committee of the Whole on a proposed recommendation to strike out the enacting clause, a motion to strike out

[1] Louis C. Cramton, of Michigan, Chairman.

[2] First session Seventieth Congress, Record, p. 5603.

[3] Robert Luce, of Massachusetts, Chairman.

the last word of the motion is not in order, and additional time for debate may not be secured by offering a pro forma amendment.

On adoption by Committee of the Whole of the recommendation that the enacting clause be stricken out the committee rises automatically.

When a bill is reported from the Committee of the Whole with the recommendation that the enacting clause be stricken out, right to prior recognition passes from the Member in charge to the leading opponent of the bill.

On May 19, 1924,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 7358) to provide for the arbitration of disputes between carriers and their employees.

During the reading of the bill for amendment Mr. Everett Sanders, of Indiana, moved to strike out the enacting clause.

After ten minutes debate on the motion, five minutes favoring and five minutes opposing, Mr. Thomas L. Blanton, of Texas, made the point of order that debate on the motion had been exhausted.

The Chairman[2] sustained the point of order.

Mr. Olger B. Burtness, of North Dakota, offered a motion to strike out the last word.

The Chairman held that the motion was not subject to amendment and declined to entertain the motion.

The regular order being demanded, the Chairman put the question and it was decided in the affirmative, yeas 144, nays 134.

The committee having risen and reported the bill to the House, Mr. Carl E. Mapes, of Michigan, who had supported the motion to strike out the enacting clause, sought recognition for debate, Mr. Alben W. Barkley, of Kentucky, claimed recognition to move the previous question, and submitted that he, as the Member in charge of the bill, was entitled to rights of a chairman of a committee reporting out a bill.

The Speaker[3] said:

That is undoubtedly true until the House in Committee of the Whole has stricken out the enacting clause.

There are certain questions about which there can be no doubt. When the enacting clause of a bill has been stricken out by the committee, there is no question but that when the bill comes back into the House the side which favored the striking out of the enacting clause is entitled to control and to take it away from the proponents of the bill, who before had control. It does not always follow that when a motion is defeated the parliamentary control changes. A great many times a committee is beaten or a side is beaten, and the control does not pass, but there is no question that in this case—as the Chair thinks everyone will admit—control does pass.

The rule of the House provides that—

"Whenever a bill is reported from a Committee of the Whole with an adverse recommendation, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of occurrence

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[1] First session Sixty-eighth Congress, Record p. 8938.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

is submitted, it is in order to entertain a motion to refer the bill to any committee, with or without instructions."

Now, when the committee came back with the recommendation to strike out the enacting clause, the gentleman from Ohio, Mr. Longworth, moved that the House adjourn. That was defeated. It does not seem to the Chair that it could ever be held that the decision of a motion to adjourn could have any effect upon the passing of the control of the bill. Moreover, the Chair in this instance is ruling not for this particular case, because the Chair in this particular case has a decided opinion as to who are the friends and who are the opponents of this bill, and if he took into consideration exclusively his ruling might be different; but it is important that this ruling should be made for the future, because the Chair finds no direct decisions upon the question as to whether this motion to refer, which the rule allows, is such a motion as transfers control from one side to the other, according to the result of the vote, and the Chair thinks that question is important.

When a motion to strike out the enacting clause prevails, it unquestionably changes control. Now, just consider the rule: There shall be allowed before the House acts on that recommendation of the committee one motion to refer with or without instructions. Now, it might very well be in the future—the Chair does not think it was so in this case—that the motion to recommit is made not by the persons who favored the striking out of the enacting clause but by their opponents. The presumption would be that, having succeeded in the committee, they would also succeed in the House and would wish to come to an immediate decision; and apparently the provision for a motion to refer was inserted so that the friends of the original bill might avert its permanent death by referring it again to the committee, where it could again be considered in the light of the action of the House. In such a case, which would seem to be the natural and normal one, it would be most unreasonable to hold that when the motion to refer was defeated the contest should go back to the sponsors of the bill. And even if the Chair should be of opinion that in this case those who moved to refer were hostile to the bill, yet the question whether the defeat of the motion to refer changes the parliamentary control ought not to depend upon the opinion which the Chair holds of the motives of gentlemen but should be a definite, settled rule. The Chair, therefore, thinks that the gentleman from Michigan, Mr. Mapes, is entitled to recognition.

The gentleman is entitled to an hour.

The Chair has already told the gentleman from Kentucky that he would recognize him whenever the gentleman from Michigan yields the floor, and at the end of an hour at any rate.

2630. In Committee of the Whole the motion to strike out the enacting clause is debatable under the five-minute rule limiting the time to five minutes on each side.

On May 14, 1930,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture.

Mr. William R. Wood, of Indiana, moved that the Committee rise and report to the House with the recommendation that the enacting clause be stricken out.

Mr. John C. Ketcham, of Michigan, as a parliamentary inquiry, asked if it would be in order to offer, as preferential, a motion to amend.

The Chairman held that the motion to strike out the enacting clause took precedence of the motion to amend.

Thereupon, Mr. Wood proposed a further inquiry as to debate in order on the motion.

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[1] Second session Seventy-first Congress, Record p. 8955.

The Chairman [1] held:

The motion of the gentleman from Indiana was to strike out the enacting clause, upon which there is five minutes' debate in favor and five minutes against.

The gentleman from Indiana is recognized for five minutes.

2631. The motion to strike out the enacting clause is debatable and debate thereon is under the five-minute rule and may be closed on motion at any time after debate had begun.

On July 25, 1921,[2] the Committee of the Whole House on the state of the Union having under consideration the bill (H. R. 7111) for the settlement of damages for infringement of radio patents, Mr. Wells Goodykoontz, of West Virginia, moved to strike out the enacting clause.

After five minutes' debate in favor of the motion, Mr. James R. Mann, of Illinois, offered a motion to close debate on the motion in five additional minutes.

Mr. Otis Wingo, of Arkansas, raised a question of order against the motion.

The Chairman [3] overruled the point of order.

2632. An order of Committee of the Whole closing debate on the pending section and amendments thereto is not applicable to a motion to strike out the enacting clause.

On February 17, 1923,[4] while the bill (H. R. 14270), amending the Federal farm loan act, was being considered in the Committee of the Whole House on the state of the Union, a motion closing debate on the pending section and amendments thereto in twenty-five minutes was agreed to.

At the expiration of that time Mr. James T. Begg, of Ohio, moved to strike out the enacting clause, and claimed the floor to debate the motion.

Mr. Frank W. Mondell, of Wyoming, made the point of order that debate on the pending section and amendments had been closed by order of the committee.

The Chairman [5] ruled:

Debate is closed on this section, but the Chair is of the opinion that as this motion does not relate to the section, the gentleman has a right to discuss it for five minutes. It is true that debate is closed on this section, but not on the motion to strike out the enacting clause. The motion to strike out the enacting clause is debatable. The Chair recognizes the gentleman from Ohio to discuss it for five minutes.

2633. When the House disagrees to the recommendation of the Committee of the Whole that the enacting words of a bill be stricken out, the bill goes back to the Calendar of the Committee of the Whole as unfinished business.

Upon recommitment of a bill to committee of the Whole through rejection of its recommendation thereon, the House automatically resolves again into the committee for the further consideration of the bill.

A bill recommitted to the Committee of the Whole by rejection of its recommendation to the House is not required to be read again in full.

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[1] Scott Leavitt, of Montana, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 4284.

[3] Frank D. Scott, of Michigan, Chairman.

[4] Fourth session Sixty-seventh Congress, Record, p. 3972.

[5] Clifton N. McArthur, of Oregon, Chairman.

On April 5, 1916,[1] the Committee of the Whole on the state of the Union rose and the Chairman reported that the committee having had under consideration the joint resolution (H.J. Res. 103), authorizing publication of cotton statistics, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being taken on agreeing to the recommendation of the Committee of the Whole, it was decided in the negative, yeas 123, nays 167.

Mr. Harvey Helm, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the State of the union for further consideration of the joint resolution.

Mr. James R. Mann, of Illinois, made the point of order that the joint resolution having been brought into the House by the Committee of the Whole House on the state of the Union, had been thereby taken from the Calendar and while the action of the House in rejecting the recommendation of the Committee of the Whole recommitted it to the Calendar, it could not be again taken up for consideration in the Committee of the Whole on the same day for the reason that it would be necessary to wait until it had been again printed on the Calendar.

Mr. Finis J. Garrett, of Tennessee, took the position that the action of the Committee of the Whole did not operate to remove the joint resolution from the Calendar and that it remained on the Calendar until some final disposition had been made of it.

The Speaker[2] held that the position of the joint resolution on the Calendar was not affected by the report of the Committee of the Whole to the House since the recommendation accompanying that report had been rejected, and under the circumstances the House automatically resolved into the Committee of the Whole for the further consideration of the joint resolution.

The House having accordingly resolved into the Committee of the Whole House on the state of the Union, Mr. Mann, as a parliamentary inquiry asked if the joint resolution came back as unfinished business or without rights.

The Chairman[3] held:

The Chair will answer the gentleman's parliamentary inquiry. The Chair thinks that the joint resolution is now before the Committee of the Whole as unfinished business and open to amendments.

Mr. Helm inquired if it was necessary again to read the joint resolution.

The Chairman decided:

The Chair does not think that the joint resolution must be read in full.

2634. The motion to strike out the enacting clause is a motion to amend and yields to the motion to refer when reported to the House from the Committee of the Whole.

On May 24, 1932,[4] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee having had under consideration

[1] First session Sixty-fourth Congress, Record, p. 5553.

[2] Champ Clark, of Missouri, Speaker.

[3] Pat Harrison, of Mississippi, Chairman.

[4] First session Seventy-second Congress, Record, p. 11072.

the bill (H. R. 12094), to amend the copyright act, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being stated, Mr. John J. O'Connor, of New York, moved that the bill be recommitted to the Committee on Patents and Copyrights, from which it originally had been reported.

The Speaker[1] put the question on the motion, and it being added in the affirmative, the bill was recommitted to the Committed on Patents and Copyrights.

2635. A second motion to strike out the enacting clause is in order only when the bill has been materially modified by amendment.

On January 11, 1933,[2] the Committee of the Whole House on the state of the Union was considering the bill H. R. 13991, to aid agriculture and relieve the existing national economic emergency, on which a previous motion to strike out the enacting clause had been made and rejected.

Mr. Harold McGugin, of Kansas, offered a second motion to strike out the enacting clause:

Mr. William H. Stafford, of Wisconsin, submitted a point of order and said:

Mr. Chairman, I make the point of order that the motion has already been voted on by this committee and that the motion at this time is dilatory, in view of the fact that the gentleman who makes the motion has been seeking to gain the floor for debate and was denied that privilege by the committee.

The fact that mere perfecting amendments have been adopted does not overpower the fact that the committee has already acted on a motion of this kind once before in the consideration of the bill and at this session.

The Chairman[3] decided:

The Chair was of opinion that the position taken by the gentleman from Wisconsin was correct as a matter of first impression, but the attention of the Chair has been called to the fact that a number of substantial amendments have been added to the bill since that motion was last offered.

The Chair therefore overrules the point of order. The gentleman from Kansas is recognized for five minutes.

2636. A second motion to strike out the enacting clause is not entertained in the absence of any material modification of the bill.

On February 4, 1933,[4] the Committee on the Whole House on the state of the Union was considering the legislative appropriation bill when Mr. Edwin M. Schaefer, of Illinois, moved to strike out the enacting clause.

Mr. John J. O'Connor, of New York, made the point of order that a motion to strike out the enacting clause had been made in the early consideration of the bill and had been rejected, and as the bill had not been substantially amended in the interim the motion was dilatory and should not be entertained.

The Chairman[5] sustained the point of order and said:

Since the amendment to strike out the enacting clause as voted on, the committee has not adopted any material amendment. Therefore the Chair refuses to recognize the gentleman

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[1] John N. Garner, of Texas, Speaker.

[2] Second session Seventy-second Congress, Record, p. 1598.

[3] William B. Bankhead, of Alabama, Chairman.

[4] Second session Seventy-second Congress, Record, p. 3408.

[5] Alfred L. Bulwinkle, of North Carolina, Chairman.

from Wisconsin for that purpose. The question is on the amendment offered by the gentleman from Nebraska.

2637. On March 22, 1926,[1] the Committee of the Whole House on the state of the Union rose and Mr. Cassius C. Dowell, of Iowa, the Chairman, reported to the House that the Committee having had under consideration the bill (H. R. 5823) qualifying women to serve as jurors in the District of Columbia, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being taken on agreeing to the recommendation of the Committee of the Whole, and the yeas and nays being ordered, it was decided in the negative, yeas 122, nays 189. So the House having declined to strike out the enacting clause, the bill was automatically[2] recommitted to the Committee of the Whole.

On April 26, 1926, the next day on which the unfinished business was in order, the Committee of the Whole again rose, and Mr. John C. Ketcham, of Michigan, the Chairman, reported that the Committee having head the bill under consideration had again directed him to report it back to the House with the further recommendation that the enacting clause be stricken out.

The question being taken in the House on agreeing to the recommendation of the Committee of the Whole, it was again decided in the negative, yeas 130, nays 193, and the bill was the second time recommitted to the Committee of the Whole.

Thereupon, on motion of Mr. Frederick N. Zihlman, of Maryland, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills reported by the Committee on the District of Columbia.

The Committee having again taken up the bill as the unfinished business, Mr. Charles L. Underhill, of Massachusetts, again offered a motion proposing to strike out the enacting clause.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that in view of the House having twice declined to agree to the recommendation of the Committee of the Whole that the enacting clause be stricken out, the motion was dilatory.

After debate on the point or order, the Chairman[3] overruled the point of order and recognized Mr. Underhill to offer the motion.

2638. The House having agreed to the recommendation of the Committee of the Whole that the enacting clause of a Senate bill be stricken out, a message was sent apprising the Senate of the action of the House.

On June 12, 1930,[4] Mr. Homer Hoch, of Kansas, Chairman of the Committee of the Whole House on the state of the Union, reported to the House that the Committee of the Whole had had under consideration the bill (S. 962) to amend the transportation act of 1920, and had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question on agreeing to the recommendation of the Committee of the Whole being taken, it was decided in the affirmative, and the enacting clause was stricken out.

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[1] First session Sixty-ninth Congress, Record, p. 6032.

[2] Under clause 7 of Rule XXIV.

[3] John C. Ketcham, of Michigan, Chairman.

[4] Second session Seventy-first Congress, Record, p. 10611.

By direction of the Speaker pro tempore,[1] a message was dispatched advising the Senate of the action of the House.

2639. A motion may be withdrawn in the House, although an amendment to it may have been offered and may be pending.

On May 17, 1911,[2] the Speaker[3] announced as the unfinished business the resolution (H. Res. 172) providing for an investigation by the Committee on Rules of practices by certain sugar refining companies, offered by Mr. Robert L. Henry, of Texas, on the preceding day, with a pending motion by Mr. Thomas U. Sisson, of Mississippi, to refer the resolution to the Committee on Rules.

Mr. James R. Mann, of Illinois, proposed an amendment to the motion offered by Mr. Sisson, striking out "Committee on Rules" and inserting in lieu thereof "a select committee of 15 Members."

Mr. Sisson asked to withdraw his motion, when Mr. N. E. Kendall, of Iowa, made the point of order that the motion might not be withdrawn after an amendment had been offered and was pending.

The Speaker overruled the point of order and held it was in order to withdraw the motion at any time prior to adoption of an amendment or decision thereon.

2640. Refusal to lay a motion on the table was held to be such a decision by the House as would prevent the withdrawal of the motion.

The motion to postpone to a day certain is debatable within narrow limits only and does not admit discussion of the merits of the pending proposition.

On October 27, 1919,[4] the Speaker laid before the House the message of the President returning without his approval the bill H. R. 6810, the prohibition enforcement bill.

Mr. Andrew J. Volstead, of Minnesota, moved that consideration of the pending question be postponed until the following Thursday, to be taken up immediately after the approval of the Journal.

A motion by Mr. Joseph Walsh, of Massachusetts, to lay the motion on the table, was rejected, yeas 30, nays 184.

Mr. Volstead then proposed to withdraw the motion to postpone consideration.

Mr. Rollin B. Sanford, of New York, made the point of order that after a motion to table had been rejected it was not permissible to withdraw the motion.

The Speaker[5] sustained the point of order and stated the question.

Mr. Frank W. Mondell, of Wyoming, having asked recognition for debate, Mr. Walsh raised the question that the motion was not debatable.

The Speaker sustained the point of order and held that the motion to postpone was debatable in narrow limits only not to include the merits of the pending proposition.

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[1] John Q. Tilson, of Connecticut, Speaker pro tempore.

[2] First session Sixty-second Congress, Record, p. 1283.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 7608.

[5] Frederick H. Gillett, of Massachusetts, Speaker.