

what the Chair said at that time. However, the gentleman from Oklahoma [Mr. Albert] has made a motion that the Journal as read be approved and upon that he has moved the previous question.

MR. HALL: Then, Mr. Speaker, I move to table that motion.

THE SPEAKER: The question is on the motion to lay on the table.

§ 4. Dilatory Motions

Discretion of Chair

§ 4.1 The determination of whether a motion is dilatory is entirely within the discretion of the Chair.

On May 16, 1938,⁽¹⁷⁾ the consideration of an omnibus claims bill was interrupted by a parliamentary inquiry.

Mr. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I rise to submit a parliamentary inquiry.

THE SPEAKER PRO TEMPORE:⁽¹⁸⁾ The gentleman will state it.

MR. COCHRAN: The Chair has stated that tomorrow an omnibus claims bill will be called up. I recall that the last time that an omnibus claims bill was called up a Member rose and moved to strike out a certain title which, of course, was permissible under the rule. However, after he had moved to strike out the title and was recognized, he

immediately stated that he did not propose to insist upon his motion, but that he offered the motion for the purpose of giving the House some information relative to the title under consideration. As I understand the spirit of the rule, there shall be 5 minutes granted in opposition to the title and 5 minutes in favor of the title, each bill being a separate title. It seems to me that the spirit of the rule was violated on that occasion, because there were two speeches of 5 minutes each in favor of the title or bill, and no speech in opposition to the title. My parliamentary inquiry is whether a point of order would lie against the motion of a Member to strike out the title when, as a matter of fact, the Member was not in favor of striking out the title.

THE SPEAKER PRO TEMPORE: The present occupant of the Chair would have no way of reading a Member's mind or questioning his motives with reference to any amendment that he might offer. The Chair thinks that any Member who gained the floor to offer any permissible amendment would be in order and he would be entitled to the floor.

MR. COCHRAN: It was certainly a violation of the spirit of the rule when one offers an amendment to strike out a title and then in the first sentence after recognition says that he is not going to insist upon his motion and consumes 5 minutes that should be allowed in opposition to the title.

THE SPEAKER PRO TEMPORE: The rule interpreted otherwise would make it pretty hard on the occupant of the chair.

MR. [CASSIUS C.] DOWELL [of Iowa]: Where it becomes apparent to the

17. 83 CONG. REC. 6938, 75th Cong. 3d Sess.

18. Sam Rayburn (Tex.).

Chair that a motion is made for the purpose of delay, then a point of order may be made and would be sustained, would it not?

THE SPEAKER PRO TEMPORE: The present occupant of the chair understands that the determination of whether a motion is dilatory is entirely within the discretion of the Chair.

Intent to Delay

§ 4.2 On one occasion the Speaker announced that he would not hold a motion to be dilatory until it became obvious that dilatory tactics were being indulged in and that a filibuster was being conducted.

On July 25, 1949,⁽¹⁹⁾ the House sought consideration of H.R. 3199, a federal anti-poll tax act, by utilizing for the first time the so-called 21-day rule to bring this bill to the House from the Committee on Rules. The following occurred:

MRS. [MARY T.] NORTON [of New Jersey]: Mr. Speaker, pursuant to clause 2(c) of rule XI, I call up House Resolution 276, which has been pending before the Committee on Rules for more than 21 calendar days without being reported.

THE SPEAKER:⁽²⁰⁾ The Clerk will report the resolution.

19. 95 CONG. REC. 10095, 10096, 81st Cong. 1st Sess.

20. Sam Rayburn (Tex.).

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3199) making unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on House Administration, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .

MRS. NORTON: . . . Mr. Speaker, I move the previous question on the adoption of the rule.

THE SPEAKER: The question is on ordering the previous question.

MR. [JAMES C.] DAVIS of Georgia: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 262, nays 100, not voting 70. . . .

THE SPEAKER: The question is on agreeing to the resolution.

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from Florida moves that the House do now adjourn.

The Chair desires to make a statement. Since the present Speaker has occupied the chair he has yet to hold a motion to be dilatory, and will not until it becomes obvious to everybody that dilatory tactics are being indulged in and that a filibuster is being conducted.

§ 4.3 The Chair overruled the point of order that a motion to strike out the enacting clause of a bill was dilatory where the Member offering the motion stated that he was opposed to the bill.

On Mar. 30, 1950,⁽¹⁾ the House was considering H.R. 7797, to provide foreign economic assistance. The following took place:

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Fulton moves that the Committee do now rise and that the bill be reported to the House with the enacting clause stricken.

MR. [FRANK B.] KEEFE [of Wisconsin]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽²⁾ The gentleman will state it.

MR. KEEFE: Mr. Chairman, I make the point of order against the pref-

erential motion that it is dilatory. The gentleman from Pennsylvania is not opposed to this bill and is not in good faith asking that the enacting clause be stricken out; he is advocating this bill vehemently and is simply taking this means to get 5 minutes time when many others of us have been waiting for 2 days trying to get time, but in vain.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Pennsylvania [Mr. Fulton] if he is opposed to the bill?

MR. FULTON: In its present form I would be opposed to it.

THE CHAIRMAN: The Chair must accept the statement of the gentleman from Pennsylvania.

The Chair overrules the point of order and recognizes the gentleman from Pennsylvania in support of his preferential motion.

§ 4.4 After stating that, "one of the greatest responsibilities the Chair could assume would be to hold that motions are dilatory," the Speaker ruled that a motion to adjourn was not dilatory.

On June 5, 1946,⁽³⁾ a Calendar Wednesday, several quorum calls had delayed reaching the Committee on Labor preventing a federal employment practices bill from being called up. After the House voted to dispense with further proceedings under a call of

1. 96 CONG. REC. 4424, 81st Cong. 2d Sess.

2. Oren Harris (Ark.).

3. 92 CONG. REC. 6352-56, 79th Cong. 2d Sess.

the House, Mr. L. Mendel Rivers, of South Carolina, moved that the House adjourn.

MR. RIVERS: Mr. Speaker, I move that the House do now adjourn.

MR. [CHRISTIAN A.] HERTER [of Massachusetts]: Mr. Speaker, a point of order.

THE SPEAKER: ⁽⁴⁾ The gentleman will state it.

MR. HERTER: Mr. Speaker, the motion just made is a dilatory motion and I should like to be heard on it.

MR. RIVERS: Mr. Speaker, it is always in order to move to adjourn.

THE SPEAKER: The gentleman from Massachusetts has made a point of order and the Chair is going to hear him.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I would like to be heard in opposition to the point of order.

THE SPEAKER: The gentleman from Massachusetts.

MR. HERTER: Mr. Speaker, in ruling on the point of order I realize fully that entire discretion is vested in the Chair in reaching a decision as to whether a motion is a dilatory motion or is not a dilatory motion.

At this point Mr. Rankin rose to a point of order that a quorum was not present and Mr. Howard W. Smith, of Virginia, moved a call of the House. The call was ordered and when taken indicated the presence of 290 Members. Mr. Graham A. Barden, of North Carolina, moved to dispense with

4. Sam Rayburn (Tex.).

further proceedings under the call and Mr. Thomas G. Abernethy, of Mississippi, demanded the yeas and nays. The motion was agreed to.

THE SPEAKER: The Chair recognizes the gentleman from Massachusetts [Mr. Herter] on a point of order.

MR. HERTER: Mr. Speaker, as I said at the outset, it is within your discretion to rule on this point of order and there can be no appeal from your ruling; however, in making that ruling, it is obvious that you will be guided by two matters: First, by the chain of circumstances which have led to the point of order being made, and, secondly, by the precedents that have been set by your predecessors in ruling under similar circumstances.

Insofar as the first is concerned, the circumstances that have led to this particular point of order being made are obvious to every Member of this House. For the last few Wednesdays this House has done no business whatsoever. It has clearly been prevented from doing business because certain Members wished to avoid having certain matters come up here for discussion. In other words, sir, as long as the calendar contains certain pieces of legislation that have been favorably reported by your duly constituted committees but have not been brought here under rule, they can only be brought up in this way, and as long as the Members of the House wish to avoid the calendar being reached they can delay action on those particular matters. We all know what they are. . . .

MR. HERTER: Mr. Speaker, the second point that I wish to emphasize is

the question of precedents that have been set by your predecessors under circumstances very similar to those which we are facing here today. I am reading now direct quotations from Cannon's Precedents of the House of Representatives, volume 8, page 424. . . .⁽⁵⁾

THE SPEAKER: The Chair is familiar with the rulings made by Speaker Gillett to which the gentleman from Massachusetts refers. One of the greatest responsibilities any occupant of the Chair could assume would be to hold that motions are dilatory. However, that is not to say that the present occupant of the Chair will not, under certain circumstances, hold motions to be dilatory. In the weeks to come and for the remainder of this day the Chair will scrutinize very carefully motions that are made.

The Chair is going to put the motion to adjourn.

5. Mr. Herter cited 8 Cannon's precedents §2813, where a motion to adjourn had been ruled out as dilatory. In that situation, Speaker Frederick H. Gillett (Mass.) in ruling out a motion to adjourn offered by Mr. Finis J. Garrett (Tenn.) stated: "In deciding what is dilatory the Chair thinks he should be very careful, because his decision is final; but, on the other hand, he does not think there can be any question in the minds of any of the Members of the House present that the purpose of the gentleman from Tennessee in making this motion is delay, and not the expectation or intention of accomplishing any other result by the motion. Therefore the Chair thinks that the motion is dilatory."

§ 4.5 The first having been withdrawn, a second motion that the Committee of the Whole rise and report a bill back to the House with the recommendation that the enacting clause be stricken was held in order and not dilatory.

On May 3, 1949,⁽⁶⁾ the Committee of the Whole was considering H.R. 2032, the National Labor Relations Act of 1949. The following occurred:

MR. [HALE] BOGGS [of Louisiana]: Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. Boggs of Louisiana moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make a point of order that that motion has just been voted down.

THE CHAIRMAN: ⁽⁷⁾ The gentleman is mistaken. The previous motion was withdrawn by unanimous consent.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Chairman, I make the point of order it is dilatory. Is the gentleman going to press his motion?

THE CHAIRMAN: The Chair overrules the point of order.

§ 4.6 The Speaker has, on a Calendar Wednesday, recog-

6. 95 CONG. REC. 5531, 81st Cong. 1st Sess.
7. Jere Cooper (Tenn.).

nized the chairman of a committee to call up a bill in spite of repeated motions to adjourn, thereby inferentially holding such motions to be dilatory.

On Feb. 15, 1950,⁽⁸⁾ the Clerk was calling the roll of the committees under the Calendar Wednesday rule. The following took place immediately after the rejection of several motions to adjourn:

THE SPEAKER:⁽⁹⁾ The Clerk will call the committees.

The Clerk called the Committee on the District of Columbia.

MR. [CLARE E.] HOFFMAN [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The Chair does not yield to the gentleman for a parliamentary inquiry at this time.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The Clerk has called the Committee on the District of Columbia. The Chair recognizes the gentleman from South Carolina [Mr. McMillan].

MR. SMITH of Virginia: Mr. Speaker, I move that the House do now adjourn. That motion is always in order.

THE SPEAKER: The Chair has recognized the gentleman from South Carolina [Mr. McMillan].

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a preferential motion.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

MR. COLMER: Mr. Speaker, I move that the House do now adjourn.

THE SPEAKER: The gentleman from South Carolina [Mr. McMillan] has been recognized.

Parliamentarian's Note: Repeated roll calls were sought on this day in an effort to delay business under the Calendar Wednesday rule and thus delay the call of the Committee on Education and Labor on the following Wednesday when a fair employment practice bill was to be called up.

Demand for Division

§ 4.7 A demand for a division vote after a voice vote was held not to be dilatory.

On May 14, 1930,⁽¹⁰⁾ the Committee of the Whole was debating H.R. 2152, when a motion was offered to close all debate on a particular section and all amendments thereto in five minutes.

THE CHAIRMAN:⁽¹¹⁾ The question now is on the motion of the gentleman from Michigan to close all debate on this section and all amendments thereto in five minutes.

The question was taken, and Mr. [John C.] Schafer of Wisconsin demanded a division.

8. 96 CONG. REC. 1811, 1812, 81st Cong. 2d Sess.

9. Sam Rayburn (Tex.).

10. 72 CONG. REC. 8958, 71st Cong. 2d Sess.

11. Scott Leavitt (Mont.).

MR. [C. WILLIAM] RAMSEYER [of Iowa]: Mr. Chairman, I rise to a point of order.

THE CHAIRMAN: The gentleman will state it.

MR. RAMSEYER: I make the point of order that the motion is dilatory.

THE CHAIRMAN: What motion does the gentleman refer to? The matter before the House is whether there shall be a division.

MR. RAMSEYER: It can be contended as dilatory. I refer the Chair to page 346 of the House manual, paragraph 10. Vote after vote has been taken here on these minor matters, and each has turned out about 2 to 1. [Cries of "Oh, no!"]

MR. [WILLIAM H.] STAFFORD [of Wisconsin]: Why, a change of 10 votes would have made the committee rise on the last vote.

THE CHAIRMAN: The Chair is ready to rule.

MR. RAMSEYER: I do not care to take up the time of the Chair to read the various decisions, but it covers almost everything—time to fix debate, a motion to rise, a motion to adjourn, demand for tellers. That has been held dilatory also, and so on through. I am not going to argue this particular point, but I shall insist on the Chair enforcing the rule against dilatory motions.

THE CHAIRMAN: The Chair is ready to rule.

MR. SCHAFER of Wisconsin: Mr. Chairman, I would like to be heard upon the point of order.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. SCHAFER of Wisconsin: The request for a division is certainly not dil-

atory, particularly in view of the fact that on the vote by ayes and noes it would seem to any fair-minded person paying attention that there was a very close division in the committee. Furthermore, this is not a trivial matter. These motions have been made in order to close debate. Many statesmen or would-be statesmen talk much about freedom of speech when they are running for office, and then come here and try to cut off reasonable debate, in this important legislation, with steam-roller tactics.

THE CHAIRMAN: The Chair is ready to rule. The Chair finds nothing in the precedents to hold that a request for a division is dilatory. He does find a demand for tellers to have been held to be dilatory, but not a division. The point of order is overruled.

Time for Objection

§ 4.8 After the Speaker has entertained a motion that the House adjourn, it is too late to make the point of order that the motion is dilatory on the ground that the House rejected such a motion an hour previously.

On Feb. 22, 1950,⁽¹²⁾ the House was proceeding with business under the Calendar Wednesday rule when Mr. Robert L. F. Sikes, of Florida, moved that the House adjourn.

THE SPEAKER:⁽¹³⁾ The gentleman from Florida [Mr. Sikes] moves that the House do now adjourn.

12. 96 CONG. REC. 2161, 81st Cong. 2d Sess.

13. Sam Rayburn (Tex.).

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order on the motion.

THE SPEAKER: The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, I submit the motion to adjourn is dilatory. While I recognize that intervening business has been transacted, such as voting on the motion to dispense with Calendar Wednesday business, it seems to me that the House has expressed its will on this matter about an hour ago and the House refused to adjourn. I think it is obvious to the Speaker that the House has refused to adjourn and the motion, therefore, is dilatory.

THE SPEAKER: The Chair has already entertained the motion. The question is on the motion offered by the gentleman from Florida.

Parliamentarian's Note: See also Chapters 18, 21, and 17, *supra*, for discussion of prohibition against dilatory motions under the discharge rule (Rule XXVII clause 4), motions to suspend the rules (Rule XVI clause 8), and motions pending reports from the Committee on Rules (Rule XI clause 4(b)).

B. MOTIONS TO POSTPONE

§ 5. In General

There are two motions to postpone. One provides postponement to a day certain; the other postpones the matter in question indefinitely. The adoption of a motion to postpone indefinitely constitutes a final adverse disposition of the measure to which it is applied. (See § 8.1, *infra*.) Each must be applied to the entire pending proposition, not to a part thereof.⁽¹⁴⁾

The motion to postpone to a day certain may be amended⁽¹⁵⁾ and

debated, although debate is limited to the advisability of postponement only and may not go to the merits of the proposition to be postponed.⁽¹⁶⁾

Neither motion to postpone is in order in the Committee of the Whole, but under special circumstances absent a special rule governing consideration of a bill for amendment under the five-minute rule, it has been held in order in the Committee of the Whole to move that a bill be reported to the House with the rec-

14. 5 Hinds' Precedents § 5306.

15. 8 Cannon's Precedents § 2824; 5 Hinds' Precedents § 5754.

16. 8 Cannon's Precedents §§ 2372, 2616, 2640; and 5 Hinds' Precedents §§ 5311-5315.