

## FIVE-MINUTE RULE

*See "Calendar, Debate Under Call of," pp. 728-730.*

## FLOOR PRIVILEGES

### Rule XXIII

#### [Persons Entitled to Floor Privileges]

Other than the Vice President and Senators, no person shall be admitted to the floor of the Senate while in session, except as follows:

- The President of the United States and his private secretary.
- The President elect and vice President elect of the United States.
- Ex-Presidents and ex-Vice Presidents of the United States.
- Judges of the Supreme Court.
- Ex-Senators and Senators elect.
- The officers and employees of the Senate in the discharge of their official duties.
- Ex-Secretaries and ex-Sergeants at Arms of the Senate.
- Members of the House of Representatives and Members elect.
- Ex-Speakers of the House of Representatives.
- The Sergeant at Arms of the House and his chief deputy and the Clerk of the House and his deputy.
- Heads of the Executive Departments.
- Ambassadors and Ministers of the United States.
- Governors of States and Territories.
- Members of the Joint Chiefs of Staff.
- The General Commanding the Army.
- The Senior Admiral of the Navy on the active list.
- Members of National Legislatures of foreign countries and Members of the European Parliament.
- Judges of the Court of Claims.
- The Mayor of the District of Columbia.
- The Librarian of Congress and the Assistant Librarian in charge of the Law Library.
- The Architect of the Capitol.
- The Chaplain of the House of Representatives.
- The Secretary of the Smithsonian Institution.
- The Parliamentarian Emeritus of the Senate.
- Members of the staffs of committees of the Senate and joint committees of the Congress when in the discharge of their official duties and employees in the office of a Senator when in the discharge of their official duties (but in each case subject to such rules or regulations as may be prescribed by the Committee on Rules and Administration). Senate committee staff members and employees in the office of a Senator must be on the payroll of the Senate and members of joint committee staffs must be on the payroll of the Senate or the House of Representatives.

Under Rule XXIII, no person shall be admitted to the floor of the Senate while in session except those specified in the rule, but the practice includes:

### **Clerks to Committees and to Senators:**

Only clerks to Senate committees and to Senators borne upon the Senate payrolls as such when in the actual discharge of their official duties are entitled to the privilege of the floor under Rule XXIII,<sup>1</sup> and this rule applies equally to men and women clerks.<sup>2</sup>

The floor privilege granted the employees of the Senate is limited by the rule to the "actual discharge of their official duties."<sup>3</sup>

The Vice President, in 1929, expressed the opinion that a clerk was not entitled to the privilege of the floor for the purpose of polling a committee on a matter.<sup>4</sup>

In 1908, the Chair ruled under a strict application of the rule relating to the privilege of the floor, that a committee clerk on the Senate floor reporting, under instructions, to the chairman when a quorum was not in fact present, was not in the actual discharge of his official duties.<sup>5</sup>

In 1950, it was held that a person employed as counsel for a subcommittee of the Senate is entitled to the privilege of the floor during the consideration of a report filed by the committee in connection with which he was employed.<sup>6</sup>

### **Contestants for Senate Seat:**

Ex-Senators and Senators-elect are admitted to the floor under specific stipulations of the rule, and in practice numerous contestants have been granted floor privileges and the right to address the Senate in support of their claim to a seat.<sup>7</sup>

<sup>1</sup> May 25, 1946, 79-2, *Record*, pp. 5708-09; May 22, 1929, 71-1, *Journal*, p. 72, *Record*, pp. 1729-30.

<sup>2</sup> July 22, 1946, 79-2, *Record*, pp. 9616-17.

<sup>3</sup> Aug. 19, 1970, 91-2, *Record*, p. 29418.

<sup>4</sup> See May 23, 1929, 71-1, *Record*, p. 1792.

<sup>5</sup> May 29, 1908, 60-1, *Record*, p. 7172.

<sup>6</sup> July 20, 1950, 81-2, *Record*, pp. 10705-06.

<sup>7</sup> Apr. 25, 1932, 72-1, *Journal*, p. 423, *Record*, pp. 8872-77; Mar. 16, 1897, 55-1, *Journal*, p. 5; Jan. 22, 1890, 51-1, *Record*, p. 795; Feb. 25, 1892, 52-2, *Journal*, p. 127, *Record* p. 1432; others include Thomas Heflin (Ala.), 1932; Frank Smith (Ill.), 1926; Frederick Stanton (Kans.), Jan. 13, 1862; D. L. Yulee (Fla.), Aug. 27, 1852.

**Heads of Departments:**

The provision "Heads of Executive Departments" has been construed by the Committee on Rules, as authorized by an order previously adopted by the Senate, to be limited to Members of the Cabinet.<sup>8</sup>

Experts from the departments acting in an advisory capacity to Senators in debate on a bill are not entitled to the privileges of the floor.<sup>9</sup>

**Newspaper Reporters and Press Association Agents:**

Newspaper reporters and representatives of press associations are not entitled to admission to the floor during sessions of the Senate,<sup>10</sup> and while it was a former courtesy, to admit members of the press to the floor upon written order of the Committee on Rules, there is no such authority in the Senate rules for such practice.<sup>11</sup>

**Private Physician of a Senator:**

In 1929, unanimous consent was granted for Senator-elect William S. Vare, of Pennsylvania, to have his physician sit with him in the Senate Chamber.<sup>12</sup>

**Unauthorized Persons, Use of Floor:**

On January 3, 1947, a point of order was made and sustained that unauthorized persons were on the Senate floor.<sup>13</sup>

On June 29, 1970, the Chair took the initiative to order the Sergeant at Arms to clear the Chamber of all unnecessary personnel.<sup>14</sup>

While the floor privilege of employees is regulated by passes, under regulations of the Committee on Rules and Administration, the rules of the Senate do not restrict Senate aides from being on the floor; Rule XXIII grants

<sup>8</sup> Mar. 25, 1884, 48-1, *Record*, p. 2236.

<sup>9</sup> Aug. 18, 1937, 75-1, *Journal*, p. 539; May 25, 1946, 79-2, *Record*, pp. 5708-09; see also Aug. 9, 1944, 78-2, *Record*, pp. 6818-19.

<sup>10</sup> May 22, 1929, 71-1, *Journal*, p. 72, *Record*, pp. 1729-30.

<sup>11</sup> *Ibid.*

<sup>12</sup> Dec. 4, 1929, 71-2, *Journal*, p. 18, *Record*, p. 75.

<sup>13</sup> Jan. 3, 1947, 80-1, *Record*, pp. 9-10.

<sup>14</sup> June 29, 1970, 91-2, *Record*, p. 22056.

floor privilege to the officers and employees of the Senate in the actual discharge of their official duties.<sup>15</sup>

Under paragraph 2 of Rule XXXIII, the Committee on Rules and Administration is authorized to make rules and regulations controlling the use of the Senate wing of the Capitol, including the rights of employees to the use of the Senate floor as follows:

It shall be the duty of the Committee on Rules and Administration to make all rules and regulations respecting such parts of the Capitol, its passages and galleries, including the restaurant and the Senate Office Buildings, as are or may be set apart for the use of the Senate and its officers, to be enforced under the direction of the Presiding Officer. The Committee shall make such regulations respecting the reporters' galleries of the Senate, together with the adjoining rooms and facilities, as will confine their occupancy and use to bona fide reporters of newspapers and periodicals, and of news or press associations for daily news dissemination through radio, television, wires, and cables, and similar media of transmission. These regulations shall so provide for the use of such space and facilities as fairly to distribute their use to all such media of news dissemination.

On various occasions the Senate has seen fit, usually under unanimous consent procedure, to extend a temporary privilege of the floor to persons in different categories.<sup>16</sup>

On September 30, 1978, the majority leader, Mr. Byrd, requested and was given unanimous consent to extend floor privileges to a limited number of staff members of Senators for the remainder of that session by submitting the names of their respective staff members whom they wished to have on the floor to the *Journal Clerk*.<sup>17</sup>

<sup>15</sup> See Aug. 12, 1970, 91-2, *Record*, p. 28456.

<sup>16</sup> For a listing see May 8 and 16, 1916, 64-1, *Journal*, p. 352, *Record*, pp. 7560, 8024-25; Dec. 12, 1950, 81-2, *Record*, p. 16433; Apr. 18, 1951, 82-1, *Record*, p. 4028; May 21, 1951, 82-1, *Record*, p. 5490; Mar. 25 and 26, 1952, 82-2, *Record*, pp. 2876-83, 2889-90; Aug. 1, 1946, 79-2, *Record*, p. 10614; Mar. 29, 1948, 80-2, *Record*, p. 3586; Apr. 4, 1949, 81-1, *Record*, p. 3774; May 31, 1949, 81-1, *Record*, p. 7010; June 6, 1949, 81-1, *Record*, p. 7231; Sept. 7, 1949, 81-1, *Record*, pp. 12615, 12620-21; Sept. 23, 1949, 81-1, *Record*, p. 13193; Oct. 15, 1949, 81-1, *Record*, p. 14678; June 13, 1950, 81-2, *Record*, pp. 8490-91; Jan. 15, 1934, 73-2, *Record*, p. 627; Aug. 18, 1937, 75-1, *Journal*, p. 529, *Record*, p. 9216; Mar. 28, 1952, 82-2, *Record*, p. 3106; June 28, 1952, 82-2, *Record*, p. 8398; Nov. 8, 1954, 83-2, *Record*, p. 15851; May 2, 1955, 84-1, *Record*, p. 5287; Feb. 7, 1956, 84-2, *Record*, p. 2178; Feb. 5, 1891, 51-2, *Record*, p. 2171; Jan. 20, 1897, 54-2, *Journal*, p. 63, *Record*, p. 962; Jan. 8, 1930, 71-2, *Record*, p. 1226; Aug. 10, 19, 20, and 23, 1960, 86-2, *Record*, pp. 16182, 16785, 16899, 17175; June 14, 16, and 22, 1960, 86-2, *Record*, pp. 12529, 12872, 13726; Mar. 4, 1960, 86-2, *Record*, p. 4500; May 21, 1959, 86-1, *Record*, p. 8746; Sept. 9, 1959, 86-1, *Record*, p. 18681; Aug. 17, 1959, 86-1, *Record*, p. 15999; July 23, 1959, 86-1, *Record*, p. 14083; Apr. 16, 29, 1959, 86-1, *Record*, pp. 6109, 6993; Mar. 23 and 25, 1959, 86-1, *Record*, pp. 4906, 5163; Feb. 6, 1959, 86-1, *Record*, p. 2005; Feb. 26, 1958, 85-2, *Record*, p. 2855; Feb. 25, 1958, 85-2, *Record*, p. 2729; Feb. 24, 1958, 85-2, *Record*, p. 2566; Apr. 15, 1957, 85-1, *Record*, p. 5643.

<sup>17</sup> Sept. 30, 1978, 95-2, *Record*, pp. 32820-21; see also Jan. 23, 1979, 96-1, *Journal*, p. 27 for a like unanimous consent agreement reached by the majority leader, as follows:

Continued

On another occasion after the above unanimous consent agreement, during the consideration of the Internal Revenue bill (H.R. 13511), the Senator from Maine (Mr. Muskie) was given unanimous consent to give additional staff members the floor privilege. Note the following:

UP AMENDMENT NO. 1993

The PRESIDING OFFICER. By previous agreement, the Senate will proceed to the consideration of unprinted amendment No. 1993 to unprinted amendment No. 1992. There is no time limit. The Senate will resume consideration of amendment 193.

Mr. HATCH addressed the Chair.

Mr. MUSKIE. Mr. President, I understand there is a new procedure for the purpose of getting the privilege of the floor for staff up to a limited number. I need more than that to serve my responsibilities as chairman of the Committee on the Budget, so I understand I must request unanimous consent on the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. MUSKIE. I ask unanimous consent that the following staff members be accorded the privilege of the floor during debate and all votes on the Revenue Act of 1978: John McEvoy, Ira Tannenbaum, Karen Williams, Lewis Shuster, Liz Tankersley, Jill Scheu, Tony Carnevale, Darla Schecter, and George Merrill.

The PRESIDING OFFICER. Without objection, it is so ordered.<sup>18</sup>

## FLOWERS IN SENATE CHAMBER

### Resolution Adopted by Senate in 1905

*Resolved*, That until further orders the Sergeant at Arms is instructed not to permit flowers to be brought into the Senate Chamber.<sup>1</sup>

On September 15, 1983, the Senate adopted the following resolution on this subject:

*Resolved*, That notwithstanding the resolution of the Senate of February 24, 1905, upon the death of a sitting Senator, the majority leader and the minority leader may permit a display of flowers to be placed upon the desk of the deceased Senator on the day set aside for eulogies.<sup>2</sup>

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*Ordered*, That for the duration of the 96th Congress, Senators be allowed to leave at the desk with the *Journal* Clerk a list of no more than two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted on the list, and that the Sergeant at Arms be instructed to rotate such staff members as space allows.

<sup>18</sup> Oct. 5, 1978, 95-2, *Record*, p. 33923.

<sup>1</sup> Feb. 24, 1905, 58-3, *Journal*, p. 261, *Senate Manual*, p. 103.

<sup>2</sup> S. Res. 221, Sept. 15, 1983, 98-1, *Journal*, p. 499.