# RULES OF THE HOUSE OF REPRESENTATIVES OF THE FIFTY-SEVENTH LEGISLATURE

## WITH

## TEXAS LEGISLATIVE PRECEDENTS, CONGRESSIONAL PRECEDENTS, AND ANNOTATIONS.*

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### RULE I.

DUTIES AND RIGHTS OF THE SPEAKER.

SECTION 1. The Speaker shall take the chair on each calendar day precisely at the hour to which the House shall have adjourned or recessed at its last sitting and shall immediately call the Members to order.

[See Sections 1 and 2 of Rule XXI of the Daily Order of Business.]

SEC. 2. He shall preserve order and decorum, and in case of disturbance or disorderly conduct in the galleries or in the lobby, may cause the same to be cleared on his own order.

SEC. 3. He shall have general control, except as otherwise provided by law, of the Hall of the House, its lobby, galleries, corridors, passages and unappropriated rooms in those parts of the Capitol assigned to the use of the House; provided, however, that the Hall of the House shall not be used for any meeting other than Legislative meetings during any regular

*See Foreword on Page 5.

or special session of the Legislature unless specifically authorized by resolution.

SEC. 4. He shall lay before the House its business in the order indicated by the Rules, and shall receive propositions made by Members, and put them to the House, and shall enforce the Rules of the House, and the Legislative rules prescribed by the Constitution.

SEC. 5. He shall rise to put a question but may state it sitting; and he shall put the question distinctly in this form, to-wit: "As many as are in favor (as the question may be) say 'aye'," and after the affirmative vote is expressed, "As many as are opposed say 'no'." If the Speaker be in doubt as to the result, or if a division is called for, the House shall divide; those in the affirmative on the question shall register "aye" on the voting machine, and those in the negative on the question shall register "no," but such vote shall not be printed in the Journal unless the yeas and nays are called for by not less than three Members of the House prior to the announcement of the decision by the Speaker.

[Technically, under the above section a call for a division is eligible only after a viva voce vote, such being the basic voting form prescribed by the Rules. Sometimes Members will start calling for a division even before the question is put. Most of the time the Chair acquiesces and the division votes are taken directly on the voting machine, but the above section is clear and nothing could prevent the Chair from listening first to a viva voce vote and announcing the result—unless, as the rule says, a "division is called for" before the result of the viva voce vote is announced by the Chair, in which case it must be granted.]

SEC. 6. The Speaker shall have the same right as

other Members to vote. He, or a Member temporarily presiding, not having voted, may cast a deciding vote at the time such opportunity becomes official, be it to make or break a tie. In case of error in a vote, the correction of which leaves decisive effect to the vote of the Speaker, or Member temporarily presiding, his deciding vote may be cast even though the result has been announced.

[See also Sec. 10 of Rule I and Sec. 11 of Rule XI, and precedents following.]

*Instance wherein the Speaker cast a deciding vote at time such opportunity became official, although he had not voted on the original record vote (nor needed to do so).*

The House was considering H. B. 334 with Senate amendments. Mr. Spilman moved to concur. A record vote was called for, taken, and the Speaker announced the result: Yeas 72, Nays 71, 3 present and not voting (paired), absent 3. He declared the motion carried. Verification of the vote was called for and granted.

The Reading Clerk reported to the Speaker that the verification showed: Yeas 72, nays 71, 3 present and not voting (paired), absent 3. Whereupon the Speaker under authority of Sec. 6 above, voted "No" and declared the official result was a tie vote and consequently the motion to concur had lost.

Mr. Oliver raised the point of order that the Speaker had announced the result before voting himself and under the Rules he could not cast the deciding vote at that time.

The Speaker overruled the point of order stating his reasons, as follows:

"As Members crowded around the Speaker's table they viewed the result of the roll call vote before it was handed to the Chair, and were asking for a verification at the time I announced the tentative result. Knowing that I would grant the verification, as is customary when a vote is as close, I purposely refrained from voting so as not to be included on the first announced result. I could have voted, and was prepared to vote "No" at that time, making a 72 to 72 tie (which turned out to be the final result), but did not, having in mind the numerous instances during the Regular Session in which verifications had shown results different from the machine vote—for reasons well known to the Members of the House, such as actual errors in the

voting machine, initial 'button pushing' and 'taking a walk' during verifications. Hence I did not cast a vote on the original declaration simply because as Speaker I was entitled under the Rules to cast the actual deciding vote in the light of the final official roll call result which no one could, with certainty, forecast. After the verification, which made the vote official, the Chair voted to create a tie vote, 72 to 72, and declared the motion lost. This action by the Chair is clearly in order under Sec. 6, Rule 1, and such procedure has been followed in the past, i.e., giving the Speaker the right to cast his vote, or not, at the time 'such opportunity becomes official.' Obviously, the vote on Mr. Spilman's motion did not become 'official' until the verification was completed." [Since the above rule says clearly, referring to the Speaker, that "He, or a Member temporarily presiding, not having voted, may cast a deciding vote at the time such opporunity becomes official, be it to make or break a tie," the Speaker's action in this instance was entirely within the letter and spirit of the rule. The fact that he did not vote on the original record vote was what made him eligible to cast "the deciding vote." The fact that he elected to refrain from voting initially was in keeping with practice of presiding officers over the years, and for just exactly the reasons he stated.]

SEC. 7. He shall decide on all questions of order, subject to an appeal to the House made by any ten Members. Pending an appeal the Speaker shall call a Member to the Chair who shall not have the authority to entertain or decide any point of order until the appeal has first been determined by the House. The question on appeal is, "Shall the Chair be sustained?"

No member shall speak more than once on an appeal unless he is given leave by a majority vote of the House. No motion shall be in order, pending an appeal, except a motion to adjourn, a motion to lay on the table, a motion for the previous question and a motion for call of the House. Appeals may not be taken from parliamentary inquiries or from the Speaker's decision of recognition.

[Many points of order are raised concerning the consti-

tutionality of bills, legislative procedures, and legislative powers. Through many sessions the Speakers have followed the plan of refusing to rule on constitutional points not related to legislative procedure, of ruling on constitutional procedural points where no doubt exists, or, where doubt exists, either submitting the points to the House for determination or overruling the points directly then passing them on to the House for determination, in effect, on the vote involved. As a general rule the Speaker does not submit points of order to the House on questions of procedure under the Rules.

While the Speaker may, under unusual circumstances, submit a constitutional procedural point directly to the House, it is contrary to well established parliamentary practice for him to submit other points of order directly to the House for a decision.

In the 51st Legislature the Speaker, Mr. Manford, held that a point of order in the House against the consideration of a bill because of some parliamentary error in committee or an erroneous ruling of a committee chairman during its consideration, is not good provided the bill was eventually voted out favorably (or unfavorably) in conformity with the Rules. Full protection against such errors or rulings lies in the committee procedure under the Rules of the House. Failure to take advantage of such protection in a committee is no reason to prejudice consideration of the bill or other measure on the floor of the House.]

*Points of order must be raised at the proper time. Illustration of a point of order that would have been good but which came too late.*

The House was considering H. B. 136, the previous question having been ordered on a sequence of motions, including engrossment of the bill. Votes were taken on all motions short of engrossment. Then a motion was made to reconsider the vote by which the previous question was ordered. This motion prevailed. Mr. Morse then raised a point of order (which would have been good before the reconsideration vote) that such motion cannot be made after one or more votes have been taken under the previous question, short of the final vote thereunder.

The Speaker, Mr. Daniel, overruled the point of order on the ground that it came too late. (48th Reg.)

*Intervening business does not necessarily prejudice a point of order which would otherwise be good.*

Mr. Hartsfield moved to reconsider the vote by which H. B. 79 passed to engrossment. Mr. Crosthwait moved to table and the motion failed. Then Mr. Bell raised the point of order that Mr. Hartsfield had not voted on the prevailing side and his motion was therefore out of order. Opponents of this point of view argued that Mr. Bell's point of order came too late, that it should have been made as soon as the motion was made.

The Speaker, Mr. Senterfitt, sustained Mr. Bell's point of order, pointing out that since no action had been taken on the motion proper, the point of order had not come too late. [52nd Reg.]

DECISIONS OF THE SPEAKER.—The Speaker may inquire for what purpose a Member rises and then may deny recognition (C. P., VI, 289), and an inquiry to ascertain for what purpose a Member rises does not constitute recognition (C. P., VI, 293). While circumscribed by the rules and practice of the House, the exercise of the power of recognition is not subject to a point of order (C. P., VI, 294). The Speaker may require that a question of order be presented in writing (H. P., V, 6865). He is not required to decide a question not directly presented by the proceedings (H. P., II, 1314). Debate on a point of order, being for his information, is within his discretion (H. P., V, 6919, 6920). In discussing questions of order the rule of relevancy is strictly construed and debate is confined to the point of order and does not admit reference to the merits of the pending proposition (C. P., VI, 3449). Preserving the authority and binding force of parliamentary law is as much the duty of each Member of the House as it is the duty of the Chair (Speaker Gillett, Jan. 3, 1923, 67th Cong., 4th Session, p. 1205). Points of order are recorded in the Journal (H. P., IV, 2840, 2841), but responses to parliamentary inquiries are not so recorded (H. P., IV, 2842). He does not decide on the legislative effect of propositions (H. P., II, 1274, 1323, 1324), or on the consistency of proposed action with other acts of the House (H. P., II, 1327-1336), or on the constitutional powers of the House (H. P., II, 1255, 1318-1320, 1490; H. P., IV, 3507), or on the propriety or expediency of a proposed course of action (H. P., II, 1275, 1325, 1326, 1337; H. P., IV, 3091-3093, 3127). It is not the duty of the Chair to decide hypothetical points of order or to anticipate questions which may be suggested in advance of regular order (C. P., VI, 249); nor is it the duty of the Chair to construe the Constitution as affecting proposed legislation (C. P., VI, 250). The effect or purport of a proposition is not a question to be passed on by the Chair, and a point of order as

to the competency or meaning of an amendment does not constitute a parliamentary question (C. P., VI, 254). When precedents conflict, the Chair is constrained to give greatest weight to the latest decisions (C. P., VI, 248).

APPEALS.—The right of appeal cannot be taken away from the House (H. P., V, 6002). An appeal is not in order while another is pending (H. P., V, 6939-6941). Neither a motion nor an appeal may intervene between the motion to adjourn and the taking of the vote thereon (H. P., V, 5361). An appeal from the decision of the Chair may be entertained during the proceedings to secure a quorum (H. P., IV, 3037). A Member may not speak more than once on an appeal except by permission of the House (H. P., II, 133; H. P., V, 6938).

SEC. 8. All committees and the chairmen of the same shall be appointed by the Speaker unless otherwise specifically directed by the House.

[The Speaker also appoints all select and conference committees which the House may order from time to time.

It is the custom for the chairman of a conference committee to be the first named Member.]

SEC. 9. All acts, joint resolutions, and concurrent resolutions shall be signed by the Speaker in the presence of the House, as required by the Constitution; and all writs, warrants and subpoenas issued by order of the House shall be under his hand and attested by the Chief Clerk, or the acting Chief Clerk.

SEC. 10. The Speaker shall have the right to name any Member to perform the duties of the chair and may, if he desires, name a Member to serve as Speaker pro tempore. If a permanent Speaker pro tempore is named, he shall, in the absence or inability of the Speaker, call the House to order and perform all other duties of the chair in presiding over the deliberations of the House and shall perform such other duties and exercise such other responsibilities as may be assigned by the Speaker. If the House is not in

session, and a permanent Speaker pro tempore has not been named, the Speaker shall deliver a written order to the Chief Clerk, with a copy to the Journal Clerk, naming the Member who shall call the House to order and preside during his absence.

SPEAKER PRO TEMPORE.—A Call of the House may take place with a Speaker pro tempore in the Chair (H. P., IV, 2989), and he may issue his warrant for the arrest of absent Members under a call of the House (63rd Cong., 1st session, p. 5498). When the Speaker is not present at the opening of a session he designates a Speaker pro tempore in writing (H. P., II, 1378, 1401), but he does not always name in open House the Member whom he calls to the Chair temporarily during the day's sitting (H. P., II, 1379, 1400).

SEC. 11. All employees of the House shall be selected and appointed by the Speaker and he shall have the right to discharge any of them.

[At each session, regular or special, the House determines by resolution what employees are needed.]

## RULE II.

ELECTION AND COMPENSATION OF OFFICERS; MASCOTS

SECTION 1. All officers of the House shall be determined each regular session and elected by ballot, and shall receive such compensation as the House may determine, and shall serve for that particular legislature; and after their salary has been fixed no further or extra compensation whatsoever shall be allowed them.

No officer or other employee of the House shall be permitted to receive directly or indirectly, either as a gift or otherwise, any compensation from any person whatsoever other than his regular salary from the House.

SEC. 1-a. The Enrolling and Engrossing Clerk shall be selected and appointed by the Speaker, and shall be subject to the same rules governing other employees of the House.

*The House determines each legislature who are to be its permanent elective officers.*

The House was considering the customary "employee" resolution at the beginning of the Regular Session of the 49th Legislature. The resolution included provision for the appointment of an Enrolling Clerk and an Engrossing Clerk. Mr. Bond raised the following point of order:

"Sec. 9, Art. III, Constitution provides that each House shall choose its own officers. Sec. 1, Rule II, Legislative Manual, recognizes that Enrolling and Engrossing Clerks are 'Officers of the Legislature.' Article 5429, Revised Statutes provides 'that the House shall proceed . . . by electing the necessary officers.' The point of order raised is that the Engrossing and Enrolling Clerks being 'officers of the House' must be elected by the House and not by appointment."

The Speaker, Mr. Gilmer, overruled the point of order, giving the following reasons:

"It can be said the point of order presented by Judge Bond raises two questions:

1. Whether or not the Rules of the Forty-eighth Legislature (which by previous resolution of this House, with additions, became the Temporary Rules under which we are operating) defined the Engrossing Clerk and Enrolling Clerk so as to constitute such positions, 'officers'; and

2. If it be determined that our Temporary Rules constitute such positions as officers, then whether or not under such rules and the application of H. S. R. No. 7 setting the compensation of the 'elected officials' of the House, the specific action of the House in passing such resolution, which sets out the officers of the House and does not mention or include either the Engrossing Clerk or the Enrolling Clerk, will control the question and decide the conflict thus presented; that is to say, the specific action of the House in H. S. R. No. 7 excludes Engrossing Clerk and Enrolling Clerk from the list of officers and such action would control the rules on this point, if it be considered they are 'officers' under the rules.

The point of order is respectfully overruled on both propositions:

1. With reference to the question first above stated, that the Rules of the Forty-eighth Legislature can reasonably be said to exclude the Engrossing Clerk and the Enrolling Clerk as 'officers' in the sense

that such word is used in the Constitutional provision cited by Judge Bond and in Article 5429, R.C.S.; and

2. Also with reference to question 2 for the reason that if it be said the interpretation by the Chair of such term is in error, then nevertheless the specific action by the House in passing H. S. R. No. 7 and setting out the various officers, from Chief Clerk to Chaplain, and excluding and not including therein the Engrossing Clerk and the Enrolling Clerk would control, if conflict there be with the Rules of the Forty-eighth Legislature, granting the contention urged by Judge Bond, the same are 'officers'."

[The above ruling clears up this question for the future. The Enrolling and Engrossing Clerk position is now filled by appointment under authority of the general employee resolution, which resolution is ample authority for designating these positions as "appointive." There is no doubt but that the House has authority to designate positions which are to be classified as "officers."]

SEC. 2. Only children of House Members under the age of twelve years shall be eligible for election to the honorary office of mascot, and all resolutions and motions concerning mascots shall be automatically referred to the Committee on Rules after being read by the Reading Clerk. The Committee on Rules shall not report the resolutions to the House separately, but shall hold all of the resolutions until the House block picture is ready to be made up, when the Committee shall report by furnishing a complete list of the proposed mascots to the House for election. After the House mascots are elected, the Speaker of the House shall issue a certificate attested by the Chief Clerk showing the election of each mascot and deliver same or copies thereof to the parent or grandparent of the child. Pictures of mascots shall appear on the block picture.

There shall be no separate classification or special titles given to any mascot, but all shall receive the same office of Honorary Mascot of the House of Rep-

resentatives; and a child once named a mascot shall not be eligible for such honor the second time.

[The practice of naming mascots and sweethearts of the House by resolution has grown by leaps and bounds. Dozens of such resolutions, requiring many pages of costly Journal space, appear every session. Pictures of those finally designated (and none are turned down) are placed in the block picture of the House. A glance at the increasingly large area occupied by the group of mascots and sweethearts on recent block pictures, and a check on the over-all cost involved in this practice, brings into sharp focus the question of its continuation.]

## RULE III.

### DUTIES OF THE SERGEANT-AT-ARMS.

SECTION 1. It shall be the duty of the Sergeant-at-Arms to attend the House and the Committee of the Whole during their sittings and to maintain order under the direction of the Speaker, and, pending the election of the Speaker, under the direction of the Chief Clerk.

SEC. 2. He shall have charge under the Speaker, for the purpose of maintaining order, the Hall of the House, its lobby, galleries and all other rooms in the Capitol assigned for its use.

[See Sec. 4 of Rule XXVIII for directions to the Sergeant-at-Arms for time of clearing floor of all unauthorized persons.

In the 51st Legislature, the Speaker, Mr. Manford, officially established the practice for the House, long in use by the Senate, of placing a doorkeeper at the outer door of the House Lobby, thereby making the Lobby, the reception room and the Sergeant-at-Arms' office also within the "bar of the

House." The Doorkeeper of the House controls the main door to the House floor.]

SEC. 3. He shall execute the commands of the House and serve the writs and processes issued by the authority of the House and directed to him by the Speaker.

SEC. 4. He shall keep his office open daily except on Sundays, until one hour after the adjournment of the House, and on Sundays from 9 a.m. to 11 a.m.

SEC. 5. The Assistants to the Sergeant-at-Arms shall assist the Sergeant-at-Arms in the performance of his duties and shall have the same authority subject to the control of the Speaker.

SEC. 6. Other than newspapers that have been published at least once a week for a period of one year, the Sergeant-at-Arms shall not allow the distribution of any printed matter in the Hall of the House of Representatives unless the same first be authorized in writing by at least one Member of the House. The Sergeant-at-Arms shall keep such written authorization and a record of the matter distributed in the permanent files of the House.

SEC. 7. He shall keep a record of the date and hour that printed bills, resolutions, conference committee reports, and Senate amendments to House bills are returned from the printer. He shall time-stamp such information on the originals of printed bills, resolutions, conference committee reports and Senate amendments to House bills as well as the time the printed copies thereof are laid on the desks of the Members under his direction.

## RULE IV.

### DUTIES OF THE CLERKS.

SECTION 1. The Chief Clerk shall have general charge and supervision, under the direction of the Speaker, over the general secretarial and clerical work of the House; and, pending the election of a Speaker Pro Tempore, he shall call the House to order, preserve order and decorum, and decide all questions of order, subject to appeal of the House. He shall attest all writs, warrants and subpoenas issued by order of the House, and shall certify to the passage of bills and resolutions, noting thereon the date of their passage and the vote by which they were passed, if by record vote or non-record vote. He shall also note on the originals of bills and resolutions all pertinent information regarding action thereon by the House.

In addition to his other duties, the Chief Clerk shall issue all warrants and vouchers of whatever character, except warrants or vouchers issued by the Committee on Contingent Expenses, and he shall keep accurate accounts with all Members and employees of the House. At the end of each session reports, records, bills, papers, et cetera, in the hands of the various clerks shall be filed with the Chief Clerk not later than thirty days after the close of the session, and in turn shall be filed by him with the Secretary of State unless otherwise dictated by custom.

[Warrants or vouchers issued by the Committee on Contingent Expenses are signed by the Chairman of the Committee on Contingent Expense and the Speaker.]

The Chief Clerk shall also provide each Member, officer, and employee of the House an identification card, which shall be signed by the Speaker and the Chief Clerk, showing membership or service in the House of Representatives of the Legislature of the State of Texas. For Members such cards shall specifically show the name of the Member and the years of the current biennium for which he has been elected. The cost of the cards shall be paid for out of the Contingent Expense Fund of the House.

[A daily record of the arrivals and departures of the clerks and stenographers is kept by the Chief Clerk or others designated by him for that purpose.

In the event of the absence, resignation or death of the Chief Clerk, the Reading Clerk takes charge and attends to all the duties of the office until the Chief Clerk returns or his successor is elected. See Sec. 7, Rule IV.

Occasionally, when the House is not in session, the Governor will return a bill or resolution, so requested by resolution, to the Chief Clerk.]

The reports of select committees shall be filed with the Chief Clerk and printed in the Journal, and reports of standing committees shall be listed in the Journal.

The Chief Clerk shall transmit to the Senate typewritten copies of all amendments to Senate bills exactly as adopted by the House. In case an amendment as substituted is adopted, the Chief Clerk shall transmit the substitute as an original amendment.

All messages from the House to the Senate shall be transmitted by the Chief Clerk, or his representative, over the signature of the Chief Clerk.

The Chief Clerk shall number, in their order of

filing, all bills, joint resolutions, and simple and concurrent resolutions.

All petitions presented by Members of the House shall be filed with the Chief Clerk, and referred by him to the committee considering the question to which they relate.

The Chief Clerk shall notify the Speaker in writing when the Senate refuses to concur in House amendments to a bill or resolution and asks for a Conference committee. This notice shall also list the Senate Conferees.

SEC. 2. The Calendar Clerk shall keep a complete record of introduction and action on all bills and resolutions. This record shall include the number, author, brief description of the subject matter, and committee reference. It shall also show in time sequence the actions taken on all bills and resolutions so as to reflect at all times their status.

All bills and resolutions referred to Committees shall be filed with the Calendar Clerk by the Chief Clerk. The Calendar Clerk shall be the custodian of such bills and resolutions while they are in committee and shall place same in individual file boxes assigned to the various committees. Bills and resolutions may be checked out by the Calendar Clerk to Members, to committee chairmen, committee clerks, and other House employees and officers for official use. A record of check-outs and returns shall be kept by the Calendar Clerk. He shall also obtain a receipt for bills, resolutions and conference reports transmitted under established procedure to the printer, the Speaker and the Enrolling and Engrossing Clerk.

The Calendar Clerk shall have charge of the printing of bills, Senate amendments to House bills, and conference reports, as provided by the Rules, or by a vote of the House. He shall keep an exact record of the dates and the hours of delivery of bills to the printer in the order they have been sent. He shall see that all bills are printed in the order of their delivery to the printer, unless otherwise ordered by the Speaker.

When Senate amendments to House bills arrive from the Senate, copies thereof shall be made by the Calendar Clerk for insertion in the Journal, before the amendments and the bill or resolution to which they relate are sent to the Engrossing and Enrolling Clerk, or to the Speaker's table, as the case may be.

The Calendar Clerk, or his assistant, shall keep the desk open between the hours of 8 a.m. and 12 m. and 1 p.m. to 6 p.m. and from 7:30 p.m. to 9 p.m. (except Sunday), and at such other hours as the House or committees may be in session. He shall have charge of all petitions, memorials, and like matter referred to the committees. When such matters have been returned, he shall transmit same to the Chief Clerk.

[See annotations in and following Section 7 of Rule XVIII.]

SEC. 3. The Journal Clerk shall keep a Journal of the proceedings of the House, in which all proceedings, when not acting in the Committee of the Whole, shall be entered as concisely and accurately as possible. In this Journal there shall be entered the number, author and caption of every bill introduced.

All simple and concurrent resolutions, motions, amendments, questions of order with the decisions thereon; and the messages from the Governor and from the Senate, shall be printed in full. Notation shall be made in the Journal of the number and subject matter of all bills, joint resolutions, and concurrent resolutions signed in the presence of the House. The reports made by the standing committees shall be listed in the Journal. Reports of select committees shall be printed in full in the Journal unless otherwise ordered by the House.

[Majority and minority reports by committees are simply listed in the Journal, not printed in full. See Secs. 4, 9, Rule VIII.

Enrolled bills are printed in full in the Daily Journal, with certain exceptions. Under authority of the House, usually in its "Post Session Resolution," only the captions of enrolled bills appear in the Permanent Journal. The exceptions referred to are:

1. Enrolled local bills are never printed in full, only captions. 2. Where a conference report incorporates a complete bill, such report is printed in full at the time of adoption. Under such conditions the enrolled bill is not printed in the Daily Journal, only its caption. A deviation from this general practice occurs in the case of conference reports on the biennial appropriation act and other extremely long bills, such as new codes, etc. The House usually orders these reports printed as supplements to the Daily Journal, and enrolled copies are never printed as such, only the captions.]

Every vote or registration of the House shall be entered in the Journal with the concise statement of the action and of the result.

All pairs shall be entered on the Journal as a part of a record vote. Reasons for votes may be filed with the Journal Clerk for publication in the Journal.

On non-record votes Members may have their votes recorded in the Journal as "Yea" or "Nay" by filing such information with the Journal Clerk.

[See also Sec. 10 of Rule XI and annotation following on "pairs."]

Senate amendments to House bills or resolutions shall be printed in the Journal when concurred in by the House.

SEC. 4. The Journal for each calendar day the House is in session shall be printed under the supervision of the Journal Clerk, and copies thereof laid upon the desk of each Member on the succeeding calendar day, if possible.

SEC. 5. The Engrossing and Enrolling Clerk shall typewrite without erasures, interlineations or additions in the margin, all House bills and joint resolutions that have passed their second reading and have been ordered engrossed, all House bills and joint resolutions that have passed their third reading and were amended on that reading, and all House concurrent resolutions that have passed the House. Engrossed riders shall not be used. He shall submit his work to the Committee on Engrossed Bills for their examination, correction and approval before the work is returned to the House. He shall perform any other clerical work for the House, its Members or its committees, as may be assigned to him by the Speaker.

The Engrossing and Enrolling Clerk shall retain a copy of each bill passed by the House which was amended on second or third reading. If any Member

desires copies of said bills, he may request them of the Engrossing and Enrolling Clerk, and the cost thereof shall be charged to his Contingent Expense Account.

The Engrossing and Enrolling Clerk is authorized to amend the captions of all House bills and joint resolutions, ordered engrossed and finally passed, to conform to their bodies; provided, however, that each caption so amended must first be approved in writing by the author or sponsor of the bill or joint resolution before becoming official.

[See Sec. 8 of Rule XVIII and annotation following concerning engrossment of bills. Also see Sec. 5 of Rule XIX which the last paragraph of the above section modifies.

Only essential endorsements should be placed by the Engrossing and Enrolling Clerk on an engrossed or finally passed bill. These would include: the fact and date of first reading and reference to a particular standing committee; the fact and date of report by the committee, showing its recommendation (if reported unfavorably, the fact and date bill was ordered printed on minority report should also be shown); the fact of, date and vote on, passage to engrossments; the fact, date and vote showing suspension of the Constitutional rule requiring bills to be read on three several days, if such applies; the fact of, date and vote on final and the Sergeant-at-Arms' office also within the "bar of the passage; and the date bill was sent to the Senate." See also annotation on p. 272 re endorsements on bills passed under Sec. 49-a, Art. 3, of Constitution.]

SEC. 6. The Engrossing and Enrolling Clerk shall enroll all bills, joint resolutions and such House concurrent resolutions as have passed both houses and are required to be presented to the Governor. He shall typewrite them without erasures, interlinea-

tions or additions in the margin. After they have been examined by the Committee on Enrolled Bills and found truly enrolled they shall be reported to the House for the signature of the Speaker and then transmitted to the Senate, and thence to the Comptroller or Governor, as the case may be.

The Engrossing and Enrolling Clerk shall note the following on every enrolled House bill, which notation shall constitute the certification of the Speaker of the House, the Lieutenant Governor, the Chief Clerk of the House, and the Secretary of the Senate, as applied to their respective bodies:

(1) The date of the final passage of a bill, and the vote by which the bill was finally passed, if a record vote was taken. If no record vote was taken, the fact shall appear in this notation as "non-record vote." If the bill was amended in the Senate this fact shall also be noted.

(2) The date of concurrence in amendments by the Senate, and the vote by which the concurrence was made, shall appear as described in (1) above, or

(3) The date of the adoption of a conference committee report by each house, and the vote on the adoption of the report shall appear as described in (1) above.

In addition to the endorsements enumerated above, the Engrossing and Enrolling Clerk shall show on every bill containing an appropriation, of whatever nature, that the bill was passed subject to the provisions of Sec. 49a of Article III of the Constitution of Texas. Also, if a concurrent resolution is adopted

by both houses directing the House Engrossing and Enrolling Clerk to make corrections in the enrolled copy of a House bill, this fact shall be noted on the certification.

[Each House enrolls its own bills and resolutions. All concurrent resolutions, except those relating to matters of adjournment, are presented to the Governor for his approval.]

SEC. 7. The Reading Clerk, or his assistant, shall call the roll of the House in alphabetical order of the names of the Members when ordered to do so by the Speaker; and he shall also control the opening and closing of the voting machine on registrations and shall record votes from the floor, as directed by the Speaker.

He shall read all bills, resolutions, motions and other matters required by the Rules or directed by the Speaker to be read. He shall remain standing while reading or calling the roll, or taking a registration.

He shall prepare official copies of all record votes for the Journal. He shall not make any additions, subtractions or other changes in any record vote or registration unless the House specifically grants permission therefor, or as may be directed by the Speaker.

In the event of the absence, resignation or death of the Chief Clerk, the Reading Clerk shall, at the direction of the Speaker, take charge and attend to all the duties of the office until the Chief Clerk returns or his successor is elected.

SEC. 8. Any clerk, employee or other officer of the House, other than the Speaker, who shall, directly or indirectly, attempt to influence any Member of the House in favor of or against any measure pending, or use his official position in aiding anyone to lobby for or against any measure pending, shall be subject to discharge by the Speaker on account of such misconduct. This section shall not apply when such persons are answering questions or giving information at the request of any Member of the House. Any standing committee of the House may, by a majority vote of the members present, grant any clerk, officer or employee the right to appear before such committee and make known his views on any measure pending before such committee.

SEC. 9. All employees of the House shall report and be on duty daily, except Sundays, as determined by the Committee on Rules, which shall include hours the House or the committees to which they have been assigned may be in session, or as specifically directed otherwise by the Speaker.

SEC. 10. Employees of the House, serving in a session or in an interim between sessions, are hereby strictly forbidden to compile for the use of any person or persons information concerning the voting record of any Member of the House for any session of the Legislature. This Rule shall not apply where a Member requests information about himself for his personal use nor to the publication by officers and employees of the House of the Journal or other official records.

## RULE V.

### DUTIES OF THE DOORKEEPER.

SECTION 1. The Doorkeeper and Assistant Doorkeeper shall enforce strictly the rules relating to the privileges of the floor. When the House is under call he shall not permit any Member to leave the House without written permission from the Speaker, and he shall take up such permission cards as Members leave the Hall. He shall also take up permission cards of those who are admitted to the floor of the House under the Rules and practice of the House.

When a messenger from the Governor or the Senate arrives at the Bar of the House, the Doorkeeper shall announce him after first receiving recognition from the Speaker.

[See Section 1 of Rule XXVIII for the list of persons entitled to the privileges of the floor when the House is in session.]

## RULE VI.

### DUTIES OF THE CHAPLAIN.

SECTION 1. The Chaplain shall open and close each calendar day's session with prayer, and perform such other duties as the Speaker may direct.

[The first and last items under the daily order of business are prayers by the Chaplain, and should not be displaced by any matter whatever. See Rule XXI.

Customarily the House orders the prayers printed in the Journal.]

## RULE VII.

### STANDING COMMITTEES.

SECTION 1. *Rules.*—Eleven (11) members with jurisdiction over the Rules of the House, the Joint Rules, and all amendments proposed to either; with jurisdiction over the administrative operation of the House and its employees; with jurisdiction over all proposals for legislative investigations and invitations to appear before or address the House or a Joint Session; with the duty of assisting the Speaker in expediting the business of the House, in deciding the order of recognition for suspensions, and in such matters concerning the Rules and orderly procedure of the House as might be assigned to the Committee by the Speaker, but all final decisions as to the order of suspensions and business of the House shall be made by the Speaker; with the duty of examining all bills and resolutions enrolled in the House, and, when properly enrolled, to report thereon, and attend to the signing of the bills or resolutions by the proper officers of the Legislature, and their delivery to the Comptroller, if necessary, and to the Governor; with the duty of examining all enrolled bills and resolutions from the Senate, and verifying the insertion therein of House amendments, if any, and report thereon; and with the duty of examining all bills and resolutions engrossed in the House and verifying the insertion of amendments, if any, and when properly engrossed, to report thereon.

No person shall be allowed to appear before any standing committee of the House of Representatives in support of or in opposition to the passage or adop-

tion of any bill or resolution until he has first filed with the chairman of the committee before which he is appearing (unless he has previously filed such a sworn statement with the Rules Committee), a sworn statement showing every person, firm, corporation, class or group which he represents in appearing before such Committee. The form of such sworn statement shall be prescribed by the Rules Committee, and shall provide for the names and business addresses of the persons appearing before the committee, and the person, firm, corporation, class or group represented.

When such sworn statement is filed with any committee, except the Rules Committee, the chairman of the Committee before which it is filed shall deliver such sworn statement to the Rules Committee, to become a part of the permanent records of said Committee.

SEC. 2. *Appropriations.*—Twenty-five (25) members, with jurisdiction over all bills appropriating money from the General Revenue Fund, or other funds, of the State for maintenance of the State government, its departments and institutions; and with jurisdiction over all claims and accounts against the State which may be filed with the Legislature.

Sec. 3. *Judiciary.*—Twenty-one (21) members, with jurisdiction over all matters of civil law, rights, duties, remedies, and procedure not assigned to other committees; all matters relating to civil procedure in the courts of the State, and proposed uniform State laws; all bills creating, changing, or otherwise affecting courts or judicial districts of the State;

and all other matters pertaining to all courts of the State of Texas and to the State Bar of Texas.

Sec. 4. *Criminal Jurisprudence.*—Twenty-one (21) members, with jurisdiction over all matters of criminal law and criminal procedure in the courts of the State.

SEC. 5. *Revenue and Taxation.*—Twenty-one (21) members, with jurisdiction over bills to raise revenues, levying taxes or regulating the manner of their collection.

SEC. 6. *State Affairs.*—Twenty-one (21) members, with jurisdiction over questions of State policy, the administration of the State government, the organization, regulation and management of State departments and agencies, and the compensation and duties of officers of the State government.

Sec. 7. *Constitutional Amendments.*—Twenty-one (21) members, with jurisdiction over all proposals to amend the Constitution of Texas and all proposals for ratification of Amendments to the Constitution of the United States.

SEC. 8. *Education.*—Twenty-one (21) members, with jurisdiction over all matters relating to education and to the public schools and colleges of the State, the Texas Education Agency, and the Commission on Higher Education, and all bills creating, changing, or otherwise affecting school districts of the State.

SEC. 9. *State Institutions.*—Fifteen (15) members, with jurisdiction over all matters relating to

the State Board of Corrections and the penal institutions of the State and to State and county convicts; all matters relating to the Board for Texas State Hospitals and Special Schools and concerning State hospitals and special schools and other eleemosynary institutions of the State; all matters relating to the Texas Youth Council and the facilities under its supervision; all matters relating to printing for and stationery furnished to the State, its departments and institutions; all matters relating to University lands, the public school and asylum lands of the State, and the organization and management of the General Land Office; all matters relating to the State Building Commission and to the construction, maintenance and arrangement of State buildings, and the care and beautifying of the grounds, cemeteries and parks belonging to the State; and the duty to examine the departments of the State Comptroller and State Treasurer, and to submit reports upon the condition of each to the Legislature, as may be deemed necessary by the Committee.

SEC. 10. *Public Health.*—Eleven (11) members, with jurisdiction over all matters relating to the protection of public health, to the State Department of Health, to State and county quarantine, and to the practice of medicine, pharmacy and dentistry.

SEC. 11. *Federal and Interstate Affairs.*—Eleven (11) members, with jurisdiction over all matters involving the relations between the State and Federal Governments; relating to interstate compacts and matters relating to the Council of State Governments; relating to the State Volunteer Guard, State

Defense Guard, State Rangers, the Adjutant General's Department and all matters pertaining to the military affairs of the State; pertaining and relating to the Army, Navy, Marine Corps, and Air Force, and all other branches of the military service of the United States; pertaining to the defense of the State and Nation and pertaining to veterans of military and related services and their affairs.

SEC. 12. *Elections.*—Eleven (11) members, with jurisdiction over all questions affecting the privileges of the House and of the Members thereof; over contested elections to the House; and relating to the right of suffrage, and to general, special and primary elections.

SEC. 13. *Contingent Expenses.*—Five (5) members, with full control under direction of the House, over the expenditures of the House out of the Legislative Expense Fund; and it is expressly provided that no claim or bill against the House shall be paid out of such fund, unless the same shall have been previously authorized, and a bill therefor subsequently approved by the Committee on Contingent Expenses, or unless otherwise provided by a vote of the House.

The Committee on Contingent Expenses shall have assigned to it a committee clerk who is a bookkeeper and a stenographer, and who shall, under the direction of the Committee, keep an itemized account of all the supplies and merchandise of whatsoever kind or description, or other expenditures authorized by the Committee, from whom ordered, and the price paid therefor. This statement shall at all times be

open to the inspection of any Member of the House. The minutes of the Committee shall be kept in a well-bound book and at the close of business for any Session of the Legislature shall be delivered by the Chairman of the Committee on Contingent Expenses to the Secretary of State, with the request that it be preserved in the archives of his office.

The Committee shall procure and keep for the use of the Members and officers of the House such stationery and other supplies as may be ordered by the House or the Committee on Contingent Expenses. The Committee shall keep an itemized account of the quantity of every kind of material received, the date it was received and the price paid therefor, and the person for whom it was obtained and to whom it was delivered, with the date and quantity of each delivery.

SEC. 14. *Local Government.*—Twenty-one (21) members, with jurisdiction over all matters relating to municipalities and town corporations, their government, finances and officers, relating to counties, their creation, organization, boundaries, government and finances, and the compensation and duties of their officers; and relating to the reapportionment or redistricting of the State into Congressional and Legislative Districts.

SEC. 15. *Business Affairs.* — Twenty-one (21) members, with jurisdiction over all matters relating to banking, the State Department of Banking and the State banking system; relating to the organization, incorporation, management and regulation of private corporations; and relating to commerce, trade and manufactures.

SEC. 16. *Liquor Regulation.*—Fifteen (15) members, with jurisdiction over all matters relating to the Liquor Control Board, to the regulation of the sale of intoxicating liquor, and to local option.

SEC. 17. *Highways and Motor Traffic.*—Twenty-one (21) members, with jurisdiction over all matters relating to the creation of county roads and the State Highway System; relating to the establishment and maintenance of roads, bridges and ferries and the payment therefor, together with the appointment, compensation, powers, and duties of officers, employees and workmen in connection therewith; relating to the State Highway Department, its organization and management and the compensation and duties of its employees; relating to the licensing of private passenger vehicles on all roads and highways and the regulation and control of all traffic thereon; pertaining to the regulation of the speed of all vehicles upon public roads and highways; and relating to the control, regulation, licensing and operation of commercial motor vehicles, both bus and truck.

SEC. 18. *Common Carriers.*—Twenty-one (21) members, with jurisdiction over all matters relating to railroads, street and interurban railway lines, steamship companies, express companies, and telegraph and telephone companies; relating to the organization and management of the Railroad Commission, and the compensation and duties of its employees; and relating to aircraft and aircraft parts, manufacturing, repair plants, airports and other facilities used and useful in association with transportation of freight and passengers by air, and all matters associated with traffic by air.

SEC. 19. *Agriculture and Livestock.*—Twenty-one (21) members, with jurisdiction over all matters relating to agriculture, horticulture and farm husbandry; and relating to the livestock industry.

SEC. 20. *Conservation and Reclamation.*—Twenty-one (21) members, with jurisdiction over all matters relating to the State Board of Water Engineers and to the conservation of the natural resources of the State; to the taking, storing, control and use of water; to the improvement of rivers, harbors and flooded districts; to the incorporation, management and powers of irrigation companies and the drainage of lands; to the development and preservation of forests; and to the regulation and promotion of the lumber industry.

SEC. 21. *Game and Fish.*—Twenty-one (21) members, with jurisdiction over all matters relating to the propagation and preservation of game and fish within the State, and to the development and regulation of the fish and oyster industries on the coast and inland waters of the State; and relating to the Game and Fish Commission.

SEC. 22. *Labor.*—Twenty-one (21) members, with jurisdiction over all matters relating to the Bureau of Labor Statistics, to the welfare and improvement of the condition of all classes of wage earners, and to the problems of organized labor.

SEC. 23. *Insurance.*—Twenty-one (21) members, with jurisdiction over all matters relating to the State Board of Insurance, to life, fire, fidelity, and casualty insurance, and to guaranty and surety com-

panies, including their organization, incorporation, management, powers, and regulations, and to all and of all fraternal insurance organizations.

SEC. 24. *Oil, Gas and Mining.*—Twenty-one (21) members, with jurisdiction over all matters relating to the production, regulation, transportation, and development of oil and gas and to mining, and to the development of the mineral deposits of the State.

SEC. 25. *Local and Uncontested Bills.*—Seven (7) members, with jurisdiction over the determination of whether or not bills are in fact local or uncontested. This Committee shall make up the calendar for periods designated by the House for the consideration of local and uncontested bills, placing the bills on this calendar in accordance with their numbers.

### ADDITIONAL ANNOTATIONS ON COMMITTEES.

#### REPORTS OF CERTAIN SELECT COMMITTEES.

[Reports of investigating committees and certain other select committees often do not make any recommendations for action on the particular subject for which the committee was appointed, and, in such case, a motion is in order to accept the report just as a means of discharging the committee. Also, when a report carries certain recommendations for legislative action, that is, legislative expressions through concurrent action of the two Houses, the report should be accepted and the committee discharged, without action on the report itself. If legislative action is desired, action or expression should be through the proper channels, namely a bill or concurrent resolution. The same is true as regards reports to the House recommending certain action by the House itself. Since it is not in order to amend a report, the subject matter to be acted upon should be

brought before the House in a manner which would permit the House to take such action on it as it may deem proper, and not be forced to accept or reject certain matters in their entirety as presented by a committee. Such procedure would be manifestly unfair to the House.]

ELECTION CONTESTS.

*Case where the House ordered its Committee on Privileges, Suffrage and Elections to dismiss a contest. Points regarding matter previously disposed of also covered.*

[At the opening of the Regular Session of the Forty-first Legislature, the Secretary of State filed with the House papers contesting the election to the House of W. R. Montgomery of Hidalgo County, E. M. Smith being the contestant. The contest was immediately referred to the Committee on Privileges, Suffrage and Elections. When asked for an opinion, the Attorney General advised the chairman of this committee that a subcommittee of the main committee could not go into Hidalgo County to take testimony.

The committee then requested of the House its "instruction as to the amount, if any, you will pay to secure the attendance of witnesses in the Smith-Montgomery election contest." It was then moved "that the Committee on Privileges, Suffrage and Elections be instructed to dismiss all proceedings in the contest of Smith vs. Montgomery now pending and declare Montgomery elected upon the returns from Hidalgo County." The following point of order was then raised: "That the House cannot dismiss a contest until the Committee on Privileges, Suffrage and Elections shall have made its report on the contest." The House overruled the point of order. After refusing to adopt a substitute motion to "instruct the committee to notify contestant to present his evidence to the committee in the shortest time possible and at his expense," the original motion to dismiss the contest prevailed, 91 to 21. The motion to reconsider and table was then made and prevailed.

In accordance with the instructions of the House, the Committee reported to the House as follows:

Hon. W. S. Barron, Speaker of the House of Representatives:

We, the Committee on Privileges, Suffrage and Elections, do hereby report to you the following order passed by said committee, to-wit:

Whereas, the House adopted the following motion in the case of Smith vs. Montgomery, contest pending before this committee, to-wit: "I move that the Committee on Privileges, Suffrage and Elections be instructed to dismiss all proceedings in the contest of Smith vs. Montgomery, now pending, and declare Montgomery elected upon the returns from Hidalgo County"; now, therefore, it is

Ordered by the committee, in obedience to said mandate from the House, that the contest of Smith vs. Montgomery, pending before said committee, be and the same is hereby dismissed, and that said Montgomery be declared elected upon the returns from Hidalgo County.

SINKS, Chairman.

The House adopted the report. The motion to reconsider and table was made and prevailed. The adoption of the committee report actually concluded this phase of the case.

Several days later the House admitted as privileged matter a petition from citizens of Hidalgo County requesting the reopening of the Smith-Montgomery contest. After the petition was read in full the following motion was made: "That the rule of the House be suspended and that this matter be referred to the Committee on Privileges and Elections, and that said committee be instructed to proceed to hear the minutes of the contest." The motion was lost, having failed to receive the necessary two-thirds vote. It was then moved that the petition be referred to the Committee on Privileges, Suffrage and Elections. The following point of order was then made: "That the petition deals with matters which were heretofore considered by the House, and that a motion was made to reconsider the action of the House in that matter and the motion to reconsider was then tabled." There being certain constitutional points involved, the Speaker passed the point of order to the House. The House sustained the point of order 74 to 55. The motion to reconsider and table the vote by which the House sustained the point of order was made and prevailed.]

*The Secretary of State swears in a Member-elect appearing with a certificate of election even though an election contest is pending for the seat.*

[At the opening of the Forty-fifth Legislature, before the Members-elect were sworn in, Mr. E. E. Hunter, contesting the election of Mr. J. K. Russell as Representative of the Ninety-ninth District, presented to the Secretary of State the following communication:

AUSTIN, TEXAS, January 11, 1937.

To the Honorable Secretary of State:

I respectfully submit that I have filed and there is now pending with you for transmission to the House of Representatives, through its Speaker, a contest of the election and certificate of election of the Hon. J. K. Russell to the position of Representative of and for the 99th Representative District of Texas.

Because, and by reason of such pending contest, I object to and protest the administering of the oath of office to the said Hon. J. K. Russell to said office.

I further request that the question of whether said Hon. J. K.

Russell should take the oath of office be referred along with said contest to the House of Representatives for its action to determine the qualifications and election of said Hon. J. K. Russell, and of this contestant.

E. E. HUNTER, Contestant.

The Secretary of State refused to grant the request of Mr. Hunter, having previously investigated the point in question, and having been advised as to his duty in the matter in the following communication from Mr. Scott Gaines, First Assistant Attorney General:

AUSTIN, TEXAS, January 12, 1937.

Honorable B. P. Matocha,
Secretary of Texas,
Austin, Texas.

Dear Sir: We have your request to be advised as to whether or not upon the convening of the Forty-fifth Legislature where a contest has been filed over the validity of an election for one of the Members of the Legislature, you should, as Secretary of State, administer the oath to the contestant.

Section 8 of Article III of the Constitution of Texas reads as follows:

"Each House shall be the judge of the qualifications and election of its own Members; but contested elections shall be determined in such manner as shall be provided by law."

Article 3059, Revised Civil Statutes of Texas, 1925, provides for the filing of a contest over the validity of an election for Members of the Legislature, and Article 3063, R. C. S., provides that immediately after the organization of the Legislature that either the President of the Senate or the Speaker of the House, as the case may be, shall refer such contest to the Committee on Privileges and Elections of the House in which the contest is pending. Article 3064, R. C. S., provides for a hearing of the contest before the Committee and Article 3065 provides that the House in which the contest is pending shall, as soon as practicable, after the report of the Committee has been received, fix a day for the trial of the contest and shall proceed to determine whether the contestant or contestee, or either of them, is entitled to the contestant's seat, and further providing that the House may hold the election void.

Article 5423, R. C. S. of Texas, provides that those persons receiving certificates of election to the Senate and House of Representatives of the Legislature and those Senators whose terms of office shall not have terminated and none others shall be competent to organize the Senate and House of Representatives.

The pertinent part of Article 5424, Revised Civil Statutes, provides for the organization. The Secretary of State shall preside at each recurring Session of the Legislature, and Article 5424 prescribes the

duties of Chief Clerk under the direction of the Secretary of State at such organization and states that the Clerk shall call all the counties in alphabetical order and that should returns of election in any county for Members of the Legislature not be made to the Office of Secretary of State, he shall nevertheless call such county. Said Article further provides in describing the duties of the Secretary of State that when the counties are called and the Members-elect present their credentials, administer to each the official oath.

Article 5426 provides that any person appearing at said call and presenting the proper evidence of his election shall be admitted or qualified in the same manner as those whose returns of his election had been made to the Office of the Secretary of State.

It is the opinion of the writer that the Secretary of State, being a ministerial officer in regard to the matter of discharging his duties in connection with the organization of the Legislature as prescribed in Title 87 of the Revised Civil Statutes and said statutes prescribing that he shall administer the official oath to those persons having their certificates of election upon the organization of the Legislature, that he should administer said oath to a Member having his certificate of election regardless of whether or not a contest has been filed over the validity of the election of said Member.

Yours very truly,

(Signed) SCOTT GAINES,
First Assistant Attorney General.]

## RULE VIII.

### ORGANIZATION, POWERS AND DUTIES OF COMMITTEES.

SECTION 1. Standing committees of the House, and the duties and general jurisdiction of each, shall be as enumerated in Rule VII. All proposed legislation shall be referred by the Speaker to the appropriate committee, subject to correction or change by a majority vote of the House.

[It has long been the practice for Speakers to correct errors in their own references. Such is done very shortly after the original reference however, usually within a few minutes or a few hours, and long before any committee action is possible.]

SEC. 2. Each committee shall consist of the number of members designated for it in Rule VII. The Speaker shall appoint the chairman and vice-chairman of each standing committee. Each Member of the House, in the order of his seniority in the House, shall, subject to a vacancy occurring, have the right to select one (1) committee upon which to serve, and the Speaker shall appoint him to such committee; provided, however, that seniority selections on committees shall be limited to one-fourth (¼) of the total membership of the committee; provided further, that no more than two (2) members from the same representative district may, based on seniority, select the same committee; and provided further, that the Speaker shall fill the remaining committee positions and shall appoint all members of the Rules Committee.

[The "one-fourth" limitation above applied to a 21 member committee would obviously mean 5 members; and to a 25 member committee mean 6 members.

The Chief Clerk should supply a seniority list to the Speaker for use in appointing committees.

Committee chairmen do not have authority to "rule out a bill" as unconstitutional on the ground, for example, that it contains more than one subject, or for any other similar reason. Committees must report back to the House in a manner prescribed by the Rules.]

SEC. 3. If there be members with an equal number of years of seniority, numbers shall be drawn by them to determine the order in which each shall select a committee. "Seniority," as used in the House Rules, shall mean total time served as a member of the House which service need not be consecutive.

SEC. 4. No member shall serve on more than one of the following committees: State Affairs, Revenue and Taxation, or Appropriations; and any member of these three (3) committees shall not be appointed to more than two (2) additional committees.

SEC. 5. In the event a vacancy should occur on a committee during a session or after adjournment by reason of the death, resignation or removal of any member, it shall be the duty of the Speaker to appoint a member to fill such vacancy.

SEC. 6. As soon as practicable after the appointment of the standing committees, it shall be the duty of the Speaker to require the Committee on Rules to determine a schedule for regular meetings. As soon as this schedule is completed, the Speaker shall cause same to be published in the House Journal and posted in a convenient and conspicuous place near the entrance of the House.

SEC. 7. In case of the absence of the chairman and the vice-chairman of a committee, the senior member present, as determined in Section 3 hereof, shall act as chairman.

SEC. 8. The rules of procedure of the House of Representatives, and to the extent applicable, the rules of evidence and procedure in civil and criminal cases, shall govern the hearings and affairs of each committee. Subject to the above, and to the extent necessary for orderly transaction of its business, each committee may promulgate and adopt additional rules and procedures by which it will function.

["Additional rules" must not be in conflict or render ineffective any rules of the House.]

*Erroneous rulings by committee chairmen are insufficient grounds for sending bills back to committees on points of order, provided reports are made in accordance with the Rules.*

H. B. 236 was laid before the House. Mr. Pearson raised a point of order on its further consideration because the bill was not "properly and legally" voted out of the committee. He contended that the chairman of the committee had made certain erroneous rulings, but agreed that the bill had finally received a majority vote for favorable report and that a quorum was present. The Speaker, Mr. Reed, in overruling the point of order, held that the stated grounds were insufficient to send the bill back to committee, particularly in view of the fact that committee members have recourse to appeals from the rulings of committee chairmen, and that the committee minutes failed to show any protest or appeal. (50th Reg.)

SEC. 9. It shall be in order to move a call of a committee at any time to secure and maintain a quorum for either of the following purposes:

(a) For the consideration of a certain or specific bill, resolution, or other measure; or

(b) For a definite period of time or for the consideration of any designated class of bills.

When a call of a committee is moved for one of the above purposes, and seconded by two (2) members, of whom the chairman may be one, and is ordered by a majority of the members present, no member shall thereafter be permitted to leave the committee hearing without written permission from the chairman. Where necessary, the chairman may call upon the Sergeant-at-Arms of the House for assistance in enforcing the will of the committee.

SEC. 10. No standing committee, or subcommittee, shall sit during the time the House is in session with-

out permission being given by a majority vote of the House.

[The motion to grant permission is subject to the three minute pro and con debate rule.]

SEC. 11. A majority of a committee shall constitute a quorum for business and no action or recommendation shall be valid unless taken at a formal meeting with a quorum actually assembled. No committee reports shall be made to the House unless ordered by a majority of such quorum in committee assembled, except as hereinafter provided for in these Rules; and a quorum of the committee must be present when the vote is taken on reporting a bill or resolution out of the committee. Proxies cannot be used in committees.

*Valid committee report necessary on a bill under provisions of the Constitution.*

During the consideration of H. B. 33 it developed, on a point of order, that the minutes of the committee reporting the bill showed that in fact a quorum was not present at the time the bill was reported. Mr. McAllister then moved to suspend the House rule requiring the presence of a quorum of a committee at the time of reporting a bill, resolution or other measure. Mr. Bell of DeWitt raised the point of order that such a motion would be out of order on the ground that under Sec. 37 of Art. 3 of the Constitution a valid committee report is required. The Speaker, Mr. Gilmer, sustained the point of order and ordered the bill returned to the committee for further consideration, pointing out that to do otherwise would render meaningless the constitutional requirement of committee consideration and report. (49th Reg.)

*Not in order to circumvent committee action by a suspension of the Rules.*

The Speaker laid S. B. No. 235 before the House, and Mr. Mangum raised a point of order that the bill had not been reported properly from the committee, the minutes showing that a quorum was not present at the time. The Speaker, Mr. Reed, called for, examined the minutes, and then sustained the point of order. Whereupon Mr.

Miller moved to suspend all rules for the purpose of considering the bill at this time. On a point of order by Mr. Mangum against such procedure, the Speaker sustained his contention, holding that to allow such would set a precedent whereby the constitutional requirement for committee consideration would be abrogated. (50th Reg.)

QUORUM REQUIRED FOR COMMITTEE ACTION.—Action of a committee is valid only when taken at a formal meeting of the committee actually assembled (C. P., VIII, 2209). Action of a committee is recognized by the House only when taken with a quorum actually assembled and meeting (C. P., VIII, 2211). Action taken by a committee in the absence of a quorum was held to be invalid when reported to the House (C. P., VIII, 2212).

SEC. 12. All committee reports shall be in writing. They must be signed by the chairman, the vice-chairman, or the chairman pro tempore, depending on who presided, and addressed to the Speaker, and shall contain a statement of the recommendations of the Committee with reference to the measure reported.

SEC. 13. No minority report shall be recognized by the House unless it has been signed by not less than five (5) members of a committee consisting of twenty-five (25) members or more, four (4) members of a committee consisting of more than fourteen (14) members but less than twenty-five (25) members, three (3) members of a committee consisting of more than ten (10) members but less than fifteen (15) members, or two (2) members of a committee consisting of ten (10) members or less. Only members who were present when the vote was taken on the bill, resolution or other proposition being reported upon, and who voted on the losing side, may sign a minority report. Notice of intention to file a minority report must be given to the committee assembled at the time of the vote on the bill, resolution or other proposition

and before the recess or adjournment of the committee, or within an hour thereafter by filing written notice with the Committee Clerk; or such notice may be given in writing to the Calendar Clerk within twenty-four hours after the adjournment or recess of the committee exclusive of Sunday. When such notice is filed with the Committee Clerk or the Calendar Clerk, the clerk with whom such notice is filed shall advise the members of the committee in writing that such notice has been filed and by whom filed.

SEC. 14. In committees, motions to report favorably or unfavorably must receive affirmative majority votes, majority negative votes to either motion being insufficient to report. If a committee is unable to agree upon a recommendation for action, as in the case of a tie vote, it should submit a statement of this fact as its report, and the House shall decide, by a majority vote, the disposition of the matter by one of the following alternatives:

(a) Leaving the bill in the Committee for further consideration; or

(b) Re-referring the bill to some other committee; or

(c) Ordering the bill printed, in which case the bill shall go on the calendar as though it had been reported favorably.

COMMITTEE UNABLE TO AGREE.—A committee being unable to agree on a recommendation for action may submit a statement of this fact as its report (H. P., IV, 4665, 4666). Instance wherein a committee, being equally divided, reported its inability to present a proposition for action. (H. P., I, 347.)

When a committee, by its rules or vote, requires copies of a bill to be placed on the desks of its mem-

bers a designated time in advance of, and as a prerequisite to, committee consideration, the distribution of the bill to members of such committee shall be handled by the Sergeant-at-Arms in the same manner and under the same procedures as for bills reported favorably by a committee. The author or sponsor of the bill shall make available to the Sergeant-at-Arms a sufficient number of copies of the bill to enable the Sergeant-at-Arms to place a copy thereof on the desk of every member of such committee. Records in the office of the Sergeant-at-Arms shall be prima facie evidence of the fact, date and hour of the distribution of such bill.

SEC. 15. The report of a minority of a committee must be made in the same general form as a majority report. If the majority report on a bill is unfavorable, and a favorable minority report is not signed in accordance with Section 13 of this Rule and then filed with the Calendar Clerk within two (2) calendar days, exclusive of Sunday and the date of committee action, the Calendar Clerk shall file the bill away as dead; but during the last fifteen (15) calendar days of a Regular Session or the last seven (7) days of a Special Session, the Calendar Clerk shall hold a bill only one (1) calendar day, exclusive of Sunday and the date of committee action, awaiting the filing of a minority report before he files the bill away as dead. If the favorable minority report is properly signed and filed, the Calendar Clerk shall hold the bill five (5) legislative days, exclusive of the legislative day on which the minority report was filed, awaiting the passage of a motion to print the bill on minority report. If such motion to print is carried, the bill

shall be printed, and shall be placed on the calendar as if it had been reported favorably. A two-thirds (2/3) vote of the House shall be required to print on minority report Joint Resolutions proposing amendments to the Constitution. If a motion to print a bill on minority report is not made within the five (5) legislative days above described, the Calendar Clerk shall file the bill away as dead. It shall not be in order to move to recommit a bill adversely reported with no minority report, except as provided in Section 22 of this rule.

[See the third paragraph of Sec. 5 of Rule XVIII regarding the recommittal of a bill reported adversely by a committee.

The Calendar Clerk transmits one copy of a minority report to the Journal Clerk when received.

In the Regular Session of the 45th Legislature the House ordered a bill printed on minority report. The minority report contained amendments which constituted a new bill, and, upon the suggestion of the Speaker, Mr. Calvert, the House ordered the amendments printed along with the original bill.

In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that a motion to recommit a bill was an acceptable substitute for a motion to print a bill on minority report, which motion had been made at a routine motion period. He held further that the substitution motion as such was undebatable under the general rule that at routine motion periods only three-minute pro and con debate is allowed on an original motion.

See Sec. 7 of Rule XVIII in regard to printing bills and resolutions when reported. Also see annotation following Sec. 7.]

*An adverse committee report on a bill does not prevent the consideration of a similar bill.*

The House was considering a bill similar to one adversely reported

to the House, when Mr. Bailey raised the point of order that a bill having the same subject had been reported adversely by Judiciary Committee No. 2, which was in effect the defeat of the bill, and that it was not now in order to pass on this bill.

Overruled. (26th Reg.)

SEC. 16. When simple or concurrent resolutions have been referred to committees, reports thereon shall be filed with the Calendar Clerk by the chairman, the vice-chairman or the chairman pro tempore, depending on who presided. When a report is favorable, the resolution and report shall be sent to the Speaker. If a resolution receives an unfavorable majority report and a favorable minority report, it shall be sent to the Speaker and placed before the House in proper order only if the House by a majority vote orders it considered on minority report. Such a motion should be made under the seventh item in the daily order of business.

SEC. 17. If a local bill is reported adversely, it shall be subject to the same rules as other bills reported adversely.

SEC. 18. The chairman, the vice-chairman or chairman pro tempore of each committee of the House, depending on who presided, shall keep or cause to be kept a complete record of the proceedings in committee. This record shall show the time and place of each meeting of the committee, the attendance of committee members, and an accurate record of all votes taken. This record may also include such other information as the chairman may deem advisable.

Responsibility for the keeping of accurate and complete records of committee meetings shall rest

upon the chairman, the vice-chairman, or the chairman pro tempore of the committee, depending on who presided. It shall be the duty of the Head of the Committee Clerks to see that committees are provided with clerks and that all committee clerks are instructed in the proper manner of keeping minutes of committee meetings and preserving committee records.

[If amendments are proposed by a committee they should be numbered for printing, but they should be numbered only after they are finally approved by the committee. That is, the order of offering and adoption in committee has no significance. Thus, a series of committee amendments should appear in the printed bill numbered in an uninterrupted series beginning at No. 1. Some committee chairmen and clerks have adopted the excellent scheme of stamping "Adopted," signing, and numbering amendments proposed by their committees. Rubber stamps can be secured reading "Adopted."

Whenever a committee amendment to a bill, e.g., a committee substitute or a new bill body, is agreed to, and in the process of committee consideration amendments thereto have been adopted, the committee clerk should incorporate these amendments into the original amendment before filing the bill with the Calendar Clerk for printing. Thus only a single and complete amendment representing the committee substitute or the new bill body should be printed. The printing of committee amendments to committee amendments results in much confusion.]

The minutes of a committee are subject to correction only in committee assembled, and by the vote of a majority of the committee. Every committee hearing shall be open to the public unless otherwise determined by the House; and it shall be the duty of the Chairman to post forty-eight (48) hours in ad-

vance notices of all public hearings and to release such information to the press and to the public.

[Notices of "public hearings" are usually posted on a large bulletin board, provided by the Sergeant-at-Arms for that purpose, either in one corner of the House Chamber, at the front entrance to the House Chamber, or in the Reception Room. Committee clerks are usually charged with the responsibility of posting notices of such public hearings.]

*A "public hearing" on a bill is not a prerequisite to reporting by a committee or consideration by the House.*

The Speaker laid before the House on second reading H. B. 40, and the caption was read. Mr. Cato raised a point of order on further consideration of the bill on the ground that a "public hearing" had not been held before the bill was reported by the committee. The Speaker, Mr. Gilmer, overruled the point of order. (49th Reg.)

[This point of order is raised frequently and arises through a misunderstanding of Sec. 7 above and the long standing practice of the House. Sec. 7 provides that every committee hearing shall be open to the public and hence every committee hearing is actually "open." There is no other kind of official committee meeting. Anyone may attend committee hearings. Committees, however, have control of their business, and there is nothing in the Rules which requires committees to hold "public hearings" in the accepted meaning of the term, i.e., where numbers of persons appear to argue both sides of a question. Such public hearings should be and are almost always held on bills of outstanding importance, and notices of these hearings must be posted forty-eight hours in advance, as provided above. The point is, if a committee elects to hold a "public hearing," then it must set the bill and post the proper notice. In fact, it is these two steps which characterize the "public hearing" as differentiated from the ordinary committee hearing.]

SEC. 19. Bills, resolutions and other papers referred to a committee shall be taken up and acted upon by such committee in the order determined by its chairman, subject to modification or change by a majority vote of the committee.

SEC. 20. During the first seventy-six (76) calendar days of a Regular Session when any bill, resolu-

tion or other paper shall have been in committee for six (6) calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a Member to move that the committee be required to report the same within seven (7) calendar days, which motion shall require a two-thirds (2/3) vote for its passage.

After the first seventy-six (76) calendar days of a Regular Session, when any bill, resolution or other paper shall have been in committee for six (6) calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a Member to move that the committee be required to report the same within seven (7) calendar days, which motion shall require a majority vote for its passage.

[As used in the two paragraphs above, "Member" means a Member participating in proceedings of the House as distinguished from a committee.

In the 56th Legislature, 2nd Called Session, the Speaker, Mr. Carr, ruled that since the two paragraphs above refer to a regular session, in a called session only a majority vote is required to instruct a committee to report a bill, resolution or other paper which has been in the committee for six days.]

A motion to instruct a committee to report is not a privileged motion and must be made during the routine motion period unless made under a suspension of the Rules.

The House shall have no authority to instruct a subcommittee directly; however, instructions recognized under the Rules may be given to a committee and shall be binding on all subcommittees of such committee.

[The House may not instruct a committee to do that which it is not permitted to do under the Rules, or to require of it actions not covered by the Rules.]

SEC. 21. (a) During the first seventy-six (76) calendar days of a Regular Session, when any bill, resolution or other paper shall have been in committee for seven (7) calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move to re-refer such bill, resolution or other paper to a specific committee, which motion shall require a two-thirds (2/3) vote.

(b) After the first seventy-six (76) calendar days of a Regular Session, when any bill, resolution or other paper shall have been in committee for seven (7) calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move to re-refer such bill, resolution or other paper to a specific committee, which motion shall require a majority vote.

(c) Such motion shall be made under the seventh item of business under Rule XXI.

SEC. 22. No adverse report shall be made on any bill or resolution by any committee without first giving the author of such bill an opportunity to be heard. If it becomes evident to the House that a bill has been reported adversely without the author's having had an opportunity to be heard as provided in this Rule, the House may, by a majority vote, order the bill recommitted even though no minority report was filed in the manner prescribed by these Rules. This rule shall have precedence over that section of Rule XVIII which provides that when a bill has been re-

ported adversely it is not in order to recommit it except by a two-thirds (2/3) vote.

SEC. 23. The reports of select committees shall be filed with the Chief Clerk and printed in the Journal.

[This is a partial repetition of Sec. 1, Rule 4, fourth paragraph.]

SEC. 24. The reports of standing committees shall be made in duplicate; one of which shall be filed with the Journal Clerk for printing in the Journal and the other shall accompany the original bill.

SEC. 25. It shall be the duty of the chairmen of the standing committees to see that the originals of all bills, resolutions, memorials, and such other documents as may be referred to them are returned to the Calendar Clerk with the final report of the committee upon the matter to which they pertain.

SEC. 26. Appeals from rulings of chairmen of committees shall be in order if seconded by three (3) members of the Committee, which number may include the member requesting the appeal. The procedure following a seconded appeal in a committee shall be the same as in the House.

SEC. 27. No action by a committee on bills or resolutions referred to it shall be considered as final unless the same is in the form of a favorable report, an unfavorable report, or a report of inability to recommend a course of action.

SEC. 28. No motion is in order in a committee considering a bill, resolution or other matter that

would prevent the committee from reporting the same back to the House in accordance with the Rules of the House.

[For example, motions to table a bill, postpone consideration of it indefinitely, and to postpone consideration of it beyond the time allowed are all out of order and should be ruled out by the chairman.]

SEC. 29. Before the previous question can be ordered in a committee, the motion therefor must be seconded by not less than five (5) members of a committee consisting of twenty-five (25) members or more, not less than four (4) members of a committee consisting of more than fourteen (14) members but less than twenty-five (25) members, not less than three (3) members of a committee consisting of more than ten (10) members but less than fifteen (15) members, and not less than two (2) members of a committee consisting of ten (10) members or less. If seconded, the previous question may be ordered by a majority vote.

SEC. 30. When a report is made by a standing committee, the proposition, bill or resolution recommended or reported back shall be before the House for its consideration, without action upon the report, in accordance with these Rules. Each committee shall have broad power to recommend amendments or to change the structure or content germanely of any bill or resolution referred to it to the end that the ultimate legislative product reported by the committee shall represent the collective thinking of the committee as to the most desirable proposition on the matter under consideration. In case the committee

desires to do so, it may adopt and report a complete committee substitute in lieu of an original bill, in which event the committee substitute shall accompany and take the place of the original bill before the House for consideration. Should the author of the proposal, bill or resolution not be satisfied with the final recommendation or form of the committee report, he shall have the privilege of offering on the floor of the House such amendments or changes thereto as he deems necessary, and his amendments or changes shall be given priority during the periods of time when original amendments are in order under the provisions of Section 3 of Rule XIX.

[Reports of standing committees and subcommittees are advisory only and no action directly thereon is required.

The last sentence of the above rule is in conflict with Rule 19, Sec. 3 (B and C) and this conflict must be resolved to clarify this important rule.]

It is the intent of this rule to place full responsibility upon each standing committee for the legislative product which emerges with a favorable report from such committee, to the end that the best possible legislative product which the committee can draft will be presented to the House for its consideration.

SEC. 31. Standing committees of the House shall be and are hereby charged with the responsibility and duty of formulating legislative programs and initiating legislation on all matters within the jurisdiction of such committee. Each standing committee shall make a continuing study of the matters under its jurisdiction, conduct such investigations as it feels are necessary to supply it with adequate information and shall recommend legislation to the House when

such legislation in its area of jurisdiction is deemed necessary and desirable.

It shall be the duty of the chairman of each standing committee to introduce, or cause to be introduced, the legislative programs developed by such committee and to mobilize the efforts of such committee to secure passage of the proposals of such committee.

It is the intent of this Rule to give each standing committee wide discretion in the matters to be considered by such committee within the area of its jurisdiction, to the end that the committee shall not be confined in its legislative endeavors to proposals submitted to it by individual members of the House, but each committee shall be independent in seeking out the problems within its area of jurisdiction and in formulating legislative programs to solve such problems.

SEC. 32. (a) While the Legislature is in Session and to the extent practicable, each standing committee shall conduct regular committee meetings in accordance with the schedule of such meetings promulgated by the Committee on Rules under the direction of the Speaker. Standing committees may meet at such other times as may be determined by the committee.

(b) The House may by resolution specifically grant to any standing committee the power and authority to: (1) determine the time it shall meet during the interims, (2) determine how frequently it shall meet during the interims, and (3) determine the place it shall meet during the interims.

Unless otherwise determined by the House, all com-

mittee meetings shall be in Austin, but such committee may meet elsewhere within the State of Texas if deemed necessary by the House for the orderly transaction of its business.

SEC. 33. Each standing committee is hereby authorized to request the assistance, where needed in the discharge of its duties, of the State Auditor's Department, the Texas Legislative Council, the Texas Department of Public Safety, the Attorney General's Department, and all other State agencies and offices, and it shall be the duty of said departments, agencies and offices to assist the committee when requested to do so.

SEC. 34. All committees shall require all witnesses appearing before said committees to give their testimony under oath, and each committee may avail itself of such other additional powers and prerogatives as are authorized by the provisions of law.

SEC. 35. When the Legislature is in session, each standing committee shall be furnished with committee clerks and clerical assistance in accordance with the provisions of Section 18 of this Rule. When the Legislature is not in session, each standing committee may obtain such committee clerks and clerical assistance as necessary to the transaction of its business from the Texas Legislative Council, and it shall be the duty and responsibility of the Council, if accepted by the Council, to provide such staff assistance as may be requested and such committee clerks and clerical help as each standing committee shall require.

SEC. 36. Members of all standing committees shall be reimbursed for their actual and necessary expenses incurred while engaged in the work of the committee and while traveling between their places of residence and the places where meetings of the committee are held, such reimbursement to be authorized only when the Legislature is not in Session, unless otherwise directed by the House. All such expenses of the committee and its members shall be paid out of the appropriation for mileage and per diem and contingent expenses of the Legislature. All expense vouchers shall be approved by the Chairman of the standing committee and by the Speaker of the House of Representatives before payment shall be authorized.

## RULE IX.

### QUESTIONS OF PRIVILEGE.

SECTION 1. Questions of privilege shall be:

First. Those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings.

Second. The rights, reputation and conduct of Members individually in their representative capacity only, and shall have precedence over all other questions except motions to adjourn. When in order, a Member may address himself to a question of privilege; or at any time he may print it in the Journal, provided it contains no reflections upon any Member of the House.

[The high priority given in the first sentence of the above paragraph is modified by the terms of Sec. 2 below.]

When speaking on personal privilege, Members must confine their remarks so as to be within this Rule. The Speaker shall strictly construe this Rule.

[A member speaking on personal privilege may yield to questions if he so desires.]

SEC. 2. It shall not be in order for a Member to address himself to a question of privilege between the time an undebatable motion is offered, and before the vote is taken on such motion. It shall not be in order for a Member to address himself to a question of privilege between the time the previous question is ordered and the vote is taken on the last proposition included under the previous question, nor shall it be in order for a Member to address himself to a question of privilege after a motion to table is offered and before the vote is taken on such motion.

[Often Members taking advantage of their right to speak to a point of personal privilege, have discussed matters which were clearly not matters "affecting the right of the House collectively, its safety, dignity and the integrity of its proceedings" or of "the rights, reputation and conduct of Members individually or in their representative capacity only." This practice is an open violation of the Rules, and should not be permitted.

The Rules do not give a member the right to address himself to a question of personal privilege solely upon the plea that his "feelings are hurt." Since only matters incidental to obtaining a quorum under a call of the House, or adjourning, are in order, personal privilege speeches, under such conditions, are out of order.]

PRIVILEGE OF THE HOUSE.—The privilege of the House, as distinguished from that of the individual Member, includes questions relating to its constitutional prerogatives, in respect to revenue legislation,

etc. (H. P., II, 1480-1501); its power to punish for contempt, whether of its own Members (H. P., II, 1641-1665), of witnesses who are summoned to give information (H. P., II, 1608, 1612; H. P., III, 1666-1724), or of other persons (H. P., II, 1597-1640); questions relating to its organization (H. P., I, 22-24, 189, 212, 290), and the title of its Members to their seats (H. P., III, 2579-2587); the conduct of officers and employees (H. P., I, 284-285; H. P., III, 2628, 2645-2647); comfort and convenience of Members and employees (H. P., III, 2629-2636); admission to the floor of the House (H. P., III, 2624-2626); the accuracy and propriety of reports in the Congressional Record (H. P., V, 7005-7023); the conduct of representatives of the press (H. P., II, 1630, 1631; H. P., III, 2627); the integrity of its Journal (H. P., II, 1363; H. P., III, 2620); the protection of its records (H. P., III, 2659); the accuracy of its documents (H. P., V, 7329) and messages (H. P., III, 2613); and the integrity of the processes by which bills are considered (H. P., III, 2597-2601, 2614; H. P., IV, 3383, 3388, 3478).

PRIVILEGE OF THE MEMBER.—The privilege of the Member rests primarily on the Constitution, which gives him a conditional immunity from arrest, etc. (H. P., III, 2670). A menace to the personal safety of Members from an insecure ceiling in the Hall was held to involve a question of the highest privilege (H. P., III, 2685). Charges against the conduct of a Member are held to involve privilege when they relate to his representative capacity (H. P., III, 1828-1830, 2716). A distinction has been drawn between charges made by one Member against another in a newspaper and the same when made on the floor (H. P., III, 1827, 2691, 2717). Charges made in newspapers against Members in their representative capacities involve privilege (H. P., III, 1832, 2694, 2696-2699, 2703, 2704), even though the names of the individual Members be not given (H. P., III, 1831, 2705, 2709). But vague charges in newspaper articles (H. P., III, 2711), criticisms (H. P., III, 2712-2714), or even misrepresentations of the Members' acts or speeches have not been entertained (H. P., III, 2707, 2708). A Member making a statement in a matter of personal privilege should confine his remarks to that which concerns himself personally (H. P., V, 5078). While a Member rising to a question of personal privilege may be allowed some latitude, yet the rule requiring a Member to confine himself to the subject holds in this case (H. P., V, 5075, 5076).

PRECEDENCE OF QUESTIONS OF PERSONAL PRIVILEGE.—A Member rising to a question of personal privilege may not interrupt a call of the yeas and nays (H. P., V, 6051, 6052, 6058, 6059) or take from the floor another Member who has been recognized for debate (H. P., V, 5002).

## RULE X.

### DECORUM AND DEBATE.

SECTION 1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker" and, on being recognized, may address the House from any place on the floor, or from the Reading Clerk's desk, and shall confine himself to the question under debate, avoiding personalities.

When a Member has the floor no other Member may interrupt him for a question, or for any other purpose, unless he first addresses the Speaker and receives recognition. The Chair shall then ask the Member who has the floor if he will yield for a question, or for some other stated purpose, and shall then announce the decision of such Member.

[Under no condition does a Member having the floor have the right to yield to another Member for a specific purpose as determined by himself or through agreement with some other Member to whom he yields, such as the making of a motion, unless the second Member first secures recognition from the Speaker to make the motion. And further, if a Member yields the floor he does so completely, and cannot in any way bind the Chair to a subsequent recognition. For example, he cannot yield directly to another Member for a motion to adjourn without the second Member having been recognized by the Chair for the purpose.]

GENERAL RULES—DECORUM AND DEBATE.—It is a general rule that a motion must be made before a Member may proceed in debate (H. P., V, 4984, 4985). A motion must also be stated by the Speaker or read by the Clerk before debate may begin (H. P., V, 4982, 4983, 5304). In addressing the House, the Member should also address the Chair (H. P., V, 4980). It is a breach of order for Members from their seats to interject remarks into the speech of a Member having the floor (C. P., VIII, 2463). It has always been held, and generally

quite strictly, that in the House a Member must confine himself to the subject under debate (H. P., V, 5043, 5048). In general, on a motion to amend the debate is confined to the amendment and may not include the general merits of the bill (H. P., V, 5049, 5051). While the Senate may be referred to properly in debate, it is not in order to discuss its functions or criticize its acts (H. P., V, 5114, 5140). It is not in order in debate to refer to a Senator in terms of personal criticism (H. P., V, 5121, 5122). It is not in order in debate for a Member to impugn the motives or criticize the actions of Members of the Senate (C. P., VIII, 2520). It is not in order in debate to cast reflection on either the House or its membership or its decisions, whether past or present (H. P., V, 5132-5138).

SEC. 2. When two or more Members happen to rise at once, the Speaker shall name the one who is first to speak, and his decision shall be final and not open to debate or appeal.

There shall be no appeal from the Speaker's recognition, but he shall be governed by rules and usage in priority of entertaining motions from the floor. For his information, when a Member seeks recognition, he may ask, "For what purpose does the gentleman from —— rise?" or "For what purpose does the gentleman from —— seek recognition?" and he may then decide if recognition is to be granted.

[In recognition for general debate, the Speaker alternates between those favoring and those opposing a measure.]

SEC. 3. The mover of any proposition, or the Member reporting any measure from a committee, as the case may be, or, in case of absence of either of them, then any other Member designated by such absentee, shall have the right of opening and closing the debate thereon, and for this purpose may speak each time not to exceed twenty minutes.

When a Member obtains the floor on recognition

of the Speaker, he may not be taken off his feet by an ordinary motion, even the highly privileged motion to adjourn, but if he yields to another to make a motion or to offer an amendment, he thereby loses the floor. A Member desiring to interrupt another in debate should first address the Speaker for permission of the Member speaking, but the latter may exercise his own discretion as to whether or not he will yield, and it is entirely within the discretion of the Member occupying the floor in debate to determine when and by whom he shall be interrupted.

[By the mover of a proposition is meant the mover of the original proposition before the House for consideration. In case of a bill being considered, the Member having the bill in charge is the mover of the proposition.

Since an amendment to strike out the enacting clause of a bill if adopted has the effect of killing the bill, it opens for debate the merits of the entire bill.

Debate on any debatable motion may be had (unless the previous question has been ordered) whenever that motion is before the House regardless of the adverse fate of any motion made thereto. For example, if a motion to recommit is made and a motion to table same is made and lost, the motion to recommit is still open to debate.]

LOSS OF RIGHT TO PRIOR RECOGNITION.—When an essential motion made by the Member in charge of the bill is decided adversely, the right to prior recognition passes to the Member leading the opposition (H. P., II, 1465-1468), but the mere defeat of an amendment proposed by the Member in charge does not cause prior right of recognition to pass to the opponents (H. P., II, 1478-1479).

SEC. 4. No Member shall speak more than twice on the same question without leave of the House, nor more than once until every Member choosing to speak shall have spoken, nor shall any Member be permitted

to consume the time of another Member without leave of the House being given by a majority vote.

MEMBER SPEAKING MORE THAN ONCE.—A Member who has spoken once on a main question may speak again on an amendment (H. P., V, 4993, 4994). It is too late to make the point that a Member has spoken already if no one claims the floor until he has made some progress in his speech (H. P., V, 4992).

SEC. 5. If a pending question is not disposed of, owing to an adjournment of the House, no Member who has spoken twice on the subject shall be allowed to speak again without leave.

SEC. 6. All speeches shall be limited to ten minutes in duration, except as provided in Section 3 of this rule, and the Speaker shall call the Members to order at the expiration of their time; provided, however, that in case the House by a majority vote extends the time of any Member, such extension shall be for ten minutes only. During the last ten calendar days of the Regular Session, and the last five calendar days of any Special Session, Sundays excepted, all speeches shall be limited to ten minutes and shall not be extended. The time limits established in this rule shall include time consumed in questioning a Member having the floor.

[See Sec. 9-a of Rule 12 for list of motions on which three-minute pro and con debate is allowed.

The second sentence of the above rule also limits authors to ten minutes during the stated periods.

When a motion to suspend the Rules to extend a Member's time in debate carries, the extension, under prevailing practice and for all practical purposes, is for ten minutes in ordinary debate and three minutes in three-minute pro and con debate, unless a specific time is mentioned in the motion.]

SEC. 7. If any Member, in speaking or otherwise, transgresses the Rules of the House, the Speaker shall, or any Member may, call him to order, in which case the Member so called to order, shall immediately take his seat; provided, however, such Member may move for an appeal to the House, and if such appeal is duly seconded by ten Members, the matter shall be submitted to the House for decision by majority vote; provided, however, the Speaker shall not be required to relinquish the Chair as in cases of appeals from his decision. The House shall, if appealed to, decide on the case, but without debate. If the decision be in favor of the Member called to order, he shall be at liberty to proceed; if the decision be against him, he shall not be allowed to proceed, and if the case requires it, he shall be liable to the censure of the House, or for such other punishment as the House may deem proper.

SEC. 8. When the reading of a paper is called for, and the same is objected to by a Member, the matter shall be determined by a majority vote of the House, without debate.

[If the previous question has been ordered and a request is made for the reading of any paper and the same is objected to, the Speaker submits the matter to a vote of the House under the above section, but without debate.]

SEC. 9. All Members having the right to speak after the previous question has been ordered shall speak before the question is put upon the first proposition covered by the previous question. All votes shall then be taken in the correct order, and no vote or votes shall be deferred to allow any Member to close on any one of the propositions separately after the voting has commenced.

## RULE XI.

### ON VOTING.

SECTION 1. A registration or vote taken upon the voting machine of the House shall in all instances be considered the equivalent of a roll call or yea and nay vote, which might be had for the same purpose.

SEC. 2. Any Member who has a personal or private interest in any measure or bill proposed or pending before the House shall disclose the fact and not vote thereon.

[This is a constitutional provision embodied in the Rules of the House, with which each Member is left to comply according to his own judgment as to what constitutes a personal or private interest. See Const., Art. 3, Sec. 22.]

PERSONAL INTEREST.—In one or two instances the Speaker has decided that because of personal interest, a Member should not vote (H. P., V, 5955, 5958); but usually the Speaker has held that the Member himself should determine this question (H. P., V, 5950, 5051), and one Speaker denied his own power to deprive a Member of the constitutional right to vote (H. P., V, 5966). It has been held that the disqualifying interest must be such as affects the Member directly (H. P., V, 5954, 5955, 5963), and not as one of a class (H. P., V, 5952; C. P., VIII 3072).

SEC. 3. Any Member who is present and shall fail or refuse to vote after being requested to do so by the Speaker shall be recorded as present but not voting, and shall be counted for the purpose of making a quorum. A Member must be on the floor of the House to vote.

[On roll calls (registration of yea and nay votes on the voting machine) it is customary to show the following results: "Yeas," "Nays," "Absent," and "Absent—Excused." Under the above rule, if needed, those present and refusing to vote can be shown "Present—Not Voting." This does

not happen often, however; Members not wishing to vote usually refraining and being marked "Absent." Neither the Journal Clerk nor the Reading Clerk has the authority to show a Member as "Absent—Excused," when in fact he has not been excused by a formal vote of the House. Occasionally the House, by formal vote, excuses a Member temporarily, i.e., for a short period of time during a working day.

Members who are out of the House when record votes are taken and who wish to be recorded are permitted to do so provided:

a. They were out of the House temporarily, having been recorded earlier as present.

b. The House gives permission. (Unanimous consent is usually asked.)

c. The vote to be recorded does not change the result as announced by the Chair.

In the 56th Legislature, Regular Session, the Speaker, Mr. Carr, ruled that, although the Rules are silent on the matter, the weight of precedents and usage requires the giving of unanimous consent for (a) a Member temporarily absent from the House to be shown voting on a record vote and (b) for a Member, having voted, to change his vote after the result has been declared. In either case, he pointed out, the granting of a Member's request would necessarily be contingent upon its not changing the result of the record vote involved.]

*Member cannot vote from the gallery.*

The House was considering H. B. 42. On the record vote on engrossment a member sought to vote from the gallery. Mr. Norton raised the point of order that such a vote was not in order since Members must be "in the House." The Speaker, Mr. Manford, sustained the point of order. (51st Reg.)

RIGHT OF MEMBERS TO VOTE.—It has been found impracticable to enforce the provisions requiring every Member to vote (H. P., V, 5942-5948), and the weight of authority also favors the idea that there is no authority in the House to deprive a Member of his right to vote (H. P., V, 5937, 5952, 5959, 5966, 5967).

SEC. 4. No Member shall be allowed to interrupt a vote or to make any explanation of a vote he is about to give, after the voting machine has been opened, but may record in the Journal reasons for giving such vote.

A "reason for vote" must be in writing and must be filed with the Journal Clerk immediately after a vote whether record or non-record. Such "reason for vote" shall not deal in personalities or contain any personal reflection upon any Member of the Legislature, the Speaker, the Lieutenant Governor or the Governor, and shall not in any other manner transgress the Rules of the House relating to decorum and debate.

SEC. 5. The yeas and nays of the Members of the House on any question shall, at the desire of any three (3) Members present, be taken and entered in the Journal. No Member or Members shall be allowed to call for a yea and nay vote after a vote has been declared by the Speaker. A motion to expunge a yea and nay vote from the Journal shall not be in order. Before the result of a vote has been finally and conclusively pronounced by the Chair, but not thereafter, a Member may change his vote; provided, however, that if a Member's vote be made by mistake or fraud, he shall be allowed to change his vote if:

(a) The result of the record vote is not changed thereby;

(b) The request is made known to the House by the Chair and granted by unanimous consent; and

(c) A notation is made in the Journal that the Member's vote was changed.

[In the 57th Legislature Speaker James A. Turman admitted a motion to suspend the above rule so as to permit two members to change their record votes. This came immediately after the result of the vote was announced and was predicated upon the fact that the change of the two votes would not change the result of the record vote.

See Sec. 3 of Rule IV for rule covering "Reasons for Votes" and Journal recording of individual votes on "non-record" votes.

In the 57th Legislature Speaker James A. Turman inaugurated the practice of placing in the Journal the names of those requesting a record vote, usually, but not necessarily, three, since three are required by the Constitutional provision on which the above rule is based.]

INTERRUPTION OF THE ROLL CALL.—When once begun the roll call may not be interrupted by a motion to adjourn (H. P., V, 6053), a parliamentary inquiry, a question of personal privilege (H. P., V, 6058, 6059), the arrival of the time fixed for another order of business (H. P., V, 6056), or for a recess (H. P., V, 6054, 6055), or the presentation of a conference report (H. P., V, 6443).

SEC. 6. Once a roll call has begun, the same may not be interrupted for any reason. While a yea and nay vote is being taken, or the vote is being counted, no Member shall visit the Reading Clerk's desk.

SEC. 7. On all votes, except viva voce votes, Members shall record their votes on the voting machine, and shall not be recognized by the Chair to cast their votes from the floor. If a Member attempts to vote from the floor, the Speaker shall sustain a point of order directed against his so doing. This rule shall not be applicable to the mover or the principal opponent of the proposition being voted upon nor to a Member whose voting machine is out of order.

[In view of the last sentence above, the practice has grown up whereby the Chair, on close votes and on demand for a

"strict enforcement of the Rules," accepts only one "Yea" and one "Nay" vote from the floor, refusing to accept others. Actually, under the above section he could refuse any floor votes but these two, but allows violations frequently as an accommodation to Members who are temporarily away from their seats.]

SEC. 8. Any Member found guilty by the House of knowingly voting for another Member on the voting machine shall be subject to expulsion from the House. Any officer or employee found guilty of such offense shall be subject to discharge by the House, in case of officers, or by the Speaker, in case of employees.

The Speaker may order the Sergeant-at-Arms to pick up the voting keys of absent Members when a "strict enforcement of the Rules" is called for.

["Button pushing" should not be tolerated. Most serious of the several consequences resulting from this bad practice may be a vote recorded for or against some important motion or measure which will result in embarrassment to the absent Member voted. Such a vote may not be detected until after the permanent Journal is published and then it would be too late to make correction.]

SEC. 9. On the demand of any Member, before the question is put, the question shall be divided, if it includes propositions so distinct in substance that, one being taken away, a substantive proposition remains. A demand for a division vote can be made even after the previous question has been ordered, but cannot be made after a motion to table has been offered, nor after the question has been put, nor after the yeas and nays have been ordered.

DIVISION OF THE QUESTION.—After the question has been put it may not be divided (H. P., V, 6162), nor after the yeas and nays have been ordered (H. P., V, 6160, 6161), but it may be demanded after the

previous question has been ordered (H. P., V, 5468, 6149). The principle that there must be at least two substantive propositions in order to satisfy a division is insisted on rigidly (H. P., V, 6108-6113). In passing on a demand for a division, the Chair considers only substantive propositions and not the merits of the questions presented (H. P., V, 6122). It seems to be most proper, also, that the division should depend upon grammatical structure rather than on legislative propositions involved (H. P., I, 394; H. P., V, 6119). Although a question presents two propositions grammatically it is not divisible if either does not constitute a substantive proposition when considered alone (C. P., VIII, 3165). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (H. P., I, 623; H. P., V, 6119-6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute of two branches, rather than by interpretation of the Chair (H. P., II, 1621). When a motion is made to lay several connected propositions on the table, a division is not in order (H. P., V, 6138-6140). On a decision of the Speaker involving two distinct questions, there may be a division on appeal (H. P., V, 6157).

SEC. 10. All pairs must be announced before the vote is declared by the Speaker, and a written statement thereof sent to the Journal Clerk. The statement must be signed by the absent Member to the pair, or his signature thereto must have been authorized in writing, by telegraph or by telephone and satisfactory evidence thereof presented to the Speaker if he deems such necessary. Such pairs shall be entered on the Journal, and the Member present shall be counted to make a quorum.

[See also Sec. 3 of Rule IV.

Since a pair represents a private agreement between two Members, the House has no control whatever over it except as provided in the above section. Where two Members are "paired" on a vote or series of votes, the Member present agrees with a Member who is to be absent that the Member present will not vote, but will be "present and not voting." The "pair" states how each of the Members would have voted. The Member present is counted to make a quorum.

Such an arrangement is, obviously, chiefly advantageous to the Member who is absent, although this is not always the case. Under recent practice the Speaker has accepted without question the word of the Member present regarding his agreement with an absent Member to pair, as shown by the pair blank presented at the time of the vote.

It is often fatal to a proposed constitutional amendment for some of its proponents to pair with Members opposing it, since joint resolutions must receive a two-thirds vote of the membership.

At one time the point of order was raised that while pairs could be accepted on a vote on a proposed constitutional amendment, the present "aye" votes should be counted, but the Speaker and the House held to the contrary because a Member cannot be compelled to vote if he does not so desire.

Printed or mimeographed pair blanks are usually available at the Journal Clerk's desk for the use of Members.]

PAIRS.—Pairs may not be announced at a time other than that prescribed by the rule (H. P., V, 6046). The House does not consider questions arising out of the breaking of a pair (H. P., V, 5982, 5983, 6095), or permit a Member to vote after the call on a plea that he had refrained because of a misunderstanding as to a pair (H. P., V, 6080, 6081). (See Congressional Record, Aug. 27, 1918, p. 9583, for Speaker Clark's interpretation of the rule and practice of the House of Representatives as to pairs.)

SEC. 11. When the result of a yea and nay vote is close, the Speaker may, upon the request of any Member, order a verification vote. During such verification, no Member shall change his vote unless it was erroneously recorded, nor may any Member not having voted cast a vote; however, in case of error of the Clerk reporting the yeas and nays, and the correction thereof leaves decisive effect to the Speaker's vote, he may exercise his right to vote, even though the result has been announced. A verification shall be called for immediately after a vote is

announced. The Speaker shall not entertain a request for verification after the House has proceeded to the next question, or after a recess or an adjournment. A vote to recess or adjourn may be verified. Only one vote verification can be pending at a time. A verification may be dispensed with by a two-thirds vote.

[Although the above rule says the Speaker "may" order a verification, and he sometimes refuses even on a critical vote, ordinarily upon request he orders a verification if the vote is close or if the vote is on a motion such as described in the fourth paragraph of this annotation.

On a verification the Speaker directs the Reading Clerk to call first the names of the apparent prevailing side. If, after this call, the result is clearly established, the remainder of the verification is usually dispensed with by unanimous consent or a suspension of the Rules. Motions to adjourn or recess are not in order during a verification.

This rule which permits the verification of any yea and nay vote can, like most other rules, be suspended by a two-thirds vote. The voting machine is now used in lieu of an actual calling of the roll with voice response; but the verification procedure herein allowed is equivalent to an actual calling of the roll. The Constitution guarantees to any three Members the right to call for a record vote. If, therefore, the verification of a questioned vote, either where the result is close or where a quorum is in doubt, can be denied by a suspension of the verification Rule, also by a machine vote, the rights of three Members to obtain a true "yea and nay" vote may thereby be abridged. There is no doubt that the dependence upon a mechanical voting device makes possible errors in voting as well as making possible "button pushing." It also makes for speed; this is important, for without it the business of a session would be greatly slowed. However, with the advantages of the voting machine should go a full protection of the rights of Members. The practice of dispensing with a verification is of some years' standing,

but the abuse just referred to has become more evident and more obnoxious during the past three or four sessions. This Rule should be subjected to a critical re-examination and rewritten so as to protect fully the rights guaranteed to the membership under the Constitution.

In the 52nd Legislature the Speaker, Mr. Senterfitt, refused to accept motions to dispense with the verification of votes on certain motions requiring affirmative two-thirds and four-fifths votes. Examples: submission of a constitutional amendment (required vote, two-thirds of the Members elected to the House), and introduction of a bill after the first sixty calendar days of a session (required vote, four-fifths of the Members present and voting).

In the 52nd Legislature the Speaker, Mr. Senterfitt, allowed the verification of a record vote to adjourn, the request for same having come before he could declare the result of the vote, i.e., that "the House stands adjourned." The machine vote showed an adjournment by a close vote, but the verification reversed the result. The Speaker held that the verification of a vote to adjourn should be allowed just as any other, particularly because often so much may depend upon an adjournment vote. He also held similarly in regard to a motion for a recess.

The Speaker, Mr. Senterfitt, in the 53rd Legislature, held that only one vote verification could be pending at a time. For example, a vote to dispense with a verification could not be verified.

Since a motion for a call of the House may be made and seconded after a verification has been granted, the vote on ordering it may, upon demand of three Members, be a record vote. It has been held that a verification of this vote could not be had, only one verification being allowed at a time. This illustrates the general rule that only one verification can be pending at a time.]

A motion for a call of the House, and all incidental motions relating thereto, shall be in order pending the verification of a vote. These motions must be made

before the roll call on verification begins; it shall not be in order to break into the roll call to make them.

Where, by an error of the Clerk in reporting the yeas and nays from a registration, the Speaker announces a result different from that shown by the registration or verification thereof, the status of the question shall be determined by the vote as actually recorded. If the vote be erroneously announced in such a way as to change the true result, all subsequent proceedings in connection therewith shall fall, and the Journal shall be amended accordingly.

The Speaker may allow the verification of a registration (as differentiated from a record vote) if in his opinion there is serious doubt about the presence of a quorum.

["Error of the clerk" as used in the above section covers any error in the process of recording a vote and reporting. The most frequent error, aside from the voting machine itself, comes from duplication of Members' votes—on the voting machine and from the floor. All record votes are double-checked for errors by the Reading Clerk and any significant error is reported to the Speaker.

See Rule 11, Sec. 5, regarding interruption of a roll call.]

*A Member, temporarily presiding, has the same right as the Speaker to cast the deciding vote on a tie at such time as it becomes officially apparent the tie actually exists, e.g., upon the verification of a vote which shows a tie.*

Mr. Hull was presiding temporarily during the consideration of S. B. 311. A yea and nay vote was taken on a motion to table, the Chair announcing the result as: Yeas, 63; Nays, 61. A verification was called for with the result: Yeas, 61; Nays, 61. Thereupon the Chair announced that he (in accord with the usual custom), not having voted, would vote in favor of the motion to table and therefore declared same carried by a 62 to 61 vote. Mr. Donald raised a point of order that the Chair could not vote to break the tie since he did not choose to vote on the question originally, and demanded that

the Chair declare the motion to table lost, the vote being a tie. The Chair overruled the point of order, whereupon Mr. Donald appealed from the ruling, and the appeal was duly seconded.

The House sustained the ruling of the Chair by a vote of 90 yeas and 28 nays. (48th Reg.) [See Sec. 6 of Rule 1.]

SEC. 12. In case of a tie vote the motion shall be lost.

## RULE XII.

### OF MOTIONS.

SECTION 1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal, with the name of the Member making it.

SEC. 2. When a motion has been made, the Speaker shall state it, or if it be in writing, cause it to be read by the Clerk before debating; and it shall then be in possession of the House.

A motion may be withdrawn by the mover thereof at any time before a decision thereon, even though an amendment may have been offered and be pending. It cannot be withdrawn, however, if the motion has been amended. After the previous question has been ordered, a motion can only be withdrawn by unanimous consent.

[Any part of the above could, of course, be suspended by a two-thirds vote.]

A motion to adjourn or recess may not be withdrawn when it is one of a series upon which voting has been commenced, nor may an additional motion

to adjourn or recess be made when voting has commenced on a series of such motions.

WITHDRAWAL OF MOTIONS.—A motion may be withdrawn although an amendment may have been offered and be pending (H. P., V, 5347). A "decision" which prevents withdrawal of a motion may consist of the ordering of the previous question, or the refusal to lay on the table (H. P., V, 5351, 5352). A Member having a right to withdraw a motion before a decision thereon has the resulting power to modify it (H. P., V, 5358). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (H. P., V, 5356).

SEC. 3. When a question is under debate, no motion shall be received but:

(1) To adjourn.
(2) To take recess.
(3) To lay on the table.
(4) To lay on the table subject to call.
(5) For the previous question.
(6) To postpone to a day certain.
(7) To commit (or recommit) or to refer (or to re-refer).
(8) To amend by striking out the enacting or resolving clause, which, if carried, shall have the effect of defeating the bill or resolution.
(9) To amend.
(10) To postpone indefinitely.

The above enumerated motions shall have precedence in the numerical order given.

[This rule gives the order of precedence of motions "when a question is under debate," which means, of course, that an original or main motion is pending, e.g., the passage of a resolution. Illustrating the significance of the above order of listing, if a motion "to amend" is made and pending, the motion "to commit" can be made, and, if no other motion is made, would be voted upon first because it has "precedence"

according to the listing. However, the motion "to lay on the table," for example, could have been made to the motion to commit and the vote would have come first on that motion, it having higher precedence in the listing. To carry the pattern one step farther, while the motion to table the motion to commit is pending, motions "to recess" or "to adjourn" can be made and voted upon first because they are of still higher precedence.

See Sec. 3 of Rule XIX, relating to general classification and precedence of amendments.

In the 52nd Legislature the Speaker, Mr. Senterfitt, ruled that it is in order to have some two or more of the above listed motions made and pending at the same time, but that they must be voted upon in the order of their precedence as established above, or as prescribed in other rules specifically covering the several motions. For example, a motion that a proposition lie on the table subject to call could be pending and a motion made to postpone to a day certain, but the vote must be taken first upon the former motion which is of higher rank in the order of precedence. There are obviously many other similar combinations of two or more motions possible under the Rules.

For many years it has been the custom for the House to "stand at ease," i.e., the House remains technically in session but without continuing transaction of business. This state of inactivity is initiated and terminated by the Chair. There are many times when the House must stand at ease for one reason or another. Such is also the case in Joint Sessions.]

*Not in order to postpone indefinitely a matter not before the House unless under a motion to suspend the Rules.*

The House was considering a simple resolution. Mr. Thornton raised the point of order that one of the resolving clauses sought, without a direct suspension of the Rules, to postpone indefinitely consideration of a bill which was not before the House and was therefore out of order.

The Speaker, Mr. Calvert, sustained the point of order and ruled out of order the resolving clause in question, which left, however, other substantive propositions. (45th Reg.)

SEC. 4. A motion to adjourn or recess shall always be in order, except (1) when the House is voting on another motion; (2) when the previous question has been ordered and before the final vote on the main question, unless the roll call shall have developed the absence of a quorum; (3) when a Member entitled to the floor has not yielded for the purpose; (4) when no business has been transacted since a motion to adjourn or recess has been defeated.

[See also Sec. 6 of Rule XIII and annotations following.

The above section, Sec. 4-(4), obviously could not apply to the situation under a call of the House, where no quorum is present and where there are no other eligible motions except to adjourn. In actual practice one or two attempts to adjourn are usually enough to indicate clearly the attitude of the House.

The vote by which a motion to adjourn is carried or lost is not subject to reconsideration.

In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that motions to adjourn or recess are not in order while a registration for any purpose or a vote verification is under way.

A parliamentary inquiry is not considered "business" under the above section.]

A smaller number of Members than a quorum may adjourn from day to day, and compel the attendance of absent Members.

A motion to reconsider a vote whereby the House has refused to adjourn or recess shall not be in order.

*An interpretation of Sec. 4-(4) above.*

Mr. Isaacks moved to adjourn. On a record vote the House refused to adjourn but the absence of a quorum was evident. Mr. Isaacks then renewed his motion to adjourn, whereupon Mr. Abington raised

the point of order that no business had been transacted, as required by the rule, since a motion to adjourn had been defeated.

The Speaker, Mr. Senterfitt, overruled the point of order, holding that the revelation of the absence of a quorum had in itself moved the proceedings to a new stage. (52nd Reg.)

*Held that speaking is "business."*

Mr. Jenkins resumed the floor, addressing the House on the amendments pending to House Bill No. 20.

Pending the address by Mr. Jenkins, he yielded the floor, Mr. Peeler moved that the House take a recess to 8 p.m. today, whereupon Mr. Mears raised a point of order on the motion to take a recess, on the ground that it should not be entertained for the reason that no business had been transacted since a similar motion had been rejected by the House.

Overruled. (30th Leg.)

*The House may adjourn from Saturday to Monday without a quorum.*

The House met at 10 o'clock a.m., pursuant to adjournment, and was called to order by Mr. Sanders. The roll was called and the Chair announced that there was not a quorum present.

Mr. Tillotson moved that the House adjourn until 10 o'clock a.m. next Monday.

The motion of Mr. Tillotson prevailed, and the House, accordingly, at 10:04 o'clock a.m., adjourned until 10 o'clock a.m. Monday. (41st 2nd C. S.) [This is in accord with the long established practice of the House.]

*Chair is required to announce vote and declare result when vote becomes known officially, and finally, regardless of effect. Principle applied to motion to adjourn.*

Mr. McIlhany moved that the House adjourn until 12:10 p.m. today, April 1. The yeas and nays were demanded. When the Speaker announced that the motion had carried by a vote of 67 to 65, a verification was requested and granted. The verification showed 66 to 65 for adjournment, and the Speaker so informed the House; but, before he could declare the House adjourned, Mr. McDaniel raised the point of order that the time to which the House would have adjourned under the motion had passed and that the action was, therefore, null and void.

The Speaker, Mr. Senterfitt, overruled the point of order, explaining that whenever the will of the House on a motion finally becomes known the Chair then has no choice but to announce the vote and declare the

result accordingly. He did so, and then immediately called the House to order on the new legislative day. (53rd Reg.)

*Relative to adjournment of "not more than three days."*

[On May 19, 1947, upon request of the House Committee on Appropriations, Attorney General Price Daniel ruled as follows on the meaning of Sec. 17 of Art. 3 of the Constitution: (Summary of opinion only quoted):

> "Section 17, Article III, of the Texas Constitution, prohibiting adjournment of either House for more than three days without consent of the other House. In calculating "three days," the day of adjournment or the day of reconvening must be counted. If a Sunday is within the period of adjournment, it should not be counted. Therefore, either House may adjourn from Thursday to Monday without the consent of the other, since the period is not for more than three days, excluding Sunday.
>
> A 'blanket' consent of both Houses for adjournment of more than three days at any time during the session would violate Section 17, Article III, of the Texas Constitution, since it contemplates separate and specific consent of the other House each time one House desires to adjourn for more than three days."

In the 52nd Legislature the Speaker, Mr. Senterfitt, ruled that a concurrent resolution granting each House permission to adjourn "from Wednesday to Monday" was sufficient authority to permit a recess for the same period.]

THE MOTION TO ADJOURN.—While the motion to adjourn takes precedence of other motions, yet it may not be put while the House is voting on another motion or while a Member has the floor in debate (H. P., V, 5360). A motion to adjourn may not interrupt the call of the yeas and nays (H. P., V, 6053). There must be intervening business before a motion to adjourn may be repeated (H. P., V, 5373), and such "business" may be debate (H. P., V, 5374), a decision of the Chair on a question of order (H. P., V, 5378), reception of a message (H. P., V, 5375), [or the making of recognized motions]. It is not in order to preface a motion to adjourn with preamble or argument touching reason or purpose of the proposed adjournment (C. P., VIII, 2647).

After the motion to adjourn is made, neither another motion nor an appeal may intervene before the taking of the vote (H. P., V, 5361).

A smaller number than a quorum may adjourn from day to day and compel the attendance of absent Members (H. P., IV, 2980). A motion to reconsider a vote whereby the House has refused to adjourn is not in order (H. P., V, 5620-5622).

A concurrent resolution providing for an adjournment of the two Houses for more than three days is privileged (H. P., V, 6680). The

constitutional adjournment of "more than three days" must take into account either the day of adjourning or the day of meeting (H. P., V, 6673, 6674).

SEC. 5. When several motions to recess or adjourn are made at the same period, the motion to adjourn carrying the shortest time shall be put first, and in that order until a motion to adjourn has been adopted or all voted on, and then the same procedure shall be followed for motions to recess.

SEC. 6. When motions are made for the reference of a subject to a select or standing committee, the question for the reference to a standing committee shall be put first.

*A motion to re-refer a bill is in order even though same may be under consideration by a subcommittee.*

Mr. Wood moved as a substitute motion that H. B. 126 be withdrawn from the Committee on Revenue and Taxation and re-referred to the Committee on Appropriations.

Mr. Mays raised a point of order against the motion on the ground that a bill being considered in subcommittee may not be re-referred by action of the House.

The Speaker, Mr. Morse, overruled the point of order. (46th Reg.)

SEC. 6-a. A motion to recommit a bill, which motion has been defeated at the routine motion period, may again be made when the bill itself is under consideration. A motion to refer or recommit is debatable within narrow limits, but the merits of the proposition may not be brought into the debate. The motion to commit or recommit with instructions shall be debatable.

[In the 51st Legislature, the Speaker, Mr. Manford, ruled that debate on motions "to recommit to the Committee of the whole House" is the same as allowed under the Rules for other motions to recommit.]

After a bill has been recommitted, it shall be considered by the committee as a new subject.

A motion to recommit a bill before the House as pending or unfinished business is not in order at the routine motion period.

A motion to recommit a bill or resolution can be made and voted upon even though the author or principal proponent thereof is not present.

SEC. 7. The motion to lay upon the table, if carried, shall have the effect of killing the bill, resolution, amendment or other immediate proposition tabled, and shall not be debatable, but the mover of the proposition proposed to be tabled, or the Member reporting it from a committee, shall be allowed to close the debate thereon after the motion to table is made, and before it is put. When a motion to table is made to a debatable main motion, the main motion mover shall be allowed twenty minutes to close the debate, whereas the movers of other debatable motions sought to be tabled shall be allowed only ten minutes to close. The vote by which the motion to table is carried or lost cannot be reconsidered. After the previous question has been ordered, a motion to table is not in order. The provisions of this Section do not apply to motions to "lay upon the table subject to call"; however, a motion to lay upon the table subject to call cannot be made after the previous question has been ordered.

[See Sec. 5 of Rule XIV and annotation following dealing with the double motion, "To reconsider and table."

With the exception of amendments offered to a bill on third reading, the motion to table is not usually applied to

motions requiring a two-thirds or four-fifths vote for adoption. For example, in the 50th Legislature Speaker W. O. Reed ruled that this motion could not be applied to motions such as: "To suspend the Constitutional Rule requiring bills to be read on three several days," "To suspend the rule relating to the introduction of bills after the first sixty calendar days of a Regular Session," "To suspend the Rules for a stated purpose," "To set a special order," etc.

Due to the precedence of motions rule, Section 3 of Rule XII, the motion to table can be applied to the motion that a proposition lie on the table subject to call.]

*Only one motion to table may be pending at a time.*

[During the Regular Session of the 49th Legislature, an amendment had been offered to a bill, and a motion to table that amendment was pending.

A motion to table the bill was then made and insisted upon because such a motion has high precedence, as shown in Sec. 3 of this rule and would ordinarily be received and considered even though an amendment be pending. The Speaker, Mr. Gilmer, held that the motion to table the pending amendment must be considered first, and after that the motion to table the bill proper was accepted.]

THE MOTION TO LAY ON THE TABLE.—The motion to lay on the table is used in the House for a final, adverse disposition of a matter without debate (H. P., V, 5389). It has the precedence given in the rule but may not be made after the previous question is ordered (H. P., V, 5415, 5422). When a bill is laid on the table, pending motions connected therewith go to the table also (H. P., V, 5426, 5427). The motion to table may not be amended (H. P., V, 5754) or applied to motions for the previous question (H. P., V, 5410-5411), or to suspend the Rules (H. P., V, 5405).

The motion to lay on the table may be repeated after intervening business (H. P., V, 5398-5400); but the ordering of the previous question (H. P., V, 5709), a call of the House (H. P., V, 5401), or a decision of a question of order have been held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a repetition of the motion (H. P., V, 5709).

SEC. 8. A bill or proposition postponed to a day certain shall be laid before the House at the time on the calendar day to which it was postponed, provided

it is otherwise eligible under the Rules, and no other business is then pending. If business is pending the postponed matter shall be deferred until the pending business is disposed of without other prejudice to its right of priority. When a privileged matter is postponed to a particular time, and that time arrives, the matter, still retaining its privileged nature, shall be taken up even though another matter be pending.

If two or more bills or other propositions are postponed to the same time, and are otherwise eligible for consideration at that time, they shall be considered in the chronological order of their setting.

[A resolution is interpreted as a "proposition" under the above.]

A motion to postpone to a day certain may be amended. The motion to postpone is debatable within narrow limits only; however, the merits of the proposition sought to be postponed cannot be debated. The motion to postpone indefinitely opens to debate the entire proposition to which it is applied.

[One privileged motion cannot be taken up while another privileged motion is pending. A motion to reconsider the vote on a privileged motion is likewise privileged.]

THE MOTIONS TO POSTPONE.—The motions to postpone must apply to the whole and not a part of the pending proposition (H. P., V, 5306). It may not be applied to the motion to refer (H. P., V, 5317), or to suspend the Rules (H. P., V, 5316). The motion to postpone to a day certain may be amended (H. P., V, 5754). It is debatable within narrow limits only (H. P., V, 5309, 5310), the merits of the proposition to which it is applied not being within those limits (H. P., V, 5311-5315; C. P., VIII, 2640).

SEC. 9. The following motions, in addition to any elsewhere provided herein, shall be decided without

debate, except as otherwise provided in these Rules:

(1) To adjourn.

(2) To lay on the table.

(3) To lay on the table subject to call.

(4) For the previous question.

(5) To suspend the rule as to the time for the introduction of bills.

(6) To order a call of the House, and all motions incidental thereto.

(7) An appeal by a Member called to order.

(8) All questions relating to priority of business.

(9) To amend the caption of a bill or resolution.

(10) To extend the time of a Member speaking under the previous question or to allow a Member who has the right to speak after the previous question is ordered, to yield his time, or part thereof, to another.

(11) To reconsider and table.

SEC. 9-a. The Speaker may permit the mover and one opponent of the motion three minutes each during which to debate the following motions without debating the merits of the bill, resolution, or other matter concerned:

(1) To suspend the regular order of business and take up some measure out of its regular order.

(2) To instruct a committee to report a certain bill or resolution.

(3) To re-refer a bill or resolution from one committee to another.

(4) To take up a bill or resolution laid on the table subject to call.

(5) To set a special order.

(6) To suspend the Rules.

(7) To suspend the Constitutional Rule requiring bills to be read on three several days.

(8) Resolutions to suspend the Joint Rules.

(9) To order the previous question.

In any three-minute pro and con debate situation the mover of the motion may elect to take his time for either opening or closing the debate, but the time may not be divided.

[See Sec. 1 of Rule XXI for three-minute debate rule as applied to Routine Motions (Seventh item) in the daily order of business for a legislative day.

The above provision "but the time may not be divided" means that neither the proponent or opponent may divide his three minutes with another member.

Although the above rule says "the Speaker may permit . . ." he never refuses if such debate is desired. This rule can be suspended, of course by a two-thirds vote.

In the 52nd Legislature the Speaker, Mr. Senterfitt, held that if the vote on a motion, to which the three-minute debate rule is applicable, had been reconsidered, the question was before the House anew, the three-minute debate rule being again operative.

Recent practice has allowed, by majority vote, a first extension of time (three minutes) of a Member speaking under the three-minute debate rule, and any further extension by unanimous consent. Such practice has been dictated by the provisions of the general debate rule, Sec. 6 of Rule X. This is not the case, however, at the routine motion period.

See annotations following Sec. 6 of Rule X concerning extension of debate under three-minute debate rule during the last ten calendar days of a regular session and the last five days of a special session.]

SEC. 10. When a bill, resolution or other matter

is pending before the House it may be laid on the table subject to call, and one legislative day's notice must be given before the proposition can be taken from the table, unless it be on the same legislative day, in which case it can be taken from the table at any time except when there is another matter pending before the House. A bill, resolution or other matter can be taken from the table only by a majority vote of the House. When a special order is pending, a motion to take a proposition from the table cannot be made unless such proposition is a privileged matter.

[This motion is applicable to main motions only, e.g., the passage of a bill or resolution, or adoption of a report, and is not applicable to any of the motions listed in Sec. 3 of this Rule.

"Pending before the House" as used above means the matter then under consideration by the House, i.e., the pending business. If the "one legislative day's notice" as required in the above section has been given, and for any reason the Member making the motion does not get an opportunity during that legislative day for a vote to take the matter from the table, the notice must be repeated so as to give the legislative day's notice. This is necessary to keep the House on notice as to when the particular bill or resolution is to be considered.

Since the motion to lay on the table subject to call is classified as a non-debatable motion, if such a motion is made and the previous question then ordered, the mover of such motion obviously does not have the right "to close under the previous question."]

*With a special order pending, a motion to take a proposition from the table where it had been laid subject to call can not be made unless such proposition is of a privileged nature.*

Mr. Mathis moved to take up, for consideration at this time, House

Bill No. 122, which bill had heretofore been laid on the table subject to call.

Mr. Moffett raised a point of order on further consideration of the motion by Mr. Mathis, on the ground that under the Rules of the House the motion is out of order since there is a special order pending.

The Speaker, Mr. Stevenson, sustained the point of order. (43rd Reg.)

## RULE XIII.

### OF THE PREVIOUS QUESTION.

SECTION 1. There shall be a motion for the previous question, which shall be admitted only when seconded by twenty-five Members. It shall be put by the Chair in this manner: "The motion has been seconded. Three minutes pro and con debate will be allowed on the motion for ordering the previous question." As soon as the debate has ended the Chair shall continue: "As many as are in favor of ordering the previous question on (here state on which question or questions) will say 'Aye'," and then, "As many as are opposed say 'Nay'." As in all other propositions a motion for the previous question may be taken by a record vote if demanded by three Members. If ordered by a majority of the Members voting, a quorum being present, it shall have the effect of cutting off all debate, except as provided in Sec. 4 of this rule, and bringing the House to a direct vote upon the immediate question or questions upon which it has been asked and ordered.

The motion to adjourn is not admissible after a motion for the previous question is accepted by the Chair, or after the seconding of such motion, and before a vote is taken on such motion.

The motion for the previous question is not subject to a motion to table.

[In the 57th Legislature, 3rd Called Session, Speaker James A. Turman allowed a motion to reconsider the vote by which the previous question was ordered and allowed three minutes pro and con debate on the motion.]

SEC. 2. The previous question may be asked and ordered upon any debatable single motion, or series of motions, allowable under the Rules, or any amendment or amendments pending, or may be made to embrace all authorized debatable motions or amendments pending, and include the bill, resolution or other proposition to a vote on its engrossment or third reading, and final passage. The previous question cannot be ordered, however, on the main proposition without including other pending motions of lower rank to it as given in Sec. 3 of Rule XII. After a motion to table has been made, a motion for the previous question is not in order except in a case where an amendment to a main motion is pending, and a motion to table the amendment is made, in which case it is in order to move the previous question on the main motion, the pending amendment and the motion to table the amendment. If a motion to table is made directly to a main motion, the motion for the previous question is out of order.

There is no acceptable substitute for a motion for the previous question, nor can other motions be applied to it.

[An inspection of Sec. 3 of Rule XII, in regard to the precedence of motions, will show that a motion to table takes precedence over a motion for the previous question when those motions are applied to the same motion. How-

ever, if a main motion is pending, e.g., the engrossment of a bill, and a motion of lower rank than the previous question, as given in Sec. 3 of Rule XII, is pending and a motion to table that motion is made, then the previous question may be applied to the whole series of motions pending, including the motion to table.]

*The fact that there has not been a complete discussion of a matter does not prevent the acceptance of a motion for the previous question, provided there has been some discussion on the bill.*

Mr. Jones of Atascosa moved the previous question on House Bill No. 365 and the pending committee amendment.

Mr. Pope raised the point of order that such motion was out of order, under the provisions of the Constitution, because there had not been full and free discussion on the bill and amendment.

The Speaker, Mr. Stevenson, overruled the point of order, holding that since there had been some discussion on the bill and amendment, the motion was in order, but if there had been no discussion whatsoever on the bill or amendment the motion would be clearly out of order. (44th Reg.)

[This ruling is in agreement with a long line of rulings on the same subject.]

The previous question shall not extend beyond the final vote on a motion or sequence of motions.

[This means, of course, a motion or series of motions to which it has been applied.]

Amendments on the Speaker's table for consideration which have not actually been laid before the House and read cannot be included under a motion for the previous question.

*The House having ordered the consideration of the appropriation bill by departments, the previous question could not be ordered on the engrossment of the bill without reconsidering the order or completing the consideration of the sections of the bill.*

During the consideration of an appropriation bill the House had ordered that it be considered by departments, and, while the House was considering the public health and vital statistics division, Mr. Dodd moved the previous question on the engrossment of the bill.

Mr. Rice raised a point of order on the motion, on the ground that the House had passed an order to consider the bill by departments, and that said order must first be reconsidered.

Sustained. (29th, 1st C. S.)

THE PREVIOUS QUESTION.—The motion may not include a provision that it shall take effect at a certain time (H. P., V, 5457). It is often ordered on undebatable propositions to prevent amendments (H. P., V, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (H. P., IV, 3077). It applies to questions of privilege as to other questions (H. P., II, 1256; H. P., V, 5459, 5460).

SEC. 3. On the motion for the previous question there shall be no debate except as provided in Section 1 hereof and Sec. 9a, Rule 12; and all incidental questions of order after it is made, and pending such motion, shall be decided, whether an appeal or otherwise, without debate.

Even though the previous question has been ordered, the House may permit a Member who has the authority to speak under the previous question, to yield his time, or a part of his time, to another Member. It shall also be in order after the previous question has been ordered, to extend the time of a Member speaking.

[See Sec. 6 of Rule X and annotation following. No debate is allowed on the above motions and they are decided by majority vote.]

SEC. 4. After the previous question has been ordered, there shall be no debate upon the questions on which it has been ordered, or upon incidental questions, except that the mover of the proposition or any of the pending amendments, or other motions, or Member making the report from the committee, as the case may be, or, in the case of the absence of either of them, any other Member designated by such ab-

sentee, and in addition one opponent to the matter or matters covered by the previous question, shall have the right to close the debate, using the time limit of debate as provided elsewhere in these Rules, after which a vote shall be taken immediately on the amendment or other motions, if any there were, and then on the main question.

[Occasionally, after the previous question has been ordered, the House, under a suspension of the Rules, allows the consideration of one or more amendments "on the Speaker's table"—meaning that they have been sent up for consideration but have been cut off by the previous question. In the 51st Legislature, the Speaker, Mr. Manford, officially established the practice of permitting the author of such an amendment to speak first, then for the author of the bill or other proposition to be amended to speak, and then for a vote to be taken on the amendment. Where there are many such amendments to be considered, the House sometimes specifies only three minutes debate pro and con on each amendment. This is also true of a substitute since a substitute is considered an amendment.]

When an amendment has been substituted and the previous question is then moved on the adoption of the amendment as substituted, the author of the amendment as substituted shall have the right to close the debate on his amendment in lieu of the author of the original amendment.

*Illustrating the principle guiding the order of speeches when the previous question has been ordered on a series of pending motions.*

A bill was pending on second reading and an amendment was adopted thereto. A motion to reconsider the vote on the adoption of the amendment was made. Then a motion for the previous question was made, seconded and voted on all pending motions, i.e., the motion to reconsider, in effect the adoption of the amendment (in case the motion to reconsider prevailed), and, lastly, the engrossment of the bill. Since, under the rule, all speeches must be made before voting

begins on a series of motions under the previous question, the Speaker, Mr. Senterfitt, ruled that the mover of the motion to reconsider should speak first, next the author of the amendment, and, lastly, the author of the bill.

[The principle illustrated is that the order of speeches should follow, as nearly as possible, the order which would have been obtained if the previous question had not been ordered. The complicating factor in the above case was that the rights of the author of the amendment had to be protected by allowing him to speak as indicated above. Had he not been so allowed, even though his amendment was not actually pending, and the motion to reconsider had been adopted, he would have been cut off. Of course, if the previous question had not been ordered, the author of the amendment would have spoken first, and the mover of the motion to reconsider would then have closed the debate. This inversion of the order of speaking between these two Members, as recited above, was logical because, with no previous question, if the motion to reconsider had prevailed, the author of the amendment would have had the right to close on his amendment. As it happened in the precedent above, the motion to reconsider was lost, consequently the only remaining vote was upon the engrossment of the bill.]

SEC. 5. When the previous question is ordered on a motion to postpone indefinitely or to amend by striking out the enacting clause of a bill, the Member moving to postpone or amend shall have the right to close the debate on his motion or amendment, after which the mover of the proposition or bill proposed to be so postponed or amended, or the Member reporting same from the committee, as the case may be, or, in the case of the absence of either of them, any other Member designated by such absentee, shall be allowed to close the debate on the original proposition.

SEC. 6. No motion for an adjournment or recess shall be in order, after the previous question is ordered, until the final vote under the previous question shall be taken, unless the roll call shows the absence of a quorum.

[In the event the previous question had been ordered, and on a vote the lack of a quorum develops, a motion to adjourn or a motion for a call of the House is in order. If the House adjourns, the whole matter under consideration is picked up just where it was left off, the previous question still being in effect, as provided in Sec. 8 below.]

*Motion to suspend the Rules is in order any time, even when the House is operating under the previous question.*

While the previous question was in operation, Mr. Wells made a motion to suspend Sections 6 and 8, Rule XIV, so as to make a motion to recess or adjourn.

Mr. Morse raised a point of order on the motion to suspend the Rules while the previous question was on, because it violates Section 8 of Rule XIV.

The Speaker, Mr. Stevenson, overruled the point of order. (44th Reg.)

SEC. 7. A call of the House may be moved after the previous question has been ordered.

SEC. 8. After the previous question has been ordered, no motion shall be in order until the question or questions on which it was ordered have been voted upon, except the motion for the call of the House, or motions incidental thereto, a motion to extend the time of the Member closing on the proposition, a motion to permit a Member who has the right to speak to yield his time or part of his time to another Member, or request for and the verification of a vote, and a motion to reconsider the vote by which the previous question was ordered, and this motion to reconsider may be made only once, and that must be before any vote under the previous question has been taken. When the House adjourns without a quorum under the previous question, the previous question shall remain in force and effect when the bill, resolu-

tion, or other proposition is again laid before the House.

The motion to table a motion to reconsider the vote by which the previous question has been ordered is in order, and also the double motion to reconsider and table the vote ordering the previous question.

[See also Sec. 6 of Rules 14 and 19.]

## RULE XIV.

### OF RECONSIDERATION.

SECTION 1. When a question has been decided by the House, any Member voting with the prevailing side may, on the same legislative day or on the next legislative day, move a reconsideration; however, if a reconsideration is moved on the next legislative day, it must be done before the order of the day, as designated in Sub-section 5 of the Tenth item of Section 1 of Rule XXI, is taken up. If the House shall refuse to reconsider, or upon reconsideration, affirm its decision, no further action to reconsider shall be in order. Every motion to reconsider shall be decided by a majority vote, even though the vote on the original question requires a two-thirds vote for affirmative action, and may be laid upon the table. If the motion to reconsider prevails, the question then immediately recurs on the question reconsidered. A motion to table the motion to reconsider, if carried, shall be a final disposition of the motion to reconsider.

[The "order of the day" referred to in the above section means the order of disposing of the business on the Speaker's table, that is, the tenth main item under the order of

business, and not the entire daily order of business as set forth in Rule XXI.

In the 54th Legislature, the Speaker, Mr. Lindsey, ruled that, in view of the provisions of the above section, a proper motion to reconsider the vote by which a motion was carried or lost at a Routine Motion Period could be made at any time permitted under this section, but that voting on same must go over to a Routine Motion Period (Item 7) in the daily order of business on a subsequent legislative day, in accordance with Sec. 2 of this rule.]

*Motion to reconsider as applied to the passage or defeat of a bill, if otherwise made within the time permitted by the Rules, can be made at a routine motion period, but, if carried, consideration of the matter proper must go over as pending business to the first time possible for its consideration under the Rules.*

The House was in a routine motion period on a House bill day. Mr. Lock of Angelina moved to reconsider the vote by which S. B. 4 failed to pass. Mr. Cato raised the point of order that such a motion would be out of order on a House bill day. The Speaker, Mr. Gilmer, overruled the point of order, pointing out that it might be necessary to make such a motion in order to be within the time allowed under the reconsideration rule, but at the same time he ruled that the actual consideration of the Senate bill, if the motion to reconsider prevailed, must go over as unfinished or pending business, as the case may be, to the next Senate bill day, depending upon whether or not the House adjourns in the meantime. (See annotation on distinction between "unfinished business" and "pending business.") (49th Reg.)

[The same would be true if a bill, under consideration on second or third reading, was recommitted, and later at a routine motion period time, also within the time allowed under the reconsideration rule, such motion to recommit was reconsidered and then refused. The bill would then go over as pending business on the first calendar on which it could appear. Generally speaking, when a motion to reconsider prevails the matter reconsidered, if not immediately eligible for further consideration under the Rules, goes over to the earliest time possible in the order of business.]

SEC. 1-a. Where the yeas and nays have not been called for and recorded, any Member, irrespective of whether he voted on the prevailing side or not, may make the motion to reconsider; but a Member who

was absent, or who was paired in favor of the majority contention and, therefore, did not vote, may not make the motion.

THE MOTION TO RECONSIDER.—The provision of the rule that the motion may be made "by any Member of the majority" is construed to mean any Member of the prevailing side, be the vote a tie vote or one requiring two-thirds (H. P., V, 5615, 5616, 5617, 5618; H. P., II, 1656).

While the motion has high privilege for entry, it may not be considered while another question is before the House (H. P., V, 5673-5676). The motion may not be applied to negative votes on motions to adjourn or recess (H. P., V, 5620-5622, 5625). It is in order to reconsider a vote postponing a bill to a day certain (H. P., V, 5643); but not to reconsider a negative decision on a vote to suspend the rules (H. P., V, 5645, 5646).

When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (H. P., V, 5703). After passage of a bill, reconsideration of the vote on any amendment thereto may be secured only by a motion to reconsider the vote by which the bill was passed. (C. P., VIII, 2789.)

The motion to reconsider may not be applied to the vote whereby the House has laid another motion to reconsider on the table (H. P., V, 5632, 5640). A motion to reconsider is not debatable if the motion proposed to be reconsidered was not debatable (H. P., V, 5694-5699). A request for unanimous consent is in effect a motion and action predicated thereon is subject to reconsideration. (H. P., VIII, 2794.)

SEC. 2. If such a motion for reconsideration be not disposed of when made, it shall be entered upon the Journal, and cannot, after that legislative day, be called up and disposed of unless one legislative day's notice shall have been given. But all such motions made during the last seventy-two hours of the session shall be disposed of when made.

[If notice has been given a Member that a motion to reconsider, which has been spread upon the Journal, will be called up on the next legislative day or on some other day later, then that Member or any other Member can call up the motion. The fact that the notice required by the Rule

has been given is sufficient to qualify any Member to call up the motion.

If a motion to reconsider, previously spread upon the Journal, is not called up on the legislative day for which the required notice has been given, then a new notice must be given before the motion can be called up from the Journal.]

SEC. 2-a. A Member voting on the prevailing side may make a motion to reconsider and spread on the Journal, which does not require a vote, and upon the motion being made, it shall be entered upon the Journal. Any Member, regardless of whether he voted on the prevailing side or not, desiring immediate action on a motion to reconsider, which has been spread on the Journal, can call it up as soon as it is made, and demand a vote upon it, or he can call it up and move to table it if he desires a final disposition of the matter. If the motion to table the motion to reconsider is defeated, the motion to reconsider remains spread upon the Journal for future action; however, any Member, regardless of whether he voted on the prevailing side or not, can call the motion from the Journal for action by the House, and if the motion to reconsider is defeated, or if carried and the House then affirms its original action on the question reconsidered, no other motion to reconsider can be made.

[A motion to reconsider which is spread upon the Journal should in no way impede the progress of the matter upon which it was made. For example, if such a motion is pending upon the final passage of a bill, the bill is not held up, but in the normal course of business is sent to the Senate.]

SEC. 3. Unless called up and disposed of prior to seventy-two hours before final adjournment of the

session, all motions for reconsideration shall be regarded as determined and lost.

SEC. 4. A motion for reconsideration cannot be withdrawn, except permission be given by a majority vote of the House, and it may be called up by any Member.

SEC. 5. The double motion to reconsider and table shall be in order. It shall be undebatable. When carried the motion to reconsider shall be tabled. When it fails, the question shall then be on the motion to reconsider, and the motion to reconsider shall, without further action, be spread upon the Journal, but it may be called up by any Member in accordance with the provisions of Section 2 of this rule.

[In the practice of the House, the double motion to reconsider the vote on a proposition and to table the motion to reconsider is of frequent occurrence. It is in effect two motions, one to reconsider the vote on a proposition and the other to lay the motion to reconsider on the table. The question is first on the motion to table. If that motion is lost, the question is then on the motion to reconsider. The purpose of this double motion is to prevent a reconsideration of the matter the House has already decided upon by vote, for when a motion to reconsider is tabled, another motion to reconsider is not permitted under the Rules.

As stated above, when the motion to reconsider and table fails, the question recurs on the motion to reconsider when it is again before the House, i.e., the second half of the double motion. Since a motion to reconsider is debatable, if the motion to be reconsidered is debatable, debate may be in order depending upon the motion to be reconsidered. It follows logically that the right to close the debate under the described situation passes to the side favoring a reconsideration.

The motion to reconsider remaining after the defeat of a double motion to reconsider and table is not again subject to a motion to table, even at a later date.

In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that the motion to reconsider and table an amendment adopted on second reading of a bill could not be made after the bill had passed to engrossment.

The motion to rescind is not permitted under the Rules.]

SEC. 6. A motion to reconsider shall be debatable only when the question to be reconsidered is debatable. If the previous question is in force before the vote on a debatable question is taken, debate is permissible on the reconsideration of such debatable question.

## RULE XV.

### OF ROLL CALLS AND CALLS OF THE HOUSE.

SECTION 1. Upon every roll call or registration the names of the Members shall be called or listed, as the case may be, alphabetically by surname, except when two or more have the same surname, in which case the initials of the Member shall be added.

SEC. 2. It shall be in order to move a call of the House at any time to secure and maintain a quorum for either of the following purposes:

(a) For the consideration of a specific bill, resolution, motion or other measure.

(b) For a definite period of time or for the consideration of any designated class of bills.

[In the 51st Legislature, the Speaker, Mr. Manford, held that when a bill was being considered under a call of the

House, pursuant to (a) above, a motion to set the bill as a special order for another time was in order.]

*Illustration of a "class of bills" as term is used in above rule.*

The House was considering H. B. 231. Mr. Pool moved a call of the House until House Bills 231, 232, 233, and 288 were disposed of. Mr. Hale raised a point of order that such was not a valid motion in that it encompassed four separate bills which did not constitute a "class" under Sec. 2 of Rule XV.

The Speaker, Mr. Carr, in overruling the point of order, called attention to the fact that all four bills dealt with the same general subject matter, i.e., segregation in the public schools, that their provisions were complementary, and that, in his opinion, they constituted a "class of bills" as contemplated in Sec. 2 of Rule XV. (55th Reg.)

SEC. 2-a. Motions for, and incidental to, a call of the House are not debatable.

SEC. 2-b. The point of order of "no quorum" shall not be accepted by the Chair if the last roll call showed a quorum.

SEC. 3. When a call of the House is moved for one of the above purposes and seconded by fifteen Members (of whom the Speaker may be one) and ordered by a majority vote, the Doorkeeper shall close the main entrance to the Hall, and all other doors leading out of the Hall shall be locked and no Member permitted to leave the House without the written permission of the Speaker. Such permission cards shall be taken up by the Doorkeeper as the Member leaves the House. The names of Members present shall be recorded, and the absentees and those for whom no sufficient excuse is made may, by order of the majority of those present, be sent for and arrested, wherever they may be found, by the Sergeant-at-Arms or officer appointed by him for that purpose, and their attendance secured and retained. The

House shall determine upon what conditions they shall be discharged. Members who voluntarily appear shall, unless the House otherwise directs, be immediately admitted to the Hall of the House and they shall report their names to the Clerk to be entered upon the Journal as present. Until a quorum appears, should the roll call fail to show one present, no business shall be done, except to compel the attendance of absent Members or to adjourn.

[In the 51st Legislature, the Speaker, Mr. Manford, held that there is no substitute for a call of the House, i.e., a different time or purpose cannot be substituted.

In the 51st Legislature, the Speaker, Mr. Manford, as the result of a 65 to 64 vote for a call of the House, ordered the doors of the House closed immediately despite a request for a verification which he accepted and allowed. The verification sustained the announced vote.

The procedure outlined in Sec. 3 above is mandatory after a call of the House is "moved," a motion to recess not being acceptable between the "seconding" and the "ordering" vote on the call. However, due to its high priority, a motion to adjourn could come between, or even ahead of the "seconding" procedure.]

SEC. 4. When a quorum is shown to be present, the House may proceed with the matters upon which the call was ordered, or may enforce and await the attendance of as many of the absentees as it desires. When the House proceeds to the business upon which the call was ordered it may, by a majority vote, direct the Sergeant-at-Arms to cease bringing in absentees.

When a record vote reveals the lack of a quorum and a call is ordered to secure one, the record vote

shall be retaken when the House resumes business with a quorum present.

SEC. 4-a. If a registration or record vote reveals a quorum is not present, no motion shall be in order except to adjourn, or for a call of the House, and motions incidental thereto.

SEC. 4-b. Once a point of order has been made that no quorum is present, it may not be withdrawn after the absence of a quorum has been ascertained and announced.

SEC. 5. It shall not be in order to recess under a call of the House.

CALL OF THE HOUSE.—A Member who appears and answers is not subject to arrest (H. P., IV, 3019). During a call less than a quorum may revoke leaves of absence (H. P., IV, 3003), and excuse a Member from attendance (H. P., V, 3000, 3001). During a call incidental motions may be agreed to by less than a quorum (H. P., IV, 2994, 3029).

Motions incidental to a call of the House are not debatable (C. P., VI, 688). The point of no quorum may not be withdrawn after the absence of a quorum has been ascertained and announced (C. P., VI, 657), and in the absence of a quorum no business may be transacted, even by unanimous consent (C. P., VI, 660). When the Committee of the Whole finds itself without a quorum the motion to rise is privileged (C. P., VI, 671).

## RULE XVI.

### OF SIMPLE AND CONCURRENT RESOLUTIONS.

SECTION 1. Resolutions shall be filed with the Chief Clerk, numbered and recorded, and then sent by him to the Speaker. Three copies of all resolutions shall be filed with the Chief Clerk upon introduction. Resolutions may be offered by one or more Members,

but may not be authorized by a committee as such. Unless privileged, they shall be considered only at the time assigned for them in the Daily Order of Business.

[Official copies of simple resolutions are signed by the Speaker and filed with the Chief Clerk.]

SEC. 2. Concurrent resolutions shall be numbered in their regular order and shall take the same course as simple resolutions, except that they shall be sent to the Governor for his signature when finally passed by both Houses.

After being read, concurrent resolutions which permit the bringing of suits against the State of Texas or any department thereof shall be referred to the Committee on State Affairs, and concurrent resolutions proposing to appropriate money out of the Contingent Expense Fund of the Legislature shall be referred to the Committee on Contingent Expenses.

[Matters of business solely between the two Houses, except such business as requires suspension of the Joint Rules, are handled by simple, not concurrent resolutions; for example, requests for the return of bills for further consideration, corrections, etc., are contained in simple resolutions. The use of concurrent resolutions for such purposes is a waste of time of the Enrolling Room staff. All concurrent resolutions, except sine die adjournment, must be submitted to the Governor for his approval. There is no point in using the concurrent form where the simple form is adequate.

Under the terms of Sec. 15 of Art. 4 of the Constitution, concurrent resolutions must be sent to the Governor for his approval before they become effective. In the case of concurrent resolutions dealing solely with the rules of proceed-

ings of the two Houses, which, under Sec. 11 of Art. 3 of the Constitution is determined by the Houses respectively, as well as jointly, approval by the Governor has become a foregone conclusion. Certainly there is no record in recent Texas legislative history of a Governor failing to approve (or file) such a resolution, although it might be argued that he would have full right to do so. Consequently, presiding officers of both Houses have repeatedly held that the provisions of such a concurrent resolution actually become effective as soon as it is approved by both Houses. A resolution type falling in this category would be one that gives one or both Houses the right to consider a bill at a time or times other than set out in the Joint Rules.

Concurrent resolutions do not have to be "put into immediate effect" by receiving one hundred votes on passage. A majority vote is all that is necessary to carry out the provisions of any simple or concurrent resolution.

By resolution, the House, in the 53rd Legislature, determined that not more than ten copies of a House memorial, congratulatory, or similar resolution could be prepared and mailed by House clerks at State expense.

In the 57th Legislature Speaker James A. Turman ruled, in accordance with long-established practice, that resolutions, simple or concurrent, are not affected by Sec. 37 of Art. III of the Constitution which requires a bill to be "referred to and reported from a committee at least three days before final adjournment of the Legislature."]

SEC. 2-a. Simple and concurrent resolutions proposing the following shall be automatically referred to the appropriate committees upon introduction:

a. To make an investigation.

b. To establish or define broad legislative policies or opinions.

[In the 51st Legislature, the Speaker, Mr. Manford, held that a sine die resolution under consideration established "legislative policy," as described under "b" above, and re-

ferred it to the Committee on Rules. However, in the 53rd Legislature the Speaker, Mr. Senterfitt, held, to the contrary, that such a resolution does not automatically go to the Committee on Rules. Thus, such determinations are subject to the interpretations of different presiding officers.

In the 57th Legislature Speaker James A. Turman followed the policy of sending all resolutions, except congratulatory, to the Committee on Rules, including those proposing to suspend the Joint Rules for any purpose.]

SEC. 3. A resolution that goes over to the next legislative day as unfinished business shall be taken up under the head of unfinished business before other unfinished business is considered, except privileged matter, and shall be considered until disposed of.

SEC. 4. The subject matter of simple and concurrent resolutions does not have to be submitted by the Governor in a called session before same can be considered.

SEC. 5. Congratulatory and memorial resolutions adopted by the House, except those for Members or employees of the Legislature and other State officials, shall not be printed in full in the Journal but shall be listed in the Journal by number, together with a brief caption indicating the persons or groups covered by them. This Rule shall be applicable to Daily Journals and the Permanent Journal.

["Members or employees of the Legislature" as used in the above rule has been interpreted to mean those of a current session and past sessions.]

## GENERAL PRECEDENTS RELATING TO RESOLUTIONS

*Types and character of resolutions frequently encountered that are classed as privileged.*

[At various times Speakers have held that resolutions of the following types were privileged:

a. Routine requests between the two Houses. (Simple resolutions.)

b. Suspension of the Joint Rules for designated purposes. ( Concurrent resolutions only if both Houses are affected.)

c. Recall resolutions affecting bills and resolutions in the Senate or in the Governor's office. (Concurrent resolutions only if business affected is in the Governor's office.)

d. Adjournment beyond the constitutional limit of three days. (Concurrent only if both Houses are affected.)

e. Sine die adjournment. (Concurrent resolutions.)

f. Directing the appropriate Enrolling Clerk to make corrections in bills or resolutions, the term "corrections" being strictly construed and not including any change in subject matter to which the Houses have agreed. (Concurrent resolutions.) When on committee report any of these types are privilege.

g. To amend the Rules.]

*A resolution to employ stenographers, etc., on January 21st, having been voted down, it was held that a resolution offered at a later date for the same purpose was in order.*

Mr. Looney offered a resolution providing for the appointment of additional stenographers.

Mr. Satterwhite raised the point of order that a resolution similar in substance was defeated by the House on January 21st, and that, under Article 3, Section 34, of the Constitution, another resolution with the same object in view could not be considered at this session.

The Speaker overruled the point of order, stating that while both resolutions sought to make provision for appointment of stenographers and typists for the use of the House, the proposition to provide for such service on January 21st was entirely different from the proposition coming at this time. (27th Reg.)

*Legislative and judicial inquiries may be made at the same time and are independent.*

The House was considering a concurrent resolution providing for the appointment of a Joint Legislative Committee to investigate alleged bond sale irregularities in a certain county.

Mr. Petsch raised a point of order on further consideration of the resolution, "because the records of the District Court of Travis County disclosed that a suit is pending to settle the matters alleged in the resolution, and by virtue of said fact the settlement of the matters set out in the resolution have been delegated to the Judicial Department of the State, and the adoption of the resolution would constitute an

infringement on the Judicial Department of our Government by the Legislature."

The Speaker, Mr. Satterwhite, overruled the point of order. (39th 1st C. S.)

[Legislative investigation of a matter in the hands of the courts is within the power of the Legislature. There could be no infringement because the functions of the Legislative and Judicial departments are clearly defined in the Constitution.]

*Under recent practice authors of "investigating" resolutions usually are not appointed on committees set up by their resolutions; variation.*

[During the 46th and 47th Legislatures, Speakers R. E. Morse and Homer Leonard, respectively, followed the practice of not appointing authors of investigating resolutions on committees set up under them. Each Speaker announced such policy to the House early in each session so that all would be informed. Even a short legislative experience will convince one of the wisdom of such a policy, particularly in view of situations which develop toward the end of a session when post-session activities begin to receive attention. From time to time, however, Speakers depart from this policy, feeling that other factors should be given greater weight.]

*Legislature has broad powers in investigations.*

The House was considering a resolution to investigate certain labor unions. Mr. Ellis raised a point of order that the Legislature is without authority to make such an investigation because Labor Unions are not parts of the State Government. The Speaker, Mr. Homer Leonard, overruled the point of order. (47th Reg.)

*The Legislature by concurrent resolution cannot postpone the date a law is to become effective.*

The Speaker had laid before the House a Senate Concurrent Resolution No. 12, relating to postponing the date upon which a certain act passed by the Regular Session was to become effective.

Mr. Keller raised a point of order on further consideration of the resolution on the ground that the Legislature cannot by concurrent resolution change the date a law becomes effective.

The Speaker, Mr. Barron, sustained the point of order. (41st 1st C. S.)

*Not in order for the House itself, or for a committee chairman acting in his own behalf, to request an opinion from the Attorney General.*

[On several occasions Speakers have ruled out of order resolutions requesting official opinions from the Attorney General, on the ground

that Art. 4399, R. C. S., does not list the two Houses of the Legislature as being eligible to ask for and secure such opinions. In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled officially, in keeping with long-prevailing practice, that a committee chairman is not eligible either if he acts in his own behalf. Frequently, however, committees instruct their chairmen to ask for opinions on matters pending before them, since they are eligible under Art. 4399. Such requests should show clearly that they are being made pursuant to specific committee authorization.]

*Authority cannot be given to a State Agency by concurrent resolution if such does not already exist by law.*

The House was considering H. C. R. 68 which required of the Department of Public Safety certain activity not prescribed by law. Mr. Carlton raised a point of order on consideration of the resolution on the ground that delegation of authority not authorized by law cannot be accomplished by a concurrent resolution.

The Speaker, Mr. Daniel, sustained the point of order. (48th Reg.)

[During recent years many attempts have been made to "legislate by resolution." All such attempts should be quickly challenged.]

*Cannot authorize by resolution an act in violation of an existing statute.*

H. C. R. 122, authorizing the Game, Fish and Oyster Department to issue complimentary hunting licenses to out-of-State sportsmen, was before the House.

Mr. Alsup raised a point of order against the resolution on the ground that such authorization would be in violation of existing statute, and that the Legislature had no authority to change a statute except by bill.

The Speaker, Mr. Calvert, sustained the point of order. (45th Reg.)

*Held that permission to sue the State could be granted by concurrent resolution.*

In an opinion rendered Hon. Dewey Young, dated March 18, 1931, Mr. J. A. Stamford, Assistant Attorney General, stated:

"We have spent considerable time in investigating this question, but have been able to find very few authorities bearing upon the same, but have concluded that it is both legal and constitutional for the consent of the State to be sued to be given by a concurrent resolution properly passed by the Legislature and approved by the Governor."

*Appropriation from the General Revenue Fund of the State can not be made by resolution.*

H. C. R. 13, pending before the House, provided an appropriation of $1,000 "out of the General Revenue Fund of the State Treasury" to defray the expenses of a committee, consisting of Members of the House and Senate and others, to meet with representatives of the State of Oklahoma in regard to certain boundary matters.

Mr. Jones of Wise raised a point of order against the resolution on the ground that the appropriation was in violation of Sec. 6 of Art. 8 of the Constitution which requires that an appropriation must be "made by law."

The Speaker, Mr. Calvert, sustained the point of order, and the resolution was amended by unanimous consent to provide for the appropriation out of the Contingent Expense Fund of the House and Senate. (45th Reg.)

*Sine die adjournment resolution must fix a time certain for adjournment.*

The House was considering S. C. R. 64, providing for sine die adjournment on a certain date. An amendment was offered to change the adjournment date to "Twelve days after the departmental appropriation . . . is presented to the Governor." Mr. Isaacks raised a point of order that the amendment was out of order because it would make the adjournment date vague and indefinite. The Speaker, Mr. Homer Leonard, sustained the point of order. (47th Reg.)

*Several points on the consideration of a sine die adjournment resolution setting aside a previous resolution and fixing a new date for sine die adjournment.*

[Section 17 of Article III of the Constitution provides: "Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the Legislature may be sitting."]

The House was considering Senate Concurrent Resolution No. 54, the resolving clause of which is as follows:

> "Resolved by the Senate of Texas, the House of Representatives concurring, That House Concurrent Resolution No. 46 be, and the same is hereby, repealed and held for naught and that both Houses of the Legislature agree and consent that on the twenty-second day of May, 1931, the other House may and shall adjourn without pay for a period of more than three days, to-wit, until the twenty-second day of June, 1931, on which date both Houses shall continue the Regular Session of the Forty-second Legislature until such date as may thereafter be fixed for sine die adjournment."

Mr. Pope raised the following points of order on consideration of the resolution:

1. I raise the point of order that the House and Senate, on May 12, 1931, passed the sine die adjournment resolution, adjourning the Legislature sine die at 12 m., Friday, May 22nd, which action is final and binding upon the Legislature, and any action taken by the House and/or the Senate after May 22nd is null, void and of no force and effect.

2. I raise the further point of order that, inasmuch as the resolution was passed May 12, 1931, in the House and Senate, that under the rule to move the reconsideration of the vote by which the resolution was passed in the Forty-second Legislature, the motion is not in order at this time.

3. I raise the further point of order to said resolution that the Constitution and statute fix the per diem of members of the Legislature, and such Constitution and laws cannot be changed by resolution.

4. I raise the further point of order that since the Constitution and action of the Forty-second Legislature have fixed the duration of the Regular Session of the Forty-second Legislature to end on May 22, 1931, the Legislature has no power to change such date, and only the Governor of Texas has the authority to call a hold-over or special session, since the May 12, 1931, sine die resolution is out of control of this Legislature.

The Speaker, Mr. Minor, overruling the points of order, held that the Legislature had authority to fix a date for final adjournment different from the date previously set, or to repeal and set aside, by proper resolution, a resolution fixing the date for final adjournment. He pointed out that an adjournment resolution was an act or expression of the Legislature for its own government and was not subject to the approval of the Governor. He also ruled that the new resolution was not a "reconsideration" of the old one, and therefore the reconsideration rule did not apply. He further ruled that it was entirely in order for the Legislature, if it so desired, to recess a Regular Session to some future time within its period of existence. (42nd Reg.)

## RULE XVII.

### JOINT RESOLUTIONS.

SECTION 1. A proposed amendment to the Constitution shall take the form of a joint resolution, which shall be subject to the rules which govern the proceedings on bills, except that it shall be adopted on

any reading after the first, when it receives a two-thirds vote of the Members-elect of the House. If on second reading, a joint resolution receives only a majority vote, it shall be passed to engrossment, and subsequent proceedings thereon shall be the same as those governing the final passage of bills which have been passed to engrossment; however, if on third reading and final passage a joint resolution does not receive a two-thirds vote of the Members-elect of the House, it shall fail of adoption.

[See Const., Art. 17, Sec. 1.

The joint resolution has been used for years by Congress and state legislatures as a vehicle for different forms of business. In the Texas Legislature the Rules provide that such a resolution should be used as the means of submitting amendments to the State Constitution. The above section provides, in effect, that a joint resolution shall take the same course through the two Houses as a bill and be like a bill in all respects, except that if it receives, at any reading beyond the first, a two-thirds vote of all Members elected to a particular house, then the resolution is passed finally by that house. The two-thirds vote requirement in the Rules is in keeping with the Texas constitutional requirement that an amendment to the Constitution can be proposed only by that vote.

Amendments to the Federal Constitution are considered adopted after submission by the Congress and ratification by the required number of states through the action of their legislatures. It has been the custom to present such proposals for ratification in the Texas Legislature through the vehicle of a joint resolution, but since nothing exists to the contrary, such a resolution can be passed by a majority vote of each house, the two-thirds vote requirement referred to above obviously not being applicable. To illustrate, when the 19th Amendment to the Federal Constitution (Suffrage Amendment) was ratified by the Texas Legislature, it re-

ceived a record vote in the House but only a voice vote in the Senate, and was declared duly ratified. The 20th Amendment to the Federal Constitution (Presidential Succession) was adopted by a unanimous vote of each house of the Texas Legislature, the vote being recorded but no reference being made to a "two-thirds vote." Had such been considered significant it would have been appropriately recorded. In the 57th Legislature Speaker James A. Turman held that such joint resolutions must take exactly the same course as a bill, i.e., introduction and first reading, committee consideration, and then second and third readings.

The germaneness rule applies to joint resolutions as well as to bills.

Senate amendments to House joint resolutions proposing constitutional amendments must be concurred in by the same two-thirds vote required for their passage, i.e., two-thirds of the elected membership. The same vote is required for the adoption of a conference committee report on a joint resolution.]

SEC. 2. On calendar Tuesday of each week, House joint resolutions proposing amendments to the Constitution shall have precedence over all other business, including special orders, so long as any House joint resolutions are on the calendar of the House.

Senate joint resolutions shall be considered on Wednesdays and Thursdays in accordance with their numbers, along with Senate bills; a Senate joint resolution having priority over a Senate bill of the same number.

[In the 52nd Legislature the Speaker, Mr. Senterfitt, ruled that, although the above rule gives precedence to House joint resolutions on Tuesdays, and another rule provides that Senate joint resolutions are considered in accordance with their numbers on Senate bill days, proper motions to postpone such to a day certain or to set as special orders are as applicable to joint resolutions as they are to bills.

House joint resolutions can, of course, be set as special orders on Tuesdays.

When a House joint resolution is postponed to a time certain on a Tuesday and is not reached on that day, it goes over to the next Tuesday as postponed business.

In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that a House joint resolution postponed to a time certain on a Tuesday (devoted under the Rules to House joint resolutions) should be considered at that time even though a House bill was pending. He pointed out that this was the only House joint resolution eligible for that day and time, hence the pending business, a House bill, would be temporarily displaced.

A suspension of the Rules is necessary to consider bills in Committee of the Whole on Tuesdays, in view of the above rule, unless no House joint resolutions are on the daily calendar for consideration.

Sec. 6-a of Rule 18 provides that the biennial appropriation bill shall have right of way over joint resolutions.]

A House joint resolution unfinished on a Tuesday shall go over to the next Tuesday as unfinished business.

## RULE XVIII.

### OF BILLS.

SECTION 1. Proposed laws or changes in laws must be incorporated in bills which shall consist of a title or caption, beginning with the words, "A bill to be entitled An Act to" and containing a brief statement of the object of the proposed measure, and of the bill proper, beginning with the enacting clause, "Be it enacted by the Legislature of the State of Texas," and stating specially the measure proposed.

[See Const., Art. 3, Sec. 29.

The House sponsor of a Senate bill or resolution has all of the rights and privileges accorded a House author under the Rules.

The fact that an original bill does not contain an enacting clause is sufficient ground for the Speaker to hold further consideration of it out of order.

Occasionally enacting clauses are omitted from original bills through error. The House, by unanimous consent, has often allowed authors to make the necessary corrections, particularly in cases where the bills were not controversial or where the House was convinced that only a secretarial error was involved.

In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that an original bill, pending in committee, which did not have an enacting clause, had not been legally introduced.

In the 57th Legislature Speaker James A. Turman overruled a point of order against further consideration of a bill "because the body of the bill did not conform to its caption." Obviously, either or both caption and body can be amended within the interval of germaneness, the test of which, incidentally, goes to the body of a bill rather than to its caption.]

*If the enacting clause appears in the original copy of a bill as filed, its omission from the printed bill is immaterial.*

Mr. Bolin raised a point of order on further consideration of a bill, stating that as the printed bill contains no enacting clause, there is nothing before the House.

The Chair overruled the point of order, stating that the original bill on the Speaker's table contained the enacting clause, and that the omission was clearly a mistake of the printer. (28th Reg.)

MOTION TO STRIKE OUT THE ENACTING CLAUSE.—Striking out the enacting clause of a bill constitutes its rejection (H. P., V, 5326). On a motion to strike out the enacting clause a Member may debate the merits of the bill, but must confine himself to its provisions (H. P., V, 5336). [See additional precedents after Sec. 3 of Rule XIX.]

Any Member may become the co-author of a bill or resolution by securing permission from the author. No action shall be required by the House, but it shall be the duty of a Member seeking to be a co-author to obtain a written authorization from the author, which authorization shall be filed with the Chief Clerk at the same time the co-author signs the bill or resolution. The Chief Clerk shall report daily to the Journal Clerk the names of Members filed in his office as co-authors of bills.

If a co-author of a bill desires to withdraw from such status, he shall notify the Chief Clerk who in turn shall notify the Journal Clerk.

[There is serious doubt that a Member can become the co-author of a bill after same has been passed by the House.]

Three copies of every bill, an original and two carbon copies or three identical copies from the standpoint of text, must be filed with the Chief Clerk or offered from the floor at the time the bill is introduced. No bill may be laid before the House on its first reading until this rule has been complied with.

[One carbon copy is kept in a safe by the Chief Clerk. Occasionally an original bill is lost, usually during committee consideration. At times bills are lost in the Senate. Current procedure necessary to remedy the difficulty is to obtain a new copy, certified by the Chief Clerk of the House or the Secretary of the Senate, as the situation dictates, complete with all endorsements so as to show the exact status of the bill at the time it was lost. If a bill of one House is lost in the other, a resolution requesting a new copy, with all endorsements, from the House of origin, is in order, and the request must be granted as authorization for the substitution.]

*Identical copies of bills must be filed when introduced. Case where failure to do so caused the bill to be ruled out as not legally introduced even though same had reached second reading.*

H. B. 44 was laid before the House, and Mr. Fly raised a point of order on its further consideration on the ground that when it was introduced the author failed to comply with paragraph 2 of Sec. 1 of Rule XVIII in that the original and the required copy were not identical, but rather there were significant differences between the two.

The Speaker, Mr. Reed, after thoroughly investigating the facts concluded that, while the differences involved were due entirely to an oversight, yet they were of such a character as to be clearly in violation of the rule cited and, as a consequence, he ruled that the bill had never been legally introduced. In so ruling he held further that the point of order did not come too late when made on second reading of the bill. (50th Reg.)

SEC. 2. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. A general law may not be changed by the provisions in an appropriation bill.

[See Sec. 6-a of Rule XVIII for precedence of general appropriation bills in the order of business.

See Const., Art. 3, Sec. 35. It has been held many times that the Legislature is not bound to appropriate the full amount for a salary fixed by law. It is generally accepted that the office holder would have a just claim against the State for the balance due him, and such claim could be presented to any Legislature for payment. The fact that the full amount is not paid does not mean that the salary has been changed by the appropriation bill.

There are many rulings which hold that a general law may not be changed in an appropriation bill, but the right of the Legislature to attach conditions to an appropriation has been upheld.

Since Sec. 49-a of Art. III of the Constitution has become effective, whenever an appropriation bill is finally passed, the Speaker declares, "The bill is finally passed subject to

the provisions of Sec. 49-a of Art. III of the Constitution." This declaration is made and noted on the bill when such a bill is "finally passed" on its third reading, when Senate amendments thereto are concurred in, or when a conference report thereon is adopted. Whenever the bill is finally passed by both Houses, the House Engrossing and Enrolling Clerk, if it is a House bill, enrolls the bill and then takes it to the Comptroller for the certification required in Sec. 49-a. The Comptroller then returns the bill to the House Enrolling Clerk and the bill is taken to the Governor in the usual manner. See also annotation following Sec. 6 of this rule dealing with what constitutes an "appropriation" bill.

If, through an oversight, the Speaker fails to make the declaration referred to, and it becomes apparent to the Engrossing and Enrolling Clerk that the bill does in fact contain an appropriation, the Engrossing and Enrolling Clerk should nevertheless show the bill passed subject to Sec. 49-a of Art. III and take same to the Comptroller for certification.]

*Procedural requirements for appropriations in excess of anticipated revenue.*

[On May 19, 1947, in response to an inquiry by the House Committee on Appropriations, Attorney General Price Daniel ruled as follows regarding requirements for bills that appropriate in excess of the anticipated revenue (summary of opinion only quoted):

SUMMARY

"In order for a bill to be valid that makes an appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made, it must contain an emergency and imperative public necessity clause (stating the emergency and necessity that requires the appropriation notwithstanding it exceeds such cash and anticipated revenue), and it must be passed by a four-fifths vote of the total membership of each House. If a bill that makes an appropriation in excess of the cash and anticipated revenues is passed with a less vote than four-fifths of the total membership of each House, or passes with a vote of four-fifths of such membership but not containing such emergency clause, same should be returned by the Comptroller, with a finding thereon that the appropriation therein exceeds the

cash and anticipated revenue, to the House in which it originated. It would then have the same status as though it had never been voted upon, and would be subject to amendment as to either form or substance."

In the body of the opinion the Attorney General held that an appropriation bill receiving a four-fifths vote in each House and containing a public necessity and emergency clause, would not be controlled by any other provisions of Sec. 49-a if a deficit is created, but would go directly to the Governor in the usual manner.]

*Ruling concerning the setting of "statutory salaries" in an appropriation bill.*

The House was considering the Departmental Appropriation Bill. Mr. Sparks offered an amendment changing the salary of the Superintendent of Education in the bill from $5,000 to $7,500 a year. Mr. McMurry raised a point of order on further consideration of the amendment on the ground that the salary was set by statute and therefore could not be raised in an appropriation bill. Incidentally, he assumed that the $5,000 figure was the statutory salary.

After a full investigation, the Speaker, Mr. Gilmer, overruled the point of order in the light of the following facts: a. An old statute set this salary, among others, at $4,000. b. For many years the Legislature had passed an act, effective for the ensuing biennium, in each case, suspending for that period the old statute and declaring the salaries set in the biennial departmental appropriation bills to be the statutory salaries. c. A bill with the purpose as just described was then pending before the House, already having passed the Senate, and would undoubtedly become a law. d. In the event of failure of the Legislature to pass the pending suspending bill, then the old statute would prevail over the appropriation bill and would thus automatically limit the appropriation. (49th Reg.)

LEGISLATION IN GENERAL APPROPRIATION BILLS.—A proposition to repeal law is legislation and is not in order in an appropriation bill (C. P., VII, 1403). A provision extending the operation of a statute beyond the limit of time provided by law is legislation and is subject to a point of order (C. P., VII, 1402). A provision construing or interpreting existing law is legislation and is not in order in an appropriation bill (C. P., VII, 1395). A provision which under the guise of limitation repeals or modifies existing law is legislation and is not in order in an appropriation bill (C. P., VII, 1628). Where a limitation requires the violation of existing law in order to make an appropriation available, it constitutes legislation and is not in order in an appropriation bill (C. P., VII, 1630).

A proposition to increase the number of employees fixed by law was held to be legislation (C. P., VII, 1456). A proposition increas-

ing rate of compensation fixed by law is legislation (C. P., VII, 1458). A limitation on the discretion exercised under law by an executive is a change of law (C. P., VII, 1437), and a proposition to establish affirmative directions for an executive officer constitutes legislation and is not in order in an appropriation bill (C. P., VII, 1442). A proper limitation is negative and in the nature of a veto, and when it assumes affirmative form by direction to an executive in the discharge of his duties under existing law it ceases to be a limitation and becomes legislation (C. P., VII, 1606). Whenever a purported limitation makes unlawful that which before was lawful or makes lawful that which before was unlawful it changes existing law and is not in order in an appropriation bill (C. P., VII, 1606).

An amendment descriptive of the object for which an appropriation is made is not legislation (C. P., VII, 1445). An amendment denying the use of an appropriation for a designated purpose is a simple limitation and in order on an appropriation bill (C. P., VII, 1580).

*Point concerning the constitutionality of including certain items in an appropriation bill because of lack of authority in existing law; Speaker unwilling to strike an item from an appropriation bill on a point of order.*

The House was considering H. B. 216, the general appropriation bill. Mr. Hale raised a point of order against certain items therein as being unconstitutional and improperly included in an appropriation bill, the items in question authorizing the establishment of a field division of the Industrial Accident Board. Mr. Hale maintained that such was not authorized by existing law, that the provisions were equivalent to enacting new law, and that such items were included in violation of Sec. 35 of Art. III of the Constitution.

In overruling the point of order the Speaker, Mr. Carr, stated that in reviewing the statute creating the Industrial Accident Board he could find no prohibition, either direct or implied, against the establishment of a field office located away from Austin; that this character of appropriation is often used to expand structures of State departments; and, of even greater significance, that he would be unwilling to take the responsibility of striking an item from an appropriation bill on a "constitutional" point of order. He noted that this had been the attitude of Speakers before him and that the House by amendment could, if it desired, remove the items to which Mr. Hale objected. (56th Reg.)

SEC. 3. No law shall be revived or amended by reference to its title; but in such case the act revived,

or the section or sections amended, shall be re-enacted and published at length.

[Const., Art. 3, Sec. 36.]

SEC. 4. Each bill shall be filed with the Chief Clerk when introduced and shall be numbered in its regular order. Each bill shall be read first time by caption and referred by the Speaker to the proper committee. During the first forty-five calendar days of a Regular Session, unless otherwise directed by a majority vote of the House, twenty-four hours must elapse between the time of introduction and the time of the first reading and reference of a bill or resolution to the proper committee.

SEC. 5. No bill shall be considered unless it has been first referred to a committee, and reported therefrom.

[Sec. 37 of Art. III of the Constitution says "No bill shall be considered unless it has been first referred to a committee and reported thereon, and no bill shall be passed which has not been presented and referred to and reported from a Committee at least three days before the final adjournment of the Legislature." It has long been held that the requirement of this section is satisfied if a bill is reported out of a committee of one of the two houses within the time described. Regardless of this holding, long followed, Speakers have historically refused to admit motions to suspend the Rules so as to keep Senate bills from going to House committees. They have contended that to allow such would be a violation of the spirit of Sec. 27 of Article III as well as legislative committee rules generally, since the two houses of the legislature are of equal importance and each requires committee consideration of its own bills without exception.

The above rule applies alike to Regular and Called Sessions.]

Bills and joint resolutions introduced during the first sixty calendar days of the Regular Session may be considered by the committees and in the House, and disposed of at any time during the session, in accordance with the Rules of the House; provided, however, that after the first sixty calendar days of a Regular Session, no bill or joint resolution shall be introduced in the House except local bills, emergency appropriations, and all emergency matters submitted by the Governor in special messages to the Legislature, unless otherwise directed by an affirmative record vote of four-fifths of those present and voting.

[During the Regular Session of the 47th Legislature, Speaker Homer Leonard established the precedent that when the House refused to grant permission for a Member to introduce a bill (after the period of free introduction) a second or subsequent attempt to gain permission could come only after the House reconsiders the vote by which it refused introduction originally. This is the best practice and works no hardship on the author because if he cannot get a majority or a two-thirds vote, as the case may be, for consideration, there is little or no chance to get the required four-fifths vote for introduction. In the past authors have taken the time of the House day after day on requests for introduction of bills despite the fact that the House had previously refused to grant permission for introduction. The ruling by Speaker Leonard is logical and saves the time of the House. The motion to reconsider permission to introduce is also acceptable unless bill has been read first time.

In the 54th Legislature the Speaker, Mr. Lindsey, held that the above paragraph applied also to joint resolutions, i.e., that a four-fifths vote would be required for introduction of same after the first sixty days of a Regular Session.

When the House gives permission for the introduction of a bill or joint resolution under the above section, the Chief Clerk so endorses the original bill or joint resolution.]

When a bill has been committed once at any reading and has been reported adversely by the committee to which it was referred, it shall not be in order to again recommit the bill unless a minority report shall have been filed in the time required by the Rules of the House, and then only by a two-thirds vote of those present.

[See exception to the above in Sec. 22 of Rule VIII.]

No House bill or Senate bill on its second reading shall be considered for any purpose during the last seventy-two hours before the final adjournment of the Legislature, unless it is an appropriation bill.

["Final adjournment" means sine die adjournment of a session.]

The Speaker shall not be authorized to recognize, nor shall he recognize, anyone to take up a bill out of its regular order within forty-eight hours next preceding final adjournment; nor shall he lay any bill before the House or take a vote upon any passage thereof during the last twenty-four hours next preceding the final adjournment of the Legislature except adoption of a conference committee report or concurrence in Senate amendments.

[In the 51st Legislature, the Speaker, Mr. Manford, held that Sundays were not to be excepted in the "end-of-the-session rules" above.

These "end-of-the-session rules" apply alike to Regular and Called Sessions.]

*Point of order relative to setting back the hands of the clock near the end of a a session.*

Mr. Tillotson raised a point of order, stating that the hands of the clock in the Hall of the House had been set back, and that the clock should be set at the correct time. He contended that the hour set for final adjournment of the session had actually passed and that the House was not legally in session.

The Speaker, Mr. Bobbitt, overruled the point of order, and Mr. Tillotson appealed from the ruling of the Chair. The appeal was duly seconded. The House sustained the ruling of the Chair by a vote of 90 to 24. (40th, 1st C. S.)

[The point of order is raised every session, and just as regularly overruled. Such a ruling is justified by necessity, custom, and precedent. It is usually impossible to wind up the business of a session within the exact number of hours remaining after the twenty-four hour rule and other end-of-the-session rules are in force. In fact, it is customary to suspend most of these rules for specific purposes in order to complete the session's business. Also, the Rules permit the consideration of conference reports during the last twenty-four hours, and when conference reports on long bills, especially appropriation bills, come in for adoption, it is very difficult to get the bills enrolled in time. Many times the principal work of a session has been saved by turning back the clock for a few hours.

In the 57th Legislature, 3rd Called Session, the Speaker, Mr. Turman, ruled that personal privilege speeches after the hour for sine die adjournment were not business, in the sense of the word as used, and therefore recognized several Members for such purpose.]

*After the hour set for final adjournment has arrived the Speaker refuses to accept any business except purely routine matters incident to completion of session's business.*

[On the last day of the Regular Session of the 49th Legislature, the hour set for final adjournment having actually arrived, though not so indicated by the House clock, the Speaker, Mr. Gilmer, refused to accept any business involving a decision of the House, except purely routine matters and those necessary to the conclusion of the session, such as signing of bills and resolutions in the presence of the House, reports of notification committee, and the like. The Speaker earlier had notified the House of his intention and received unanimous approval. It was still necessary, as usual, to turn back the hands of the House clock, as described above. This new procedure has many advantages and has become the rule. (49th Reg.)]

SEC. 6. All bills before the House on their third and second readings, respectively, shall be taken up and

acted upon in the order in which they are numbered except as provided elsewhere in the Rules.

During the first sixty calendar days of a Regular Session emergency appropriation bills shall have precedence in the regular order of business in accordance with their numbers.

[That portion of the above rule giving precedence to emergency appropriation bills during the first sixty days of a regular session has been rendered ineffective, in the main, by Sec. 9-a of the Joint Rules.

In the 53rd Legislature, the Speaker, Mr. Senterfitt, held, in view of the provisions in Sec. 9-a of the Joint Rules relating to the "consideration" of certain appropriation bills, that no official action could be taken thereon by the House or any of its committees. He pointed out that this rule would not prevent the introduction of such bills and reference to committees, however, for unofficial study, but that such actions as setting and holding official hearings, disposing of the bills in any way in committee, or reporting officially were clearly out of order. And in the 54th Legislature, the Speaker, Mr. Lindsey, held that the provisions of Sec. 9-a of the Joint Rules are operative until the biennial appropriation bills "have been passed by both Houses," which includes, so far as the House is concerned, concurrence in Senate amendments, and the adoption of a conference report by both Houses.

Also, in the 54th Legislature the Speaker, Mr. Lindsey, held out of order, before the passage of the General Appropriation Bill, an amendment to a bill seeking to make an appropriation to carry out its general provisions, and also ruled out of order the consideration of a bill which carried an appropriation, even though incidental to its main purpose. He pointed out that in both instances the spirit of Joint Rule 9-a was violated.

Similarly, in the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that he could not lay an "appropriation" bill before the House in violation of Sec.

9-a of the Joint Rules if a point of order were raised against such, thus precluding the offering of an amendment to delete the appropriation provision.

Since the adoption of Joint Rule 9-a Speakers have construed it strictly, as indicated above. They have included under it bills clearly "appropriating," "re-appropriating" and "transferring" funds, as well as bills which, although not containing these exact words, in fact under practices of the Comptroller pursuant to rulings of the Attorney General, contain wording which, so far as the end results of use are concerned, are respectively equivalent thereto. The practices referred to are likewise of importance to the presiding officers of the two Houses since they must determine whether or not a particular bill to be submitted to the Comptroller for his certification under the terms of Sec. 49-a of Article III of the Constitution. In view of the various interpretations and questions arising under Sec. 49-a the Speaker looks carefully into each doubtful case. At times there is a question as to whether or not a particular bill, by its terms, "automatically" calls for an expenditure of state funds without containing an outright appropriation. Frequently encountered bills of this type are bills adding money to already existing funds, by transfer or otherwise, already appropriated by the then current appropriation act. These do not carry a specific appropriation. However, bills transferring funds to new funds and making appropriations therefrom would have to be certified. (These are illustrations based upon current practice.)

In the 56th Legislature, Regular Session, the Speaker, Mr. Carr, ruled that a bill changing the language of an existing appropriation item (enlarging the uses to which the appropriation could be put), but not changing the amount of the appropriation, did not violate the spirit of Joint Rule 9-a and therefore permitted its consideration.

Although technically it might be argued that an appropriation bill is not finally passed by the two houses until certified by the Comptroller, it has never been the practice of the presiding officers of the houses to hold the terms of Joint Rule 9-a applicable to the final passage of an appro-

priation bill (including a conference report) beyond majority favorable votes thereon by both houses.

Joint Rule 9-a is not applicable in a Called Session.]

*Instance wherein a bill did not actually appropriate funds and therefore did not come under the provisions of Joint Rule 9-a.*

The House was considering H. B. 29, "Creating the Commission on Organization of the Executive Branch, etc.," whereupon Mr. Ehrle raised a point of order against its further consideration on the ground that same was in violation of Joint Rule 9-a.

In overruling the point of order, the Speaker, Mr. Carr, called attention to the fact that the bill did not actually contain an appropriation, only a provision that "the Legislature shall appropriate" the necessary funds. He emphasized he had consistently held that unless a bill used the term "appropriated" or specifically or by its terms actually set aside funds for a particular purpose, it did not come under the provisions of Joint Rule 9-a. (56th Reg.)

Tuesday of each week shall be devoted to the consideration of House bills on their third reading until disposed of except for the consideration of those matters provided for in Rule XVII.

When any House bill shall be reached upon the calendar or shall be before the House for consideration, it shall be the duty of the Speaker to give the place of such House bill on the calendar to any Senate bill which has been referred to and reported from a committee of the House, which contains the same subject or to lay such Senate bill before the House, to be considered in lieu of such House bill.

[Such Senate bill must be at the same reading status as the House bill, i.e., 2nd reading or 3rd reading.]

On calendar Wednesday and on calendar Thursday of each week only Senate bills and Senate joint resolutions on their third and second readings, respectively, shall be taken up and considered until disposed of; and in case one should be pending at

adjournment on calendar Thursday, it should go over to the succeeding calendar Wednesday as the unfinished business.

[The preceding paragraph does not preclude the consideration of conference committee reports on House bills on Senate bill days.

The House can, and frequently does, consider, under a suspension of the Rules, Senate bills (and very rarely Senate joint resolutions) on days set aside in the Rules for House bills and joint resolutions. Since the House can do what it wishes with its own time, no Senate permission is needed for such consideration.

In the 51st Legislature, the Speaker, Mr. Manford, held that the consideration of a Senate bill, passed in the Senate on House Bill day in violation of the Joint Rules, should not be ruled out of order. The Speaker's theory was that if the House did not wish to consider the bill, it could take any appropriate action.

In the 57th Legislature Speaker James A. Turman held that, in the spirit of the preceding paragraph of this rule, a Senate bill or joint resolution postponed to a Thursday, and not reached on the calendar, should go over to the calendar of the next Wednesday.]

Precedence given in this rule to certain classes of bills during the first sixty calendar days of a Regular Session shall also apply to Senate bills on Senate bill days.

[The days mentioned in the above section are held to be calendar days.

The following memoranda may be helpful in determining if a bill is a local or a general bill:

A bill relating to the sale of public lands is not local.

An Act to amend the general game and fish law is not a local bill.

A bill to create a new county has been held not to be a local bill.

Bills creating a district court out of parts of two or more counties are not local.

A fee bill applying to counties of more than 80,000 is not local.

A bill to amend an act to apportion the State into congressional districts is not a local bill.

Bills relating to a judicial district are general.

Bills reorganizing one or more judicial districts are general.

A bill for the purpose of reorganizing or creating a new judicial district is not a local bill unless it affects only a single representative district, and does not provide for an appropriation.

A bill having for its purpose the remission of taxes is a general bill.

Bills affecting county auditors laws are not local bills.]

*Constitutional requirements of thirty days' notice on proposed local bills must be fully met otherwise such bills are subject to points of order on their consideration. Thorough discussion of this point.*

The House was considering H. B. 260. Mr. Craig raised a point of order on further consideration of the bill on the ground that the constitutional requirement concerning thirty days' notice before introduction had not been complied with.

The Speaker, Mr. Daniel, in sustaining the point of order, gave the following reasons:

The author of this bill states before the House that the population brackets based upon the 1940 Federal Census are so written that this bill applies only to his own county, and that it could never apply to any other county. The author also states to the House, in reply to a question from the Speaker, that notice of intention to apply therefor, or to pass such bill, was not published in the locality where the matter or thing to be effected is situated, in accordance with Section 57, Article 3, of the Constitution of the State of Texas.

Mr. Craig urges a point of order against the bill on the ground that it is obviously a local and special law forbidden by Article 3, Section 56, of the Constitution of the State of Texas, and that no notice of such local law was published in the county affected, and that no such

notice has been exhibited in the Legislature as required by the Constitution under Article 3, Section 57.

That portion of the point of order concerning the failure to publish a notice in the county affected and failure to exhibit such notice in the Legislature involves a constitutional rule of procedure.

Our House rule, Section 4, Rule I, provides that the Speaker of the House "shall enforce the Rules of the House, and the Legislative Rules prescribed by the Constitution."

A mere reading of Section 57, Article 3, of the Constitution of the State of Texas, together with the author's statement that no notice was published, makes it clearly evident that the point of order should be sustained on this ground, irrespective of the decision that might be made on the remaining ground raised in the point of order. In this connection the Chair quotes Section 57, Article 3, of the Constitution, as follows:

> "SEC. 57. Pre-Passage Notice of Local or Special Laws.—No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the Legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published, shall be exhibited in the Legislature, before such act shall be passed."

On the other ground raised by the point of order, that the bill is unconstitutional because it attempts to pass a local and special law in violation of the Constitution, the Chair has taken considerable time to digest and brief the authorities before ruling on the point. This, because of the natural hesitancy of any Speaker to determine and decide upon the constitutionality of a bill pending before the House. All Speakers have been inclined to pass such matters to the House unless the bill is obviously unconstitutional beyond any reasonable doubt. However, practically all presiding officers of this House have decided upon the constitutionality of such matters when there is little or no doubt existing. This precedent is fully stated under the annotation to Section 7, Rule I, of the House of Representatives, and reads as follows:

> "When a point of order is raised on the constitutionality of a pending matter, the Speaker rules if there is little or no doubt existing . . ."

After carefully studying the constitutional provision and the decisions of the Supreme Court of the State of Texas, the Speaker decides that there is positively no doubt concerning the unconstitutionality of the bill now being considered by the House. It is true that practically all Members of this Legislature, both past and present,

have voted for and passed similar local bills in violation of the Constitution, but when the Constitutional point is specifically raised for our determination, it is the opinion of the Chair that the Constitution and the decisions of the Supreme Court of our State should be respected and followed if we as Members of the Legislature are to uphold the Constitution of this State as we have sworn and pledged ourselves to do.

The Constitution is clear, and is quoted in the following decision by the Supreme Court of Texas, opinion by Chief Justice Alexander, in the case of Miller et al. v. El Paso County, 150 S. W. (2d) 1000, which case is directly in point and is herewith cited and quoted as follows:

> "Section 56, Article III, of the State Constitution, Vernon's Ann. St., reads, in part, as follows:
>
> > "'Sec. 56. The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law, authorizing:
> >
> > "'Regulating the affairs of counties, cities, towns, wards or school districts;
> >
> > "'Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts; . . .
> >
> > "'And in all other cases where a general law can be made applicable, no local or special law shall be enacted; . . .'
>
> "The purpose of this constitutional inhibition against the enactment of local or special laws is a wholesome one. It is intended to prevent and to secure uniformity of law throughout the State as far as possible. It is said that at an early period in many of the states the practice of enacting special and local laws became 'an efficient means for the easy enactment of laws for the advancement of personal rather than public interests, and encouraged the reprehensible practice of trading and "logrolling".' It was for the suppression of such practices that such a provision was adopted in this and many of the other States of Union, 25 R. C. L., p. 820, 68.
>
> "Notwithstanding the above constitutional provision, the courts recognize in the Legislature a rather broad power to make classifications for legislative purposes and to enact laws for the regulation thereof, even though such legislation may be applicable only to a particular class or, in fact, affect only the inhabitants of a particular locality; but such legislation must be intended to apply uniformly to all who may come within the classification designated in the Act, and the classification must be broad enough to include a substantial class and must be based on characteristics legitimately distinguishing such class from others with respect

to the public purpose sought to be accomplished by the proposed legislation. In other words, there must be a substantial reason for the classification. It must not be a mere arbitrary device resorted to for the purpose of giving what is, in fact, a local law the appearance of a general law. As said in Leonard v. Road Maintenance District No. 1, 187 Art. 599, 61 S. W. (2d) 70, 71: 'The rule is that a classification cannot be adopted arbitrarily upon a ground which has no foundation in difference of situation or circumstances of the municipalities placed in the different classes. There must be some reasonable relation between the situation of municipalities classified and the purposes and objects to be attained. There must be something which in some reasonable degree accounts for the division into classes.'

"It will be noted that the Act in question by its terms is made applicable only to those counties having a population of not less than 125,000 nor more than 175,000 inhabitants, and containing a city having a population of not less than 90,000 inhabitants, as shown by the last preceding Federal census. The evidence shows, without dispute, that the only county within the State coming within the provisions of the Act at the time of its adoption was El Paso County. The Legislature was doubtless cognizant of this fact. It was also cognizant of the fact that another Federal census would not be taken until 1940, and that as a consequence no other county would come within the terms of the Act for a period of five years after its adoption. We must presume, therefore, that it was intended by the Legislature that said Act should apply only to El Paso County during said period of time. As a matter of fact, no other county met the population requirements of the Act under the 1940 census and as a consequence El Paso County is the only county that will be affected thereby until after 1950.

"After having carefully considered the matter, we are convinced that the attempted classification is unreasonable and bears no relation to the objects sought to be accomplished by the Act, and that as a consequence the Act is void."

This same point was decided in an opinion by Justice Critz while a member of the Commission of Appeals in an opinion adopted by the Supreme Court in the case of City of Fort Worth v. Bobbit, 36 S. W. (2d) 470, which case involved the constitutionality of a bracket bill passed by the 41st Legislature for the City of Fort Worth, part of which decision reads as follows:

"It will be noted that section 1 of the act confines its application absolutely to cities which, according to the United States census of 1920, contain not less than 106,000 and not more than 110,000 inhabitants. An examination of the census referred to discloses that the City of Fort Worth, Texas, is absolutely the

only city in the State of Texas that has a population coming within the provisions of this act. Furthermore, the act is so constructed that it is absolutely impossible for any other city in the State to ever be included within the terms or under the provisions of the act. It is therefore our opinion that this act is confined in its application to the City of Fort Worth only, just as clearly, and just as effectively as if the stipulation with reference to population had been omitted and the name 'Fort Worth' written therein in its stead. The Constitution in plain and simple terms prohibits the enactment of any local or special law regulating the affairs of cities, or changing their charters. It cannot be denied that this law does have reference to regulating the affairs of cities. If it is a local or special law, it is therefore unconstitutional and void.

"We presume that no one would contend, if the name 'Fort Worth' had been inserted in the law in place of the stipulation with reference to population, that the act would be constitutional. If we should hold this law to be constitutional when it describes and confines its application absolutely to one city, we would in effect be holding the constitutional provision under discussion an idle and a vain thing, and can be evaded by a subterfuge. We therefore hold that the act in question is unconstitutional and void."

There are so many other cases by our Supreme Court in support of these decisions that there is no longer room for controversy or doubt as to the unconstitutionality of local population bracket bills which are so worded that they could under any circumstances apply to more than one county or one city. However, the Chair would have it understood that no part of this decision refers to local game bills, school laws, or other matters specifically excepted by the Constitution, and on which local laws are specifically authorized by the Constitution.

Accordingly, on both grounds urged by Mr. Craig, the point of order is sustained. (48th Reg.)

[Bills establishing new courts do not require pre-passage notices as required by Sec. 57, Art. III, of the Constitution.]

*Under the Joint Rules, Wednesday and Thursday are considered calendar days.*

[The Speaker, Mr. Stevenson, ruled in the House, and the Lieutenant Governor, Mr. Woodul, held in the Senate, that Wednesday and Thursday, as used in the above section and in the Joint Rules, mean calendar days and not legislative days. The consideration of Senate bills in the House and the consideration of House bills in the Senate should be the order on Wednesday and Thursday, irrespective of whether either House should recess or adjourn to these days.

(43rd Reg.) This ruling was one of the first steps in a long series which ultimately resulted in confining legislative days, in so far as the weekly order of business is concerned, to their respective calendar days. That is, in all instances in the Rules where certain days are set aside for designated classes of business, the days referred to are calendar days, not legislative days. This step, though, contrary to long established practice in the Texas Legislature, resulted in a much needed simplification of rules and procedure. For other purposes, chief of which is to satisfy Constitutional requirements, the legislative day still remains an important and useful concept.]

SEC. 6-a. The biennial appropriation bill for the support of the judiciary, the departments, the educational institutions, eleemosynary and reformatory institutions and the educational equalization program shall have precedence at all times over all other bills and joint resolutions, including special orders, except Senate bills on calendar Wednesday and Thursday, Senate bills on these subjects shall be given the same precedence on Senate bill days.

[During the Regular Session of the 47th Legislature, Speaker Homer Leonard ruled that appropriation bills above defined have right of way on Tuesdays over House joint resolutions, and in the 52nd Legislature the Speaker, Mr. Senterfitt, held that the general claims appropriation bill should be included among the appropriation bills listed above.

A House biennial appropriation bill does not have priority on Senate bill days, unless permission for consideration has been given by the Senate.]

SEC. 7. All bills reported favorably by a committee with recommendation that they do pass and be printed, or reported favorably with recommendation that they do pass with committee substitute and that committee substitute for such bills be printed in lieu of the original bills, shall immediately be sent to the printer by the Calendar Clerk as provided in Rule

IV, Section 2, and a printed copy laid on the desk of each Member at least twenty-four hours before the bills can be considered by the House, except during the last ten calendar days of a session. Local bills may be reported favorably with recommendation that they do pass and that they be not printed. It shall not be necessary for the House to order committee substitutes printed in lieu of original bills, nor to order that local bills be not printed. A two-thirds vote of the House is necessary to order bills, other than local bills, not printed.

[See Sections 4 and 5 of Rule VIII in regard to minority reports, particularly as to the printing of bills on minority report.

Committees have no authority to order not printed bills which they report favorably, except local bills, even though such bills may be considered uncontested, and the Calendar Clerk should disregard such recommendations and send the bills to the printer as required in the above section. A two-thirds vote of the House, by way of a suspension of the Rules, is necessary to order bills, other than local bills, not printed. This is obviously a wise safeguard.

A "committee substitute bill" takes the form of the usual two amendments, one to the body and the other to the caption. If none is needed to the caption, then only the body amendment is necessary, but when the "substitute bill" is printed the original caption should be included as a part thereof.

Under the new rule on Organization, Powers and Duties of Committees, Rule VIII, a complete substitute bill—new body and caption, may be reported from a committee.

In the 57th Legislature, 3rd Called Session, the Speaker, Mr. Turman, ruled that if a "committee substitute" which was printed in lieu of the original bill which failed to pass, either by rejection or being ruled out on a point of order, it was not necessary to have the bill printed before it could

be considered by the House. He pointed out there are actually no mechanics provided in the Rules for the printing of a bill in such an eventuality.

If, for some reason, usually a clerical error, a committee fails to order a local bill not printed, it should be sent to the printer unless, by majority vote, the House orders it not printed.]

All other bills, resolutions, reports, memorials, and petitions shall be printed initially on the order of the House, or as directed by these Rules. By a majority vote of the House, the original bill or resolution shall be printed with committee substitute. Amendments by a committee which strike out all below the enacting clause shall be regarded as committee substitutes.

By a majority vote the House may order a bill mimeographed and not otherwise printed, and such mimeographing shall be equivalent to printing for all purposes covered by these Rules.

[Recently, lithoprinting has been substituted for mimeographing.

The heading "Official House Mimeographing (or Lithoprinting)" should appear at the top of all bills or other matter ordered mimeographed by the House.]

SEC. 8. After a bill has been taken up and read, amendments thereto shall be in order. If no amendment is made, or if those proposed are disposed of, then the final question upon its second reading shall be, in the case of a House bill, whether it shall be engrossed, or, in the case of a Senate bill, whether it shall pass to its third reading; and all bills ordered engrossed or passed to a third reading shall go on the calendar in their regular course.

[A committee has the power to suggest amendments, but these amendments must be offered from the floor by some Member. If not offered from the floor, they should not be considered.

House bills "ordered engrossed" must actually be engrossed by the Engrossing Clerk and returned to the Speaker's desk before they can be laid before the House on third reading, unless the Constitutional rule requiring bills to be read on three several days is suspended, in which case practice of long-standing foregoes actual engrossment at this stage, the four-fifths vote needed for such suspension being considered in effect a simultaneous suspension (only a two-thirds vote needed) of the above section in so far as the actual engrossment requirement is concerned. Such bills are engrossed before they are sent to the Senate.

See Sec. 3, Rule XIX, rule on precedence of amendments and associated annotations.]

SEC. 9. No bill shall have the force of law until it has been read on three several legislative days in each House, and free discussion allowed thereon; but in case of imperative public necessity (which necessity shall be stated in the preamble or in the body of the bill) four-fifths of the House may suspend this rule, the yeas and nays being taken on the question of suspension and entered upon the Journal.

[See Const., Art. 3, Sec. 32.]

By four-fifths of the House is here meant four-fifths of those Members voting, a quorum being present; provided, that within the meaning of this rule "an imperative public necessity" shall be held to mean only such condition or state of affairs which, if not immediately remedied, shall cause great loss of life or of property; and the Speaker shall not entertain a motion to suspend the Constitutional rule

requiring bills to be read on three several days until it shall definitely appear that such a condition or state of affairs does actually exist.

[Actually, the Speaker never uses the power given to him in the latter part of the above rule. If an emergency clause is in a bill he does not question the "emergency" described.]

*Interpretation of the meaning of "days" as found in the Constitutional requirement that bills be read on "three several days."*

The House met at 10 a.m. on April 1, 1954, on recess from the previous day. Later in the day H. B. 8 was read second time and ordered engrossed. The House then adjourned for a few minutes and was called to order on a new legislative day. When H. B. 8 was again laid before the House and read third time Mr. Bergman raised the point of order against "further consideration of House Bill 8 on third reading for the reason that Article 3, Section 32 of the Constitution of Texas provides that no bill shall have the force of a law until it has been read on three several days in each house and free discussion allowed thereon. The term 'three several days,' as used in the Constitutional provision, had reference to calendar days as known and applied at the time of the adoption of the Constitution, and the fiction of 'legislative days,' as used in the Rules of the House, cannot have the force and effect of changing the meaning of the term 'several days,' as used in the Constitution. This bill having been considered and passed to engrossment this morning, April 1, 1954, and this being the afternoon of April 1, 1954, is not properly before the House for consideration."

The Speaker, Mr. Senterfitt, overruled the point of order stating that the procedure followed in this case was exactly the same as followed previously in the Session and had long been the established practice of the House, i.e., "days" as used in Sec. 32 of Art. III had for more than fifty years, at least, been held to be "legislative days"—a legislative day being the period between a convening following an adjournment and the next adjournment. (54th, 1st C. S.)

*Instance wherein the Constitutional rule requiring bills to be read on three several days was suspended before the bill was placed on second reading and in anticipation of its later passage to engrossment; comments on "legislative days."*

The House suspended the Rules for the purpose of considering H. B. 11, an omnibus tax bill. Just as the Speaker was preparing to lay the bill before the House on second reading (it having been read first time on a previous legislative day and reported from a

committee) Mr. Zbranek moved to suspend the Constitutional rule requiring bills to be read on three several days so that in the event H. B. 11 passed to engrossment on that legislative day it could immediately be placed on third reading and finally passed. The motion prevailed by the necessary four-fifths vote. (56th, 3rd C. S.)

[This is the only known instance of such a suspension before the time needed therefor, and was the solution of a unique situation. It was believed by the mover that a suspension vote prior to second reading, debate, amendment, and passage to engrossment would be successful whereas after passage to engrossment, which could be by a majority vote, a four-fifths vote for suspension might not be obtained. Lacking a precedent to the contrary, and noting that no Constitutional limitation existed on just when such a motion could be made, the Speaker, Mr. Carr, allowed the motion. However, there is considerable doubt regarding the need for or advantage of such a departure from the long-established practice relating to this motion to permit a premature suspension as described. Such is not necessary, certainly the proceeding is of doubtful value, and, of greater importance, the House should know the exact substance of a bill passed to engrossment before it votes on the motion to suspend the Constitutional rule.]

["Days" as used in Sec. 32 of Art. 3 of the Constitution has repeatedly been held to mean "legislative days." A "legislative day" is that period from a convening following an adjournment until the next adjournment. The most common daily session pattern is for the House to meet say at 10 a.m., recess for lunch, and adjourn say at 5:00 p.m. A legislative day is thus completed on the particular calendar day. But, if at the end of the day (or any other time) the House recesses, the particular legislative day continues. Often a single legislative day will span several calendar days. Also, parts of two legislative days will often fall on a single calendar day, this occurring when the House adjourns and meets again on the same calendar day. It is possible, therefore, to have as much as a fraction of one legislative day and the whole of the next legislative day on the same calendar day, this occurring when the House meets say in the morning following a recess, adjourns until 2:30 p.m., for example, and then adjourns later in the day until a future day. It is not possible, however, to create two complete legislative days on the same calendar day; for example, a morning meeting following an adjournment from a previous day, followed by an adjournment before noon until afternoon, followed by a convening in the afternoon, pursuant to the adjournment, and then an adjournment later in the day—

constituting two complete legislative days—would not be permitted. As noted, "days" in Sec. 3 of Art. 3 have always been held to be "legislative days." Thus it is possible, since parts of two legislative days (sometimes a fraction and a whole) can occur on the same calendar day, it is possible to place a bill on two readings in the same calendar day without having to suspend the Constitutional rule. Within a single legislative day, however, a Constitutional rule suspension must occur if a bill is to be read twice.

The motion to reconsider may not be applied to a vote to suspend the Constitutional rule requiring bills to be read on three several days. If a motion to suspend fails, and, if accepted by the Speaker, a new motion may be made, usually after intervening business, but not when another matter is pending.]

*A four-fifths vote of those present and voting held necessary for a suspension of the Constitutional rule requiring bills to be read on three several days; also, a quorum must be voting.*

A motion to suspend the Constitutional rule requiring that bills be read on three several days was made. The vote showed Yeas, 59, Nays, 1, and present or not voting, 67. In declaring the motion lost, Speaker Homer Leonard called attention to Section 32 of Art. 3 of the Constitution which requires a "four-fifths of the House" vote. He pointed out that "House" has been held to be a working quorum, and that since on the motion to suspend only 60 votes were cast out of a total of 127 Members present, and, therefore a quorum had not voted, the motion was lost. (47th. Reg.)

*Case where the Constitutional rule requiring bills to be read on three several days had to be suspended a second time.*

The House was considering Senate Bill No. 375 on second reading. It was passed to third reading, the Constitutional rule was suspended, and the bill was placed on its third reading. After consideration the House reconsidered the vote by which it was passed to its third reading. After amending the bill, the House again passed it to its third reading. The Speaker, Mr. Minor, held that since the bill had been amended, it would be necessary to again suspend the Constitutional rule before it could be placed on its third reading on that legislative day. (42nd Reg.)

SEC. 10. When a bill has been taken up on its third reading, amendments thereto shall be in order, but shall require a two-thirds vote of the Members present for their adoption; or the bill may be recommitted

and reported to the House with amendments, in which case it shall take the course of a bill at its second reading, unless the amendments were made in the Committee of the Whole, in which case the House shall immediately proceed to act on the bill. After all amendments have been disposed of, the question shall be upon the final passage of the bill.

[A bill recommitted at its third reading and again reported from a committee, takes the course of a bill on second reading when again laid before the House for consideration.]

SEC. 11. When a bill shall pass, it shall be certified by the Chief Clerk, noting the date of its passage thereon, and the vote by which it passed, if by a yea and nay vote.

[Frequently concurrent resolutions are passed authorizing the correction of errors in bills in the hands of the Engrossing and Enrolling Clerk, and it is often necessary to recall bills from the Governor for correction. Such recall is done by concurrent resolution, usually originating in the house in which the bill originated. See "Recall of Bills and Resolutions" following Sec. 19 of this rule.

"Corrective" resolutions should be strictly of that character, it not being allowable under the Rules to make changes in substance. To allow such would set a dangerous precedent, because there would be no way of drawing a line as to what could and what could not be changed by such a resolution. If such practice were allowed, an act that passed both Houses under the constitutionally specified three-reading procedure, could be set aside or changed in whole or in part. However, over recent years both Houses have accepted resolutions (concurrent) which authorized many and various types of corrections in the General Appropriation Bill after adoption of the conference report relating thereto. At times these "corrections" have been to insert unin-

tended omissions due to clerical errors, to remedy obviously faulty wording, and to eliminate any contradictions between provisions. Generally speaking, the houses have accepted genuine corrections, as explained by the Chairmen of the Committees on Appropriation and Finance, even though such "corrections" are admittedly broader in character than would be allowed through resolutions for other bills. Such course of action has been deemed preferable to recommitting the bill to conference, since under such procedure the entire subject matter of the appropriation bill would thereby be reopened.

In the 54th Legislature, the Speaker, Mr. Lindsey, held that a resolution correcting, in any manner whatsoever, a bill finally passed and being enrolled (which must be a concurrent resolution), must receive 100 affirmative votes (registration) if the bill is to go into immediate effect. He added that, of course, the bill must have received the necessary two-thirds vote when finally passed by the two Houses, such a vote on passage of a corrective resolution in itself being insufficient to put the bill into immediate effect.]

CORRECTION OF ERRORS IN BILLS—RECALL.—It is a common occurrence for one House to ask the other [by simple resolution or motion] to return a bill for correction or otherwise (H. P., IV, 3460-3464). There being an error in an engrossed House bill sent to the Senate, a request was made that the Clerk be permitted to make correction (H. P., IV, 3465). The correction of an enrolled bill is sometimes ordered by concurrent resolution (H. P., IV, 3446-3450).

SEC. 12. No law passed by the Legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the Legislature shall, by a vote of two-thirds of all the Members elected to each House, otherwise direct; said vote to

be taken by yeas and nays and entered upon the Journals.

[See Const., Art. 3, Sec. 39.

Due to the great amount of business which usually comes before a Regular Session of the Legislature, and the limited time of such a session, if there is a "public necessity" for the immediate enactment of a law and for its taking effect immediately, in the practice of the House it is customary to permit such a law to be passed under the emergency provisions of the Constitution and the Rules of the House. The imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the reasons for its taking effect from and after its passage are usually stated in the last section of the bill, the "emergency clause." This practice is necessary to the quick enactment of certain measures, but it should not be abused to the extent of placing an emergency clause on a bill so as to put into immediate effect that for which there is no real necessity; however, such is the custom because without such emergency clause it would not be possible to pass a bill to engrossment and final passage on the same legislative day. This is important in speeding the work of a session.

The Attorney General has held consistently that a concurrent resolution, passed subsequent to the passage of a bill, which failed to receive the required two-thirds vote in its passage, could not put the bill into immediate effect, even though it declared legislative intent and the bill contained the required emergency clause. See Opinions Nos.: 0-95, 0-1717, 0-3697, and V-867. However, in Opinion No. V-850, the Attorney General held that the date for the submission of a proposed amendment to the Constitution could be changed by the adoption of a joint resolution setting a new one. In this latter case the same legislative method, a joint resolution, was used in both actions.

On rare occasion the Engrossing and Enrolling Clerk has accidentally shown incorrect votes in endorsements relating to final passage of bills. The Attorney General has

ruled (Opinion 0-5171a) that in such matters the Journals control, if they differ from the endorsements on the enrolled bills. There have been several instances where bills were recalled from the Governor and the endorsements corrected, and one where the Engrossing and Enrolling Clerk corrected an endorsement to conform with the Journal even after the session had adjourned sine die. This was done before the bill reached the Secretary of State.

Whenever a bill receives the necessary two-thirds vote and is signed by the Governor, or becomes a law by absence of a veto, its terms become effective immediately. If, however, there is a specific recitation in the act which determines its effective date, then such controls. If such a recitation is contained in an act which does not receive the necessary two-thirds vote and such date is prior to ninety days after adjournment, then such specific recitation is of no effect, and the bill becomes effective ninety days after adjournment. If an author wants to speed passage of a bill he may resort to use of the emergency clause, as is customarily done, even though the bill is not to go into immediate effect. The desired end can be attained by having a non-record vote on final passage or including a specific date on which the bill is to become effective.]

SEC. 13. After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance shall be passed into a law during the same Session. After a resolution has been acted on and defeated, no resolution containing the same substance, shall be considered at the same session.

[See Const., Art. 3, Sec. 34.

In the Twenty-sixth Legislature (Journal, p. 415) a point of order was made on consideration of a bill in the House because the Senate had considered and defeated a bill containing the same subject matter. The Speaker held the point of order not well taken. A point of order of this kind

must be decided on the actual facts in the case; a bill might be similar, even containing apparently the same substance, and yet be so different as not to come within the rule. If the Senate has officially reported the defeat of a particular measure, a point of order on consideration of a similar measure in the House would stand or fall according to whether or not the presiding officer of the House thinks the measure being considered in the House contains the same "substance" as the measure defeated in the Senate. See the precedent following.]

*Held that a bill defeated in the Senate could be considered in the House.*

The Speaker laid before the House as a special order House Bill No. 44 on its second reading and passage to engrossment.

Mr. Thomason raised a point of order on consideration of the bill on the ground that the House has official notification that the Senate has defeated a bill containing the same substance.

The Speaker, Mr. Thomas, overruled the point of order, stating that while the Constitution prohibits the passage by either House of a bill after being officially notified of a defeat by the other House of a bill containing the same substance, it does not prohibit its consideration. (37th Reg.)

[The contention of the Speaker was that it was entirely possible for the House to amend the bill and so change it by germane amendments as to make it agreeable to the Senate.]

SEC. 14. No laws shall be passed except by bill, and no bill shall be amended in its passage through either House, so as to change its original purpose.

[See Const., Sec. 30, Art. 3.]

SEC. 15. When a bill is before the House on its second or third reading, any Member may call for a full reading, but this reading may be dispensed with by a majority vote of the House.

SEC. 16. Emergency measures submitted by the Governor, and emergency appropriation bills, shall

have precedence in accordance with their readings and number over all other bills during the first sixty calendar days of a Regular Session of the Legislature.

[In the 57th Legislature Speaker James A. Turman ruled that "in accordance with their readings," as used above, meant not only second and third readings but also postponed business, special orders and "all other bills."]

SEC. 17. No local or uncontested bill shall be placed before the House for consideration unless said bill shall have first been referred to and favorably reported by the committee to which it was referred. A member desiring to have a bill placed on a Local and Uncontested Bill calendar shall so request the Committee on Local and Uncontested Bills, appearing before said committee if requested by the chairman. The Committee on Local and Uncontested Bills shall make up a calendar for a period designated by a two-thirds vote of the House for the consideration of local and uncontested bills, placing bills on this calendar in accordance with their numbers and readings. No local or uncontested bill shall be placed before the House for consideration unless it appears on the calendar prepared by the committee; and this requirement cannot be suspended except by unanimous consent of the House. By "local bill" is meant any measure affecting only one county, city or representative district, other than the establishment of new courts.

During consideration of local and uncontested bills, the Chair shall allow the sponsor three minutes to explain the measure, and his time shall not be extended except by unanimous consent of the House.

This rule shall have precedence over all other rules limiting time for debate. If it develops that any bill on the local and uncontested calendar is not in fact local, as defined by the Rules, or is to be contested on the floor of the House, the Speaker shall withdraw the bill from consideration, and it shall again take its place in the regular order of business established by the Rules, and shall not during that Session of the Legislature be again placed upon a local and uncontested bill calendar. A bill shall be considered contested, and consequently withdrawn by the Speaker if notice is given by five or more Members that they oppose the same, either by raising of hands or written notice to the Speaker.

[That portion of the above rule referring to a bill "knocked off" the local and uncontested bill calendar is not enforced strictly because frequently a bill is not fully understood. Sometimes a simple amendment may cure all objections. In either case, a good bill may be saved by allowing a second placing on this particular type of calendar. The Committee on Local and Uncontested Bills can easily control its calendar so that truly controversial bills will not appear twice.

House and Senate joint resolutions deemed by the Committee to be uncontested are eligible for Local and Uncontested Bill calendars.

Occasionally, in local and uncontested bill sessions opposition develops to a bill after it has passed to engrossment and before final passage. Following the spirit of the above rules it has become the custom for a presiding officer to withdraw such a bill from further consideration at such time if it is objected to by five or more Members.

Under current practice, at a local and uncontested bill session only those bills approved by the Committee on Local and Uncontested Bills are considered. All bills on the approved calendar on second reading are considered in numer-

ical order and ordered engrossed, in the case of House bills, or passed to third reading, in case of Senate bills. Sometimes at this point increased opposition develops to a bill which has just been ordered engrossed or passed to a third reading. As stated above, if as many as five Members signify their intention to oppose the bill the Speaker withdraws it from further consideration at the time and it goes back on the regular calendar, but on third reading. The Constitutional Rule requiring bills to be read on three several days is then suspended on the first bill on the calendar. By unanimous consent, this record vote is made applicable to all the other bills. The first bill on which the Constitutional Rule was suspended is then read third time by caption and passed finally by a record vote. Then, after the other bills are read third time by caption or number, by unanimous consent the last record vote is made applicable to show their final passage individually. The Speaker then allows any Member to record his negative vote on any bill passed to which he is opposed. A blanket motion to amend captions is also passed. Also, if a bill is not to go into immediate effect it is shown passed by a non-record vote.

Occasionally, a Local and Uncontested Bill Calendar is set for a time to which the House later adjourns. When convening time arises, it is currently the practice to have the usual registration of Members, prayer by the Chaplain, and excuses for absences of Members. Then the Local and Uncontested Bill Calendar is taken up. When it is completed, the remaining items in the daily order of business are covered in order.

In the 56th Legislature, Regular Session, the Speaker, Mr. Carr, ruled that a pending privileged matter (concurring in Senate amendments) had right-of-way for consideration over a Local and Uncontested Bill Calendar which had been set for that particular time.]

SEC. 18. A resolution to recall a bill from the Senate shall not be in order unless a motion to reconsider the vote by which the bill finally passed has been

made and adopted in the time prescribed by these Rules.

SEC. 19. During the consideration of any bill or resolution, the House may, by a majority vote, order the bill or resolution to be considered section by section, or department by department, until each such section or department shall have been given separate consideration. If such procedure is ordered, only amendments to the section or department under consideration at any given time shall be in order; provided, however, that after each such section or department shall have been considered separately, the entire bill or resolution shall be open for amendment, which amendments shall be subject to the provisions of Sec. 8 of Rule XIX. Once the consideration of a bill section by section or department by department shall have been ordered, it shall not be in order to move the previous question on the entire bill to recommit it, to lay it on the table, or to postpone it, until each such section or department shall have been given separate consideration or the vote by which section by section consideration was ordered is reconsidered.

A motion to consider a bill section by section is debatable within narrow limits, i.e., the pros and cons of such proposed consideration can be debated but not the merits of the bill. An amendment to strike out the enacting clause shall take precedence over other amendments whenever offered.

### ADDITIONAL PRECEDENTS ON BILLS.

#### TYPICAL BILLS HELD NOT TO BE LOCAL.

*Senate bill granting Collis P. Huntington the right to use certain streets, wharves and alleys of Galveston held to be a general bill.*

Mr. Garner raised the point of order that Senate Bill No. 228 is a local bill, and that the proper notice required by the Constitution had not been given.

Overruled.

And Mr. Wooten raised the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it affects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore, it ought to have been advertised in every locality affected by the proposed law, which had not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all towns and counties whose railroad connections are affected by the Huntington wharves.

Overruled. (26th Reg.)

*Bill to validate titles in Carson, Dallam and Hutchinson Counties held to be a general bill.*

On local bill day the House was considering House Bill No. 396, "An Act to validate titles to lands located and patented in Carson, Dallam and Hutchinson Counties on July 4, 1879."

Mr. Dowell raised the point of order that the bill was not a local bill and that it was not in order to consider it on that day.

Sustained. (26th Reg.)

*Bill extending time for payment on school lands to citizens of Fort Bend, Waller and Harris Counties held to be a general bill.*

House bill extending time for the payment of principal and interest on certain school lands for five years to citizens of Fort Bend, Waller and Harris Counties, was placed before the House on local bill day.

Mr. Terrell of Cherokee raised the point of order that it is not a local bill.

Sustained. (27th Reg.)

*Bill relating to the sale of public land on islands not local.*

A bill to be entitled "An Act to provide for the purchase of public lands in quantities of five acres or less situated on islands by actual settlers who have settled on and placed valuable improvements thereon in good faith, or to their heirs or legal representatives prior to the first day of January, 1895, and prescribing the price, terms and manner and time of such purchase," was held, on a point of order by Mr. Bean, not to be a local bill. (27th Reg.)

*Bill to create a new county held not to be a local bill.*

During the consideration of a bill to create the county of Ross out of parts of Comanche, Brown, Coleman, Eastland and Callahan

Counties, Mr. Terrell of McLennan raised the point of order on the consideration of the bill that it is not a local bill and that this night's session was set apart for the consideration of local bills only.

Sustained. (29th Reg.)

Mr. Robertson of Bell raised a point of order that the bill was not a local bill, for the reason that it is sought to create a county out of four different counties; it was general in its nature; and that any measure that would come up in the interest of this county, if organized, after it was created, would be a local measure.

The Chair, Mr. O'Bryan, sustained the point of order.

Mr. Canales appealed from the ruling of the Chair on the point of order raised by Mr. Robertson of Bell.

The House sustained the point of order. (31st Reg.)

*Bill creating a district court out of parts of two or more counties not local.*

Pending, on a local bill day, a House bill, the nature of which the following point of order explains.

Mr. Bowles raised a point of order on further consideration of the bill, on the ground that it is not a local bill, for the reason that it creates another district court for half of Dallas County and half of Grayson County, and makes changes also in the time of the meeting of the district court in Collin County.

Sustained. (31st Reg.)

*Fee bill applying to counties of more than 80,000 not local.*

The House was considering a fee bill applying to counties having a population of 80,000 or more.

Mr. Adams raised a point of order on consideration of the amendment on the ground that the bill is a local bill and notice thereof must be advertised before its passage by the Legislature.

Overruled. (31st Reg.)

*A general bill cannot by amendment be changed to a local bill.*

The House was considering a bill to provide means of securing fair elections and true returns thereof whenever any election is held when any proposed amendment or amendments to the Constitution of this State shall be voted upon. Mr. Smith of Atascosa offered an amendment providing that the provisions of the act should apply only to the Fourth Senatorial District, which amendment, upon the point of order raised by Mr. Schluter, was held not germane to the purpose of the bill. (32nd Reg.)

## RECALL OF BILLS AND RESOLUTIONS.

*Practice of recalling a bill from the Governor.*

[The practice of recalling a bill from the Governor for the purpose of amending or correcting has grown to be an established practice of the Legislature. However, Members and presiding officers alike should examine carefully any proposal to recall a bill from the Governor, since it requires only a majority vote in each House for passage and might seriously endanger the ordered routine of handling measures passed by both houses.

When it becomes necessary to recall a bill from the Governor, the House in which the bill originated should pass a resolution such as the following:

"Resolved by the ....., the ..... concurring, that the Governor be and he is hereby requested to return to the ..... ..... Bill No. ....., for further consideration; and be it further

Resolved, that the action of the Speaker and the President of the Senate in signing ..... Bill No. ..... be declared null and void, and that the two presiding officers be authorized to remove their signatures from the enrolled bill."

If only a simple correction is involved, this additional clause should appear in the resolution: "and be it further Resolved, that the Engrossing and Enrolling Clerk of the ..... be and is hereby directed to correct the enrolled copy of ..... Bill No. ..... in the following manner—(here should follow an exact description of the correction)."

This resolution, having been adopted by both Houses and properly signed by the two presiding officers, should be officially communicated to the Governor, whereupon the Governor will doubtless return the bill by message to the House in which it originated. In turn, the presiding officers will remove their signatures.

If further consideration of the bill is involved, every step must be retraced in regular order until the bill is again at a stage which permits the desired action.]

*Practice of recalling a bill from the Senate. Resolution to recall a bill from the Senate not in order unless a motion to reconsider the vote by which the bill finally passed has been adopted.*

A resolution was pending to request the Senate to return H. B. 497 for further consideration. Mr. Reed of Dallas raised the point of order that such a resolution was out of order because a suspension of the Rules would now be necessary before a motion to reconsider could be made, since such motion to reconsider would come too late under the Rules. He contended that while a two-thirds vote would be required to suspend the Rules, only a majority vote is required for the passage of the resolution, which would invalidate the pre-

vious action of the House; and, further, that a motion to reconsider, made under the Rules or a suspension thereof, must be adopted before any such resolution would be in order.

The Speaker, Mr. Daniel, sustained the point of order. (48th Reg.)

[If a motion to reconsider the vote by which a bill was finally passed by the House prevails, it is an order to recall the bill sent to the Senate. This is done by the adoption of a simple resolution. But the motion to reconsider cannot be made except on the legislative day the final vote was taken on the bill or on the next legislative day before the order of the day is taken up. See Sec. 18 of this Rule.]

*Not in order to direct the Engrossing Clerk to make any changes in a bill which has passed the House and been sent to the Senate.*

The House was considering H. S. R. 190 by Mr. Zivley. The resolution recited actions by the House in amending H. B. 132, and directing the Engrossing Clerk to send to the Senate a "corrective" amendment to be attached to the bill.

Mr. Hull raised the point of order on further consideration of the resolution on the ground that the resolution was an attempt to amend a bill which had passed the House and was then in the Senate.

The Speaker, Mr. Senterfitt, sustained the point of order. (53rd Reg.) [A bill must be recalled to make any changes therein.]

*In order to request the Senate to return a resolution; limitation.*

Mr. Tillotson offered a resolution requesting the Senate to return to the House the concurrent resolution which set a time for sine die adjournment.

Mr. Lewelling raised a point of order on consideration of the resolution on the ground that it is not in order for the House to recall a resolution from the Senate except for the purpose of correcting an error therein.

The Speaker, Mr. Woods, overruled the point of order. (34th Reg.)

[A motion to reconsider the vote on passage of the resolution must now be made and passed before the recall resolution can be acted upon.]

## MOTION TO RESCIND

*A bill having been defeated, and a motion to reconsider the vote by which it was defeated being laid on the table, a motion to rescind the vote by which the House tabled the motion to reconsider is not in order. Such motion is not recognized by the Rules.*

Mr. Savage moved to rescind the vote by which the House, on February 10, tabled the motion to reconsider the vote by which House Bill No. 4, known as the "full crew bill," was on that day lost.

Mr. Kennedy raised a point of order "that the motion to rescind is out of order; that such a motion, if carried, would abrogate the Rules of the House, which provide for the reconsideration of all matters adopted by the House, and that the motion must be made by a Member of the majority, or prevailing side, and must be made on the same or next sitting day before the order for the day is taken up, and that one day's notice must be given before the motion can be called up and disposed of. The Rules of the House further provide that where a motion to table prevails that motion cannot be reconsidered. Immediately after House Bill No. 4 was defeated on engrossment, a motion to reconsider that vote was made, and the motion to reconsider was tabled. The motion to rescind is but another method of reconsideration, and is now made by a gentleman who voted with the losing side and made several days after the House defeated the bill which he now proposes to revive. The adoption of his motion would establish a dangerous precedent. It would mean an interminable conflict over bills that, under the Rules, have been killed."

In sustaining the point of order raised by the gentleman from Kerr, Mr. Kennedy, the Speaker, Mr. Terrell, gave the following reasons:

"Rule XIV, Section 1, provides as follows: "When a motion has been made and carried or lost, or an amendment, resolution or bill voted upon, it shall be in order for any Member of the prevailing side to move for a reconsideration thereof, on the same day or the next sitting day, before the order of the day is taken up."

Rule XII, Section 7, provides as follows: "A motion to lay on the table, if carried, shall have the effect of killing the bill, resolution or other immediate proposition tabled."

Article III, Section 34, of the Constitution, provides: "After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance shall be passed into law during the same session."

House Bill No. 4 was considered fully by the House, and after lengthy debate was defeated; a motion to reconsider and table was made, which motion carried, and, in the opinion of the Chair, the motion to table the motion to reconsider killed the bill. It is just as important to the House to be able to kill a bill as it is to pass it. If a motion to rescind could be made, the motion to reconsider and table would be without value, and if one motion to rescind could be made, such a motion could be made every day in the Session, and thus waste the time and thwart the will of the House deliberately expressed when the bill was defeated.

The Speaker is aware of the action of the House in the Twenty-sixth, Twenty-eighth and Twenty-ninth Legislatures and also familiar with the rulings of the Thirty-second Legislature dealing with

the question of rescinding, and he is unhesitatingly of the opinion that the rulings made by Speaker Rayburn in the Thirty-second and by the present Speaker, who was in the Chair during the same session, were correct.

If a motion to rescind could be made on the defeat of any bill, it could also be made after the passage of a bill, and in this way defeat the expressed will of the House. A motion to rescind must be based on the proposition that the only way to defeat a bill is by final adjournment, and if that be true, the provision of Section 34 of Article 3 of the Constitution would be meaningless.

For the above reasons, the Speaker sustains the point of order." (33rd Reg.)

## REVENUE BILLS.

*The House refuses to accept a revenue-raising (tax bill) from the Senate.*

The Senate bill having for its purpose the taxing of pool halls was laid before the House and read first time.

Mr. Terrell of Bexar made the point of order that it is a measure for the purpose of raising revenue and cannot be received by the House from the Senate, and that the Chair should have it returned to the Senate with the suggestion that all bills for raising revenue must, under the Constitution, originate in the House of Representatives, and the House is therefore compelled to return it to the Senate.

The Speaker, Mr. Rayburn, sustained the point of order and the Chief Clerk was instructed to return the bill to the Senate. (32nd Reg.)

*Held that the bill creating a fund to pay the State Highway Engineer by charging a license fee for the registration of motor vehicles is not a revenue measure of such character as to prevent its originating in the Senate.*

The House was considering Senate Bill No. 8, creating a State Highway Department and providing for the appointment of a State Highway Engineer, and prescribing the duties of each and fixing the compensation of the engineer; creating a fund by the license of motor vehicles, etc., when Mr. Broughton made a point of order on further consideration of the bill on the ground that it was a bill raising revenue, and, under the provisions of the Constitution, should originate in the House of Representatives.

The Speaker, Mr. Terrell, overruled the point of order. (33rd Reg.)

*Interpretation of Section 33 of Art. III of the Constitution which requires that revenue-raising measures originate in the House.*

The House was considering S. B. 6 which increased the tuition

and certain other fees at State-supported institutions of higher education. Mr. Johnston and Mr. Townsend jointly raised a point of order that the bill was not properly before the House since it was a revenue-raising measure originating in the Senate, and that under the provisions of Sec. 33 of Art. III of the Constitution revenue-raising measures must originate in the House. They pointed out that earlier in the Session the Speaker had held the bill to be within the Governor's call because it was a revenue-raising measure.

In overruling the point of order, the Speaker, Mr. Carr, cited cases in Vernon's Constitution of the State of Texas Annotated which held generally that Sec. 33 "applies to bills to levy taxes in the strict sense of the word, and not to bills for other purposes which may incidentally raise revenue." Regarding the earlier ruling, which had been referred to, Mr. Carr quoted the wording of the Governor's call which clearly included any bill to raise revenue by whatever means, not just through taxation. He noted that a bill to produce additional revenue for the institutions of higher education by an increase in fees, would, to a certain extent at least, relieve the General Revenue Fund. (56th, 2nd C. S.)

## SPECIAL SESSION—LEGISLATION WHICH MAY BE CONSIDERED.

[Section 40 of Article 3 of the State Constitution reads as follows:

"When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor."

In order to abide by the spirit of this section, it becomes imperative that a presiding officer, as well as individual legislators, strictly construe this provision. The rule should be rigidly adhered to in special sessions of the Legislature, and points of order raised against bills on the ground that they do not come within the purview of the Governor's call or have not been specially submitted, should be uniformly sustained, where it clearly appears that the bill is subject to objection. See the Texas Precedent below for further information on this matter.

In a special session a point of order that a bill does not come within the Governor's call or messages may properly be raised and decided at the time the bill is read first time. Because the point of order was not raised at the first reading, it does not mean, however, that it cannot be raised at a later stage in the consideration of the bill.

It is uniformly held that the subject matter of simple and concurrent resolutions does not have to be submitted by the Governor before they can be considered at a special session.]

*Decisions regarding subject matter allowed under Governor's call at a Special Session; also test of whether or not subject matter of amendments come under Governor's call.*

[Mr. John R. Lee raised the point of order that an amendment to H. B. 6 by Mr. Murray Watson did not come within the call of the Governor convening the Special Session. Speaker Waggoner Carr's ruling follows:

> "Article III, Sec. 40 of the Constitution of Texas reads as follows:
>
> 'When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor'."

There are several court decisions interpreting Art. 3, Sec. 40 that have a direct bearing on this question.

1. It was not the intention of this section to require the Governor to define with precision as to detail the subject of legislation, but only in a general way, by his call, to confine the business to the particular subjects. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601; Long vs. State, 58 Cr. App., 209; 127 S. W., 208.

2. It is not necessary nor proper for the Governor to suggest in detail the legislation desired. It is for the Legislature to determine what the legislation shall be. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601.

3. This section of the Constitution does not require the proclamation of the Governor to define the character or scope of legislation, but only in a general way to present the subjects for legislation. Long vs. State, 58 Cr. App., 209; 127 S. W., 208.

4. The Constitution does not require the proclamation of the Governor to define the character or scope of legislation which may be enacted at a special session but only in a general way to present the subjects for legislation, and thus confine the business to a particular field which may be covered in such way as the legislature may determine. Baldwin v. State, 21 Tex. App. 591; 3 S. W. 109; Devereaux v. City of Brownsville (C.C.) 29 Fed. 742.

5. Governor's proclamation or messages, submitting subject of legislation to special session under Art. 3, Sec. 40, need not state the details of the legislation to be considered; such matters being within the discretion of the Legislature.

The gist of these opinions is that the Legislature is not held to strict interpretation of "subject" submitted in the Governor's call, but rather that it has the authority to determine the specific details of legislation as long as they come generally within the call. And it seems clear that the Governor could not restrict the Legislature to a particular bill or plan of legislation.

Item 4 of the Governor's proclamation concerning this session reads as follows:

'4. To create and finance a statewide water planning agency to work in cooperation with State, local and Federal agencies in conducting research and planning for an over-all program of water conservation and flood control with authority to contract for water conservation storage in Federal reserviors to be paid for out of revenue.'

Establishment of the precedent of having to rule on whether or not such amendment offered comes within the Governor's call would be cumbersome and useless. Rather, it would seem the part of reason to apply the rule that if a bill is within the Governor's call then it would follow logically that any germane amendment falls within the call. Germaneness would then become the critical test as to whether or not an amendment comes within the Governor's call, so long, of course, as the bill itself comes within the Governor's call.

With regard to the Watson amendment to the committee amendment, the Chair has heretofore refused to rule it out as not germane, realizing at the time that the question was close, since H. B. 6 and Committee Amendment No. 1 have within their provisions a reaffirmation, at least, of a portion of the present law dealing with 200-acre-feet reservoirs, thereby exposing such provision to amendment.

In this case, the bill appears clearly within the Governor's call. Consequently, the point of order that the amendment does not fall within the call of the Governor is respectfully overruled."

In the 55th Legislature, Second Called Session, the Speaker, Mr. Carr, in the light of a unique set of circumstances, and under a rarely-used procedure, passed directly to the House the decision as to whether or not a particular bill came within the Governor's call.]

*Case where the Speaker refused to rule out a bill because of alleged inclusion of material not in Governor's call.*

The House was considering S. B. No. 39. Mr. Shipley raised a point of order that the bill contained provisions not within the Governor's call or messages for the session, and therefore the bill should be ruled out of order.

In overruling the point of order, the Speaker, Mr. Turman, said: "The point of order raised by Mr. Shipley is essentially the same as raised this morning by Mr. Buchanan. Mr. Shipley maintains that there are portions of the bill not within the Governor's call or message. There is actually some doubt about this point. Some maintain

that the Governor's call is broad enough to cover the subject. Regardless of this, however, the Chair is unwilling, nor does he have the power, to strike down the entire bill because it allegedly contains some provisions not within the Governor's call. It is evident that the Chair has no way of going into a bill and striking out portions thereof. Such can be done only by amendment, and that route is now open to Members who may wish to do so. Further, if the Chair ruled the bill out of order its parliamentary status would be uncertain and I do not wish to take that responsibility." [Later in the day the Speaker ruled similarly on a conference report.]

*Legislature is without authority to propose amendments to the Constitution at a special session.*

Mr. Tillotson raised a point of order on further consideration of House Joint Resolution No. 1 on the ground that the Legislature is without authority to propose amendments to the Constitution at a special session.

The Speaker, Mr. Fuller, sustained the point of order. (35th, 1st C. S.)

*Handling of bills not submitted by Governor; alternative plans.*

[In Called Sessions occurring in recent years two distinct plans of procedure have been followed by Speakers in dealing with bills embodying subjects not submitted by the Governors in their calls or messages. Under the first plan, any and all bills introduced by Members are admitted regardless of their content. If, on second reading (occasionally on first or third reading) a point of order is raised against a bill on the ground that its subject matter has not been submitted by the Governor, the Speaker, finding such to be the case, will sustain the point of order and thus terminate the bill's consideration.

Under the second plan, the Speaker reviews all bills filed with the Chief Clerk, or coming from the Senate, to determine if their subject matter has been submitted by the Governor. He will then admit to first reading only those that are so covered.

The second plan follows both the letter and the spirit of the Constitution which Legislators and the Governor are sworn to uphold. The first plan does not. The second plan protects both Members of the Legislature and the Governor from needless and often unfair pressures. The Governor can of course submit any matter for consideration by the Legislature. If he does not then the subject matter should not be considered.

It is generally conceded, however, that if a bill, not within the Governor's call or later submissions, is passed by the Legislature and signed or filed by the Governor (not vetoed), it will become law.]

## VETOED BILLS.

*Only requires a two-thirds majority of those present to pass bill over the veto of the Governor.*

In the Thirtieth Legislature, Senate Bill No. 6 was pending in the House after having been passed in the Senate over the Governor's veto. The first vote showed 83 yeas, 36 nays, 2 present and not voting, 4 paired, a total of 125 present. The Speaker announced that, it requiring two-thirds majority vote of the Members present to pass it, the bill was lost.

Mr. Alderdice, who had voted against the bill, moved to reconsider the vote by which Senate Bill No. 6 failed to pass notwithstanding the objection of the Governor. The motion to reconsider prevailed.

After the second roll call the Speaker announced the result: 88 yeas, 36 nays, 3 present not voting, 127 Members present, and that the bill had passed.

When the Speaker announced the result, Mr. Gaines raised the point of order that the bill had not passed, and in support of the point of order submitted to the Chair the following proposition:

The Constitution, in providing the procedure of passing a bill over the Governor's veto, provides that it shall be returned, with his objections, to the House in which it originated, and that this House—that is, "the House in which it originated"—may pass it by "two-thirds of the Members present." Then the bill shall be sent to the other House, where it can pass by "two-thirds of the Members of that House." The point of order being that in this case the bill could pass the Senate by two-thirds of those "present," but that in the House it required two-thirds of the "Members of the House," which would mean two-thirds of all Members elected, or eighty-nine votes, and there being only eighty-eight votes cast in favor of the bill, it had not passed.

The Speaker, Mr. Love, overruled the point of order and announced that the bill had passed. (30th Reg.)

[Research into the proceedings of the Constitutional Convention of 1875, Congressional rulings and rulings of the Supreme Court of the United States, and Texas legislative history, confirms the ruling that the vote necessary to pass a bill over the veto of the Governor is "two-thirds of the members present" in each house. A quorum must be present, of course.]

*Can not amend a bill after being vetoed.*

The House had under consideration a bill vetoed by the Governor, the question being, "Shall the bill be passed notwithstanding the objections of the Governor?"

Mr. Nickels offered an amendment.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not within the province of the House to amend the bill at this time.

Sustained. (32nd Reg.)

*Motion to reconsider the vote by which the House failed to pass a bill over the veto of the Governor is in order if made in accordance with the reconsideration rule.*

[The Constitution provides that when the Governor vetoes a bill it shall be returned to the House in which it originated and that said House shall "proceed to reconsider it." For some time it was held that when a motion to pass a bill over the veto of the Governor failed that no further action could be had, specifically that no motion to reconsider such vote could be made on the theory that when the Constitution said "reconsider" that it meant only once. Later practice, however, discarded this theory, Speakers R. E. Morse, Homer Leonard, and Price Daniel holding that the Constitutional term "reconsider" did not refer to the parliamentary motion "to reconsider." The practice now permits one additional vote on passage over the Governor's veto if obtained under the route defined in the reconsideration rule, and an additional vote or votes if obtained under a suspension of the Rules.]

*A good "constitutional" point of order concerning a bill may be successfully raised at any time a bill is before the House for consideration. Case where such a point was raised while a bill was before the House on motion to pass over veto of the Governor.*

The House was considering H. B. 260 on motion to pass same over the veto of the Governor. Mr. Craig raised a point of order on further consideration of the motion on the ground that certain constitutional provisions concerning local bills had not been complied with in the case of H. B. 260. Opponents of this position held that such a point could not successfully be raised at the time because the only question pending was whether or not it should be passed over the veto of the Governor.

The Speaker, Mr. Daniel, after ascertaining the facts from the author, sustained the point of order, stating that the bill was then just as truly before the House for consideration as at any other previous stage of its passage. (48th Reg.)

## BILLS "REMITTING" TAXES.

*Only majority vote required to pass bills "granting" or "donating" taxes.*

The Speaker declared H. B. 497 passed by a 68 to 57 vote, whereupon Mr. Lansberry raised the point of order that "this bill

has failed to pass for the reason that Sec. 10 of Art. 8 of the Constitution of the State of Texas provides that taxes cannot be remitted unless in case of public calamity and then only by a vote of two-thirds of each House of the Legislature."

The Speaker, Mr. Daniel, overruled the point of order, stating that the bill in question was like many others heretofore introduced and passed by the Texas Legislature, all of which had uniformly been held not to be "tax remission" bills but rather bills which dealt with granting or donating taxes after their collection. (48th Reg.)

## RULE XIX.

### OF AMENDMENTS.

SECTION 1. When a bill, resolution, motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order; and it shall also be in order to offer a further amendment by way of a substitute. A substitute for a resolution, motion, proposition (except bills), amendment, or amendment to an amendment may be offered. Substitutes cannot be amended. When a substitute is adopted the question shall then be upon the matter as substituted, and under this condition an amendment is not in order.

Three copies of each amendment, identical in text, shall be filed with the Speaker when offered. When read, two copies shall go to the Chief Clerk and the other to the Journal Clerk.

When an amendment shall have been adopted, same shall be certified to by the Chief Clerk, and the official copy thereof shall then be securely attached to the bill or resolution it amends.

[Under this rule a substitute for an original proposition or for an amendment or for an amendment to an amend-

ment may be offered, but an amendment to a substitute is not permitted.

As an exception to the general statement in the last sentence of the above section, it has been held several times that after a substitute has been adopted, thus becoming the pending amendment as substituted, it is in order to amend same by an addition of material which does not otherwise change the character or intent of the text as agreed to when the substitute was adopted.

Amendments on the Speaker's desk which have not been laid before the House and read have no standing under the Rules, and cannot be included under a motion for the previous question. See Sec. 2 of Rule XIII.

Amendments offered from the floor are not numbered.

Amendments, of whatever kind, must be germane to the subject matter sought to be amended. See Sec. 7 of this rule.

In the 51st Legislature, the Speaker, Mr. Manford, ruled that if an amendment to one "substitute bill," allowed under Sec. 3c of this rule, is defeated and another complete bill body is offered in the proper manner, the defeated amendment may again be offered.

In the 54th Legislature, the Speaker, Mr. Lindsey, ruled that although the practice for many years had decreed that if an amendment is lost or tabled, another of the same import is not in order at the same reading or stage of the bill (with which he agreed), yet it would be entirely in order, where the House has refused to adopt an amendment to an amendment, to consider same later as a direct amendment to the bill under consideration.

In the 55th Legislature, Regular Session, Speaker Carr ruled that after the House by vote had dispensed with the full reading of an amendment, a full reading thereof could be obtained only by an affirmative vote to have it read in full or by a reconsideration of the initial dispensing motion. Requiring only a majority vote in either case, the House directed a full reading.

See annotation following Sec. 1 of Rule IV regarding the

form of adopted House amendments to Senate bills, as transmitted to the Senate.]

*Not in order under the Rules to amend an "amendment as substituted."*

Mr. Farmer offered an amendment to an "amendment as substituted" which was before the House for a vote.

Mr. Keith raised a point of order against the amendment by Mr. Farmer on the ground that it is not in order to amend an amendment as substituted.

The Speaker, Mr. Calvert, sustained the point of order, stating that while there were other subsidiary motions which could be made with respect to the substituted amendment, an amendment to it was now out of order. (45th Reg.)

## GENERAL PRECEDENTS ON AMENDMENTS.

*Amendments should be clear in directions and meaning.*

The House was considering a simple resolution, and the following amendment was offered: "Amend the resolution by eliminating the condemnation of the building just erected at Tyler from this resolution."

Mr. Johnson of Dimmit raised a point of order on further consideration of the amendment on the ground that it was indefinite.

The Speaker, Mr. Barron, sustained the point of order. (41st, 4th C. S.)

[This type of amendment is encountered frequently. Amendments should be drawn carefully and made definite. An amendment accurately written cannot be questioned as to meaning. It is often difficult for the Engrossing and Enrolling Clerk to determine the meaning of amendments, and frequently the time of the House has to be taken to correct some vaguely written amendment. Sometimes a whole law has to be re-enacted to correct some part made indefinite or meaningless by a poorly drawn amendment.]

*An amendment lost on a second reading of a bill is in order on a third reading.*

An amendment which had been voted down on the second reading of a bill was offered while the bill was on third reading.

Mr. O'Quinn raised a point of order on consideration of the amendment, stating that it should not be entertained, for the reason that the same proposition had been submitted, voted on and lost on the second reading of the bill.

The Chair overruled the point of order, stating that as this is a different stage in the progress of the bill, the amendment was in order. (28th Reg.)

*An amendment ruled out of order at a certain stage of the proceedings might be in order at another time.*

Mr. Jennings' substitute was not germane to Mr. Ray's amendment to the bank bill, but was germane to the original bill.

Mr. Ray raised a point of order on consideration of the amendment on the ground that the amendment was not in order, for the reason that the subject matter thereof had already been before the House one time in the form of an amendment, and killed by the ruling of the Chair.

Overruled. (31st Reg.)

*If an amendment is lost or tabled, another one of the same import is not in order on the same reading or stage of the bill.*

Mr. Shropshire offered the following amendment to an amendment:

"Amend by inserting after the word 'service,' in line 30, page 1, the following: 'Or issue to any person other than any employee of said railroad any free pass or permit to ride over said railroad.' Strike out all of Section 2, page 2."

Mr. Wooten raised the point of order that the amendment was not in order, for the reason that a similar amendment had been tabled.

Sustained. (26th Reg.)

*An amendment to strike out only matter previously inserted in a bill at the same reading is not in order unless reconsideration is ordered.*

Mr. Bolin offered the following amendment:

"Amend the bill as amended by striking out the word 'lawyer' wherever it appears in the bill."

Mr. Hancock raised a point of order for the reason that the House had just inserted such amendment in the bill and had tabled a motion to reconsider the same.

The point of order was sustained. (28th Reg.)

*It is not necessary to correct a typographical error in a printed bill if the original bill is correct.*

Mr. Peyton offered an amendment to House Bill No. 12 to correct a typographical error in the printed bill.

Mr. Bryan raised a point of order on further consideration of the amendment, on the ground that its adoption would make no

change in the original bill, but would only correct a typographical error in the printed bill.

The Speaker, Mr. Fuller, sustained the point of order. (35th, 1st C. S.)

*The Chair does not rule on the effect or consistency of amendments.*

The House was considering H. J. R. 10 when Mr. Jones of Wise offered an amendment.

Mr. McKee raised a point of order against consideration of the amendment on the ground that it was in direct conflict with an amendment previously adopted.

The Speaker, Mr. Calvert, overruled the point of order, stating that it was not the duty of the Chair to construe the effect or determine the consistency of amendments. (45th Reg.)

*Case where an amendment and action thereon was ruled out because the amendment had been changed after being read to the House and without its knowledge.*

The House was considering H. B. 136. An amendment was offered, was read to the House, and then adopted. Mr. Westbrook then raised the point of order that the words "and snuff" were added to the amendment by its author after it was read to the House and without its knowledge and that such action was sufficient reason for the Speaker to declare the amendment and the action of the House thereon null and void.

The Speaker, Mr. Daniel, sustained the point of order, stating that the House could not be held to action taken on an amendment which had been changed without its knowledge. (48th Reg.)

CONGRESSIONAL PRECEDENTS ON AMENDMENTS.—A proposed amendment may not be accepted by the Member in charge of the pending measure, but can be agreed to only by the House (H. P., V, 5756, 5757). It is not in order to offer more than one motion to amend at a time (H. P., V, 5755). A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words (H. P., V, 5769). To a motion to insert words in a bill a motion to strike out certain words of the bill may not be offered as a substitute (H. P., V, 5790). If a portion of a proposed amendment be out of order, the whole of it must be ruled out (H. P., V, 5784). When it is proposed to amend by inserting a paragraph, it should be perfected by amendment before the question is put on inserting (H. P., V, 5758). A negative vote on a motion to strike out and insert does not prevent the offering of another similar motion or a simple motion to strike out (H. P., V, 5758). It is in order to insert by way of amendment a paragraph similar (if not actually identical) to one already stricken out by amendment (H. P.,

V, 5760). After a vote to insert a new section in a bill, it is too late to perfect the section by amendment (H. P., V, 5761, 5762).

Words inserted by amendment may not afterwards be changed, except that portion of the original paragraph including the words so inserted, may be stricken out, if, in effect, it presents a new proposition, and a new coherence may also be inserted in place of that stricken out (H. P., V, 5758). It is not in order to amend an amendment that has been agreed to; but the amendment, with other words of the original paragraph, may be stricken out in order to insert a new text of a different meaning (H. P., V, 5763). It is not in order to offer an amendment identical with one previously disagreed to (C. P., VIII, 2834). If a proposed amendment is not susceptible to any other interpretation than that which might reasonably be given an amendment previously rejected it is not admissible (C. P., VIII, 2835). While not in order to insert by way of an amendment a paragraph similar to one already stricken out, an amendment will not be ruled out for that reason unless practically identical (C. P., VIII, 2839). It is in order to offer as an amendment a proposition similar, but not substantially identical, with one previously rejected (C. P., VIII, 2838). A motion to strike out certain words being disagreed to it is in order to strike out a portion of those words (C. P., VIII, 2858).

While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment (H. P., V, 5764, 5765). A motion may be withdrawn in the House although an amendment to it may have been offered and be pending (H. P., V, 5347). The fact that a proposed amendment is inconsistent with the text, or embodies a proposition already voted on, constitutes a condition to be passed upon by the House and not by the Speaker (H. P., II, 1327). A new bill may be engrafted by way of amendment on the words "Be it enacted," etc. (H. P., V, 5781). A proposition offered as a substitute amendment and rejected may nevertheless be offered again as an amendment in the nature of a new section (H. P., V, 5797).

SEC. 2. When an amendment is offered and an amendment to that amendment, and a substitute for the amendment to the amendment is offered, these questions shall be voted on in the reverse order.

SEC. 3. Classes of motions to amend shall have precedence in the following order:

A. Amendment to strike out the enacting clause

of a bill (or the resolving clause of a resolution), which amendment cannot be amended or substituted.

B. Motions to amend an original bill, resolution, motion or proposition (other than those provided for in C below), which shall have precedence as follows:

1. Amendment (original).
2. Amendment to the amendment.
3. Substitute for the amendment to the amendment.

Recognition for the offering of original amendments shall be as follows: First, the main author; second, the Member or Members offering the committee amendment and third, Members offering other amendments from the floor.

[Committee amendments must be offered on the floor of the House before they can be considered.

Usually, but not always, the author of a bill offers the committee amendments, if any; but he is free, under the above provision, to offer any he pleases. Committee amendments can be offered as such, or as substitutes, by others if the author does not choose to offer them.

When a substitute is adopted for an amendment (or an amendment to an amendment or for a resolution), the parliamentary right of authorship moves to the author of the substitute, i.e., he can close the debate directly, or under a motion to table or under the previous question.

See Sec. 30 of Rule VIII.]

C. Motions to amend an original bill by striking out all after the enacting clause, which amendments shall be subject to amendment as follows:

1. Amendment to the amendment.
2. Substitute for the amendment to the amendment.

Recognition for offering such amendments ("Substitute bills") shall be as follows: First, the main author of the original bill, if he has not sought to perfect his bill by amendments as provided for in B above; second, the Member or Members offering the committee amendment (if any there be); and, third, Members offering amendments from the floor.

It shall be in order under the procedure described in this subdivision (C), to have as many as three complete measures pending before the House at one time; that is, an original bill, an amendment striking out all after the enacting clause of the bill and inserting a new bill body, and a substitute for this amendment to the original bill which is also a new bill body. These "substitute bills" should be subject to amendments as they are offered and in a manner as outlined above in this section. After disposition of perfecting amendments, these "substitute bills" shall be voted on in the reverse order of their offering.

[The last portion of new Rule VIII, Sec. 30 is in conflict with B and C above. This matter must be clarified.]

D. Amendments to the caption of a bill or joint resolution, which may also be offered in accordance with Section 5 hereof.

BILLS—SUBSTITUTES.

*Held that a substitute for a whole bill could not be offered as such, now permitted if reported from a committee.*

House Bill No. 19 was before the House on its second reading.

Mr. Stephens offered the committee substitute for the bill. Mr. Burmeister raised a point of order on consideration of the committee substitute on the ground that under the rules of the House a substitute for an entire bill can not be offered. He pointed out that the substitute bill had a caption, an enacting clause, and a body.

The Speaker, Mr. Woods, sustained the point of order. (34th Reg.)

[Until the adoption of new rule VIII, effective on Jan. 1, 1963 the proper way to substitute a new bill was to offer two amendments, one striking out all after the enacting clause and inserting a new body, and the other striking out all before the enacting clause and inserting a new caption, if same be needed. This method will no doubt still be employed in most cases. The new rule does not permit the introduction of a complete substitute bill as a straight floor amendment.]

MOTION TO STRIKE OUT ENACTING CLAUSE.—The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending (H. P., V, 5328-5331), but the motion to strike out the enacting clause is not subject to amendment (C. P., VIII, 2626).

RELATION OF MOTION TO AMEND TO OTHER MOTIONS.—The motions to postpone, refer, amend, . . . may be amended (H. P., V, 5754), but the motions to lay on the table, to adjourn, and for the previous question may not be amended (H. P., V, 5754).

SEC. 4. A motion to strike out and insert new matter in lieu of that to be stricken out, shall be regarded as a substitute and shall be indivisible.

[The above is taken from a rule of Congress which continues, "but a motion to strike out being lost shall neither preclude amendments nor motion to strike out and insert."

An amendment to strike out and insert is an acceptable substitute for an amendment to strike out.]

SEC. 5. Amendments to the caption of a bill or resolution shall not be in order until all other proposed amendments shall have been acted upon and the House be ready to vote upon the passing of the measure, and the same shall be decided without debate.

[Recently the House has permitted the motion "to amend the caption to conform to the body of the bill" to be made instead of requiring a definite amendment. This is a dangerous practice in some instances and a time saver in others. When such a motion is carried the author of the bill or his

representative should see that the caption is written properly. See new rule, Sec. 5 on p. 179.

Section 5 of Rule IV was amended by the 56th Legislature to empower the Engrossing and Enrolling Clerk to amend captions to conform to bill bodies, upon the approval of authors. This, of course, applies only to House bills. Also, the new rule renders the above section of little value. However, the new rule would not preclude the offering of caption amendments on the floor if such was desired.]

SEC. 6. If the previous question has been ordered on a bill or joint resolution, an amendment to the caption of a bill or to the caption of a joint resolution may be offered and voted on immediately preceding the final vote on the bill or joint resolution at any reading.

[See Sec. 8 of Rule XIII.]

SEC. 7. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment or as a substitute for the motion or proposition under debate. "Proposition" as used in this rule shall include a bill, resolution, joint resolution, or any other motion which is amendable.

[The fact that Rules of the House provide that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment, and the further fact that the Constitution declares no bill shall be so amended in its passage through either House as to change its original purpose, narrows the scope of germaneness to such an extent that often many amendments are excluded which relate to the general subject of the original proposition but which so change the original purpose of the bill or proposition by the elimination of essential parts thereof or by adding new matter on the same subject or by

alterations in essential points. This necessarily limits and restricts amendments that are germane to any subject. The fact that there is no protection in the courts against the violation of the constitutional provision which prohibits changing the purposes of bills, makes it imperative that a presiding officer, as well as Members, strictly construe the rule and use due precaution in the determination of the germaneness of an amendment.

In the 54th Legislature, the Speaker, Mr. Lindsey, held that any bill which sought to change a particular article of the statutes by re-enacting same, with a portion thereof changed, would be subject to any germane amendment. He pointed out that, despite the fact that the author claimed the "purpose" of the bill was to make a certain change (e.g., by deleting a portion of an article), whenever the entire article was exposed in the bill, the Chair would be without authority to rule out any germane amendment thereto. This ruling was in keeping with similar rulings over a period of many years.

Substitute amendments must be germane to original amendments. For example, in the 56th Legislature, 2nd Called Session, the Speaker, Mr. Carr, ruled that an amendment striking out an entire section of a bill could not be offered as a substitute for a minor amendment to the section. He noted that the amendment striking out the entire section could be offered regardless of the fate of the minor amendment.

Whether one proposition is germane to another proposition or not, or whether one amendment is germane to another amendment or not, are questions which arise during a session probably more often than any others. Each case has to be decided on its own merits, but years of Texas legislative practice and Congressional practice have brought precedents, of which the following are typical, and from these certain well established principles can be obtained which are of great help in determining many questions of germaneness.]

*Example of an amendment that is not germane.*

The House was considering House Bill No. 341, "An Act making appropriation to be used for the erection of a monument in the City of Crockett, Houston County, in memory of David Crockett."

Mr. Cox of Lamar offered the following amendment: Amend House Bill No. 341, by striking out the words "Crockett, Houston County," and add in lieu thereof, "on the Capitol grounds at Austin, Texas."

Mr. Sanford raised the point of order on further consideration of the amendment on the ground that it was not germane to the purposes of the bill.

The Speaker, Mr. Satterwhite, sustained the point of order. (39th, 1st C. S.)

*Another example of an amendment that is not germane.*

The House was considering H. B. 267, an act banning liquor advertisements. Mr. Harris of Dallas offered an amendment seeking to include "tobaccos" under the terms of the bill.

Mr. Harris of Dickens raised a point of order that the amendment was not germane to the purpose of the bill.

The Speaker, Mr. Calvert, sustained the point of order. (45th Reg.)

*An amendment amending in major particulars an existing law is germane to a bill seeking to repeal the law.*

Under a Congressional precedent of many years standing, followed in the House, if an amendatory bill vitally affects "a whole law so as to bring the entire act under consideration," an amendment providing for repeal of the law is germane.

Conversely, in the 56th Legislature, Regular Session, the Speaker, Mr. Carr, held that an amendment to a bill which vitally affected a whole law, i.e., bringing a major portion of the entire act under consideration in the amendment, was germane to a bill proposing the repeal of the law.

*Example of an amendment not germane because it was exactly opposite to the purpose of the bill under consideration.*

The House was considering H. B. 189, and Mr. Aynesworth offered an amendment. Mr. Young raised the point of order on further consideration of the amendment on the ground that it sought to permit exactly what the bill sought to prohibit, thus changing the original purpose of the bill.

The Speaker, Mr. Senterfitt, sustained the point of order. (52nd Reg.)

[This ruling agrees with others in the past. Often attempts have

been made to reverse completely the purposes of bills by amendment, sometimes the changing or addition of single words so as to "permit" rather than "prohibit." These are obviously violations of the Constitution. In the proceedings above cited the opponents of the bill could have rejected it by any one of several parliamentary routes had enough votes been available.]

*An amendment adding one or more distinct propositions to a bill containing one distinct proposition is not germane even if the propositions to be added are of the same class as the original proposition.*

The House was considering H. B. 277, "An Act providing relief for the Old Glory Rural High Common School District No. 4 of Stonewall County. . . ." by making an appropriation to replace buildings, etc., destroyed by fire. A committee amendment was pending which proposed to add to the bill appropriations for several other destroyed buildings in other counties of the State. Many amendments were adopted to the committee amendment which added still more appropriations for similar purposes.

Mr. Knetsch raised a point of order against the committee amendment as amended on the ground that it sought to change the purpose of the bill by way of adding other distinct propositions.

The Speaker, Mr. Calvert, sustained the point of order. (45th Reg.)

*House may by amendments attach conditions to an appropriation.*

The House was considering the general appropriation bill when Mr. Terrell of Travis offered an amendment to the Treasury Department as follows:

"The appropriation herein made for salary for clerks shall not be paid to more than two clerks who may be related to the State Treasurer in the third degree of consanguinity or affinity."

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The Speaker, ruling on the point of order raised by Mr. Bertram, said:

"The Chair thinks that this amendment is a condition attached to an appropriation, upon failure to comply with which the appropriation will cease to be effective. If this view is correct, the amendment is germane and does not amount to legislation on a different subject from that under consideration, more particularly so since the clerks whose qualifications are in a measure prescribed by this amendment are, it seems not statutory officers, but merely employees filling places created by the biennial appropriation bill." (29th, 1st C. S.)

*The Legislature can not amend existing statute by an amendment to an appropriation bill.*

Mr. Beck offered an amendment to House Bill No. 167 so as to combine the Board of Mineral Development with the Board of Water Engineers.

Mr. Van Zandt raised a point of order on further consideration of the amendment by Mr. Beck, on the ground that the amendment attempts to amend a statute through an appropriation bill.

The Speaker, Mr. Stevenson, sustained the point of order. (43rd Reg.)

*Matter incident to the main purpose of a bill is germane, and its addition does not constitute a second "subject" in the meaning of the Constitution.*

The House was considering H. B. 48, providing for old age assistance. Mr. Farmer offered a substitute bill in the form of an amendment.

Mr. Gibson raised a point of order against consideration of the amendment on the ground that it was not germane to the original bill since the amendment sought to levy a tax on certain natural resources for payment of the old age assistance, whereas the original bill did not seek to levy a tax; and on the further ground that if the amendment were adopted the bill would contain two subjects in violation of the Constitution, namely, old age assistance and taxation.

The Speaker, Mr. Calvert, overruled the point of order, stating that any matter incidental to carrying out the provisions of an act was germane; and also, since the tax feature was incidental to the main proposition, in his opinion the bill did not contain two distinct subjects within the meaning of the Constitution. (45th Reg.)

*Amendments must be germane, and while the House rule relating to germaneness can be suspended, yet the Constitutional section containing the same requirement can not be suspended.*

The House was considering H. B. 72, and Mr. Alexander offered the committee amendment to the bill. Mr. Mays raised the point of order that the amendment was not germane to the bill.

The Speaker, Mr. Calvert, sustained the point of order.

On motion by Mr. Thornton the House rule relating to germaneness was suspended for the purpose of admitting the amendment. Whereupon Mr. Knetsch raised a point of order against further consideration of the committee amendment on the ground that while it was proper to suspend a House rule, Sec. 30 of Art. III of the Constitution, which requires germaneness, could not be suspended.

The Speaker sustained the point of order. (45th Reg.)

*General statement regarding germane amendments to an omnibus tax bill.*

An amendment (1) adding a new tax, (2) raising or lowering an existing tax, or (3) eliminating a tax altogether is basically germane to an "omnibus tax bill"; provided, however: (a) the proposed tax is Constitutional, (b) the tax feature is clearly paramount, and (c) the proposed tax does not involve an illegal act. The two precedents following illustrate two of these limitations.

*An amendment ruled not germane to a tax bill because the tax involved an illegal act.*

In the Fifty-sixth Legislature, 2nd Called Session, the Speaker, Mr. Carr, ruled out of order as not germane an amendment to an omnibus tax bill which would have levied a tax on the sale in dry territory of liquor illegally distilled therein. He maintained that to levy such a tax would give semblance of legality to that which by law is specifically declared illegal.

*Example of where the major purpose of an amendment determined its germaneness; amendment held not germane.*

The House was considering H. B. 8, an omnibus tax bill, when Mr. Dwyer and Mr. Bean offered an amendment which would permit the sale of liquor by the drink and levy certain taxes on the sale thereof. Mr. Hanna and Mr. Blankenship raised the point of order that the amendment was not germane on the ground that its major purpose was to legalize the sale of liquor by the drink in violation of existing law, the tax feature being of secondary importance.

The Speaker, Mr. Homer Leonard, sustained the point of order. (47th Reg.)

*Body of a bill, not its caption, must be used as the basis of determining germaneness of an amendment.*

An amendment was pending to H. B. 100. Mr. Love raised a point of order on its consideration on the ground that "it does not conform to the caption of the bill."

The Speaker, Mr. Daniel, overruled the point of order, explaining that the body of a bill rather than its caption must be examined to determine germaneness. He pointed out further that the Rules allow amending captions to conform to bodies of bills after they have been decided upon, and any amendment that comes under the germaneness rules may be considered regardless of whether or not the original caption properly reflected the content of the bill. (48th Reg.)

*Several types of amendments held not germane, particularly relating to changing local bills into general bills and vice versa.*

[At various times during the 50th Legislature the Speaker, Mr. Reed, and in the 51st Legislature, the Speaker, Mr. Manford, held the following types of amendments out of order as being not germane:

a. Making a general bill out of a local bill.

b. Exempting a single county or group of counties from the terms of a general bill by statements of exemption.

c. Making a local bill out of a general bill by specifying arbitrarily that it be not applicable to any except a single county or group of counties.

d. Restricting a general bill by some arbitrary and illogical population specification such as "not applicable to cities of 3,000 or less."

These rulings actually tracked similar rulings in previous sessions.]

## EXAMPLES OF GERMANE AND NON-GERMANE AMENDMENTS.

[Some Texas legislative precedents relating to germaneness are given below. The amendment is stated first with the matter it seeks to amend, change or displace stated second. The number of the Legislature and the session are given in parentheses.]

### GERMANE AMENDMENTS.

An amendment to provide for election of Comptroller of Public Accounts and other officers by adding these to a joint resolution to elect Governor, Lieutenant Governor and Attorney General at same time and place as members of Legislature. (41st Reg.)

An amendment providing the act under consideration shall not affect royalties now being received by the State from river, bayou or lake beds, to a bill validating all patents to certain lands along rivers and giving the owners thereof all royalties. (41st Reg.)

An amendment to prohibit railroads from owning an interest in any motor carrier, to a bill regulating motor carriers transporting property over the highway for hire. (42nd Reg.)

An amendment to have a Joint Session of the House and the Senate to hear evidence from Commissioner of Agriculture, Comptroller and Treasurer of the State as to disposition of certain moneys mentioned in the resolution, to a resolution for the purpose of hearing evidence to be presented by Commissioner of Agriculture and such other evidence to substantiate the charges set out in the resolution. (44th Reg.)

An amendment to place rangers under bond to a bill creating Department of Public Safety to which rangers were transferred from the Adjutant General's Department. (44th Reg.)

An amendment to provide a literacy test for voters to a joint resolution abolishing poll tax and allowing the Legislature to provide for registration of voters. (44th Reg.)

AMENDMENTS NOT GERMANE.

An amendment to include control and the regulation of the natural gas industry to a bill making gas pipe lines common carriers. (44th Reg.)

An amendment granting permission to one person to have a cigar stand in Capitol to resolution granting permission to another person. (44th Reg.)

An amendment to limit the weight of all trucks on highways by allowing variation of ten per centum of gross weight, to a bill providing schedule of weights to determine the load weight of lumber. (44th Reg.)

An amendment to pay a reward for bank robbers to bill creating a bank deposit insurance fund. (43rd, 1st C. S.)

An amendment to place tax on natural gas to bill appropriating money for the Centennial. (43rd Reg.)

An amendment repealing the law creating the Board of Pardons and Paroles to a bill moving the Board from Austin to Huntsville. (43rd Reg.)

An amendment to change the license fee on motor cars and trucks to a bill requiring a tax receipt for ad valorem taxes before registration. (43rd Reg.)

An amendment relative to teachers' certificates to a bill relating to tuition charges of State schools. (43rd Reg.)

An amendment to add light and power companies to a bill relating to ready-to-serve charges of natural gas companies. (43rd Reg.)

An amendment taxing cigars to a bill placing a tax on natural gas and regulating the industry. (43rd Reg.)

An amendment to pay expenses of eradication of ticks to a bill to pay claims of losses in eradication of pink bollworm. (43rd Reg.)

An amendment creating a road bond and indebtedness assumptions plan to a bill relating to tax on gasoline and collection thereof. (42nd Reg.)

An amendment to provide an appropriation for relief to DeSoto School District to a bill making appropriation to the Frost Independent School District. (42nd Reg.)

An amendment making the act apply to all the State to a bill making a closed season on quail in Howard County. (42nd Reg.)

An amendment making it a misdemeanor to make false reports relative to milk or false test of milk or butterfats, and providing an

appropriation to carry into effect the provision of the act, to a deficiency appropriation bill. (42nd Reg.)

An amendment placing a gross production tax on the production of oil to bill providing for the county tax collector to collect a tax or license fee from cigarette dealers. (42nd, C. S.)

An amendment not to permit a truck to have more than twenty-five gallons of gasoline for purposes of operation to a bill licensing chauffeurs of trucks. (42nd, 3rd C. S.)

An amendment striking out Commissioner of Agriculture and substituting therefor authorities at A. & M. College, to a bill making ginners obtain license from Commissioner of Agriculture. (41st Reg.)

An amendment inserting drugs, groceries, and dry goods industries to a bill making the ice industry a public business. (41st Reg.)

### CONGRESSIONAL PRECEDENTS ON GERMANE AMENDMENTS.

Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest (H. P., V, 5783, 5803). The rule that amendments should be germane applies to amendments reported by committees (H. P., V, 5806). The rule of germaneness applies to the relation between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing law of which the pending bill is amendatory (C. P., VIII, 2909). The rule providing that amendments must be germane has been construed as requiring that the fundamental purpose of an amendment be germane to the fundamental purpose of the bill to which it is offered (C. P., VIII, 2911). The burden of proof of the germaneness of an amendment rests upon its proponents (C. P., VIII, 2995).

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (H. P., V, 5811-5820), and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (H. P., V, 5822). To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane. (Speaker Reed, H. P., V, 5808; also ruled by Speaker Cannon, Apr. 1, 1910, 61st Cong., 1st sess., p. 4144; Speaker Clark, Dec. 5, 1912, 62nd Cong., 3rd sess.) So to a legislative section in a general appropriation bill amending one section of the criminal code, a provision amending the criminal code in other particulars was held not germane. (Speaker Clark, Jan. 16, 1917, 64th Cong., 2nd sess., p. 1487.) A bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit an amendment to any portion of the act sought to be amended by the bill. (Chairman Anderson, June 10, 1921, p. 2415; Chairman Stafford, Dec. 10, 1921, p. 200.) To a bill amendatory of

existing law in one particular a proposition to amend the law in another particular is not germane. (C. P., VIII, 2937.) An amendment to a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to the terms of the bill was held not to be germane (C. P., VIII, 2916). An amendment germane to the bill as a whole, but hardly germane to any one section, may be offered at an appropriate place with notice of motions to strike out the following sections which it would supersede. (H. P., V, 5823.)

In determining whether or not an amendment be germane, certain principles are established:

(a) One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following are not germane: To a bill proposing the admission of one Territory into the Union, an amendment for admission of another Territory (H. P., V, 5529); to a bill for the relief of one individual, an amendment proposing similar relief for another (H. P., V, 5826-5829); to a provision for extermination of the cotton boll-weevil, an amendment including the gypsy moth (H. P., V, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (H. P., V, 5833); to a bill prohibiting transportation of messages relating to dealing in cotton futures, an amendment adding wheat, corn, etc. (Speaker Clark, July 16, 1912, 62nd Cong., 2nd sess., p. 9142.) To a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part or in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods made by child labor was held not germane on the ground that labor described in bill constituted a single class of labor. (Speaker Clark, Mar. 25, 1914, p. 5481, 2nd sess., 63rd Cong.)

(b) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (H. P., V, 5843-5846). Thus, the following are not germane: To a bill for the admission of one Territory into the Union, an amendment providing for the admission of several other Territories (H. P., V, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (H. P., V, 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill (H. P., V, 5806-5808); to a bill merely extending and re-enacting an existing law, an amendment seeking to further amend the law (H. P., V, 5806) (contra, Chairman Burton, Oct. 18, 1921, p. 6465, and Chairman Graham of Illinois, Apr. 28, 1924, p. 7419, 68th Cong., 1st sess.); to a bill amending the war-time prohibition act in one particular, an

amendment repealing that act. (Chairman Good, July 14, 1919, p. 2555.)

(c) A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (H. P., V, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (H. P., V, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (H. P., V, 5839). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (H. P., V, 5848, 5849).

(d) Two subjects are not necessarily germane because they are related. Thus the following have been held not to be germane: To a proposition relating to the terms of Senators, an amendment changing the manner of their election (H. P., V, 5882); to a bill relating to commerce between the States, an amendment relating to commerce within the several States (H. P., V, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (H. P., V, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (H. P., V, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (H. P., V, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (H. P., V, 5884); to a resolution proposing expulsion, an amendment proposing censure (Oct. 27, 1921, 67th Cong., 1st sess.); to a general tariff bill, an amendment creating a tariff board (Chairman Garrett of Tennessee, May 6, 1913, 63rd Cong., 1st sess., p. 1234; also Speaker Clark, May 8, 1913, 63rd Cong., 1st sess., p. 1381; for ruling in full, see Sec. 947); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads. (Speaker Clark, June 23, 1914, p. 10962, 63rd Cong., 2nd sess.; see Sec. 952.)

To a law providing for the insurance of soldiers upon the payment of premiums, a proposition for the continuance of such insurance for two years without the payment of premiums was held not germane. (Chairman Tilson, Sept. 13, 1919; see Sec. 915.) To a proposition appropriating money for a general increase in the salaries of employees for 1918, a provision making the same increase available for the remainder of 1917 was held not germane (Chairman Harrison of Mississippi, Dec. 19, 1916, 64th Cong., 2nd sess., p. 559), as was also a proposition to establish a minimum wage among the

employees affected by the bill (Chairman Harrison, Dec. 19, 1916, p. 571).

To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (H. P., V, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the Chair will hold an amendment repealing the law or amending any section of the law germane to the bill. (Speaker Gillett, June 19, 1919, see Sec. 950; Chairman Madden, Apr. 2, 1924, p. 5437, 68th Cong., 1st sess.)

(e) An amendment which is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an interoceanic canal by one route, an amendment providing for a different route (H. P., V, 5909); to a bill providing for the reorganization of the Army, an amendment providing for the encouragement of marksmanship (H. P., V, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (H. P., V, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (H. P., V, 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (H. P., V, 5920).

SEC. 8. Matter inserted or stricken out of an original bill by way of amendment may not be taken out or re-inserted at the same reading except under the following conditions:

1. Reconsideration of the inserting or deleting amendment.

2. Adoption of a "substitute bill" amendment.

3. Adoption of an amendment for a whole paragraph, section or subdivision of a bill which so materially changes the original text that the portion inserted or deleted is in fact of minor importance.

This rule shall also apply to resolutions and other propositions in so far as it is applicable, including amended amendments.

["Matter inserted," as used in the above section, means

any matter inserted in a bill by way of amendment. Such matter would, of course, be discarded in case a new bill, in amendment form, is adopted.]

## RULE XX.

### OF COMMITTEES OF THE WHOLE HOUSE.

SECTION 1. The House may resolve itself into a Committee of the Whole House to consider any matter referred to it by the House. In forming a Committee of the Whole House the Speaker shall leave his chair, and he shall appoint a chairman to preside in Committee.

[When the House goes into the Committee of the Whole House, the minutes of the Committee (except testimony, etc., reported by stenographers) are kept by the Journal Clerk just as though the House were in session. These minutes form the body of the report which the Chairman of the Committee of the Whole makes to the House wherever the Committee rises. Testimony taken before the Committee may be printed as an appendix to the Journal or may be embodied in the minutes of the Committee and reported to the House by the Chairman. During investigations the Chairman sometimes instructs the stenographers to furnish the Journal Clerk with a complete transcript of the proceedings from the time the Committee begins work until it completes its labors and rises.]

SEC. 2. When a bill is committed to a Committee of the Whole House, the bill shall be handled as in any other committee. The body of the bill shall not be defaced or interlined, but all amendments shall be duly endorsed by the Chief Clerk as they are agreed to by the Committee, and so reported to the House. When reported by the Committee of the Whole House

the bill shall take its place on the calendar along with other bills on second reading.

[Consideration of a bill in a Committee of the Whole House must be in accordance with House rules relating to consideration of types of bills through the week. For example, in the 50th Legislature Speaker W. O. Reed ruled that a House Joint Resolution could be so considered only on Tuesdays, a Senate Bill on Wednesdays or Thursdays, etc.]

SEC. 3. In the event that the Committee of the Whole, at any sitting, shall, for want of time, fail to complete its work on any bill or resolution under consideration, or desire to take any action thereon permitted under the Rules for other committees, it may, on motion made and adopted by majority vote, rise, report progress and ask leave of the House to sit again generally, or at a time certain.

SEC. 4. The rules of proceedings of the House, and for committees, shall be observed in Committee of the Whole House so far as they may be applicable.

SEC. 5. It shall be in order to move a call of the Committee of the Whole at any time to secure and maintain a quorum for the following purposes:

(a) For the consideration of a certain or specific matter, and

(b) For a definite period of time, or for the consideration of any designated class of bills.

When a call of the Committee is moved for one of the above mentioned purposes and seconded by ten Members, of whom the Chairman may be one, and is ordered by a majority vote, the Doorkeeper shall

close the main entrance of the Hall and all other doors leading out of the Hall shall be locked, and no Member shall be permitted to leave the Hall without written permission. Other proceedings under a call of the Committee shall be the same as under a call of the House.

## RULE XXI.

### OF THE ORDER OF BUSINESS.

SECTION 1. The daily order of business on a new legislative day shall be as follows:

First. Call to order by Speaker.

Second. Registration by Members.

Third. Prayer by Chaplain, unless the invocation has been given previously on the particular calendar day.

Fourth. Excuses for absence of Members and officers.

Fifth. Reading and adoption of memorial resolutions.

[Upon direction of the Speaker, the Reading Clerk reads the names of all persons in whose memory resolutions (both House and Senate) are to be considered, after which the resolutions are adopted by a single rising vote of tribute by the House.]

Sixth. First reading of bills filed with the Chief Clerk and reference to committees.

[Motions to introduce bills, when such are required, are made under this item of business.]

Seventh. Requests to print bills and other papers;

requests of committees for further time to consider papers referred to them; and all other routine motions and business not otherwise provided for, all of which shall be undebatable except that the mover and one opponent of the motion shall be allowed three minutes each.

The mover of a routine motion shall be allowed his choice of making the opening or the closing speech under this rule. If the House, under a suspension of the Rules, extends the time of a Member under this rule, such extension shall be for three minutes. Applicable subsidiary motions shall be in order to routine motions, but the makers of such subsidiary motions shall not be entitled to speak thereon in the routine motion period, nor shall the authors of the original routine motions be allowed any additional time because of the subsidiary motions.

[See annotations at end of this section and Sec. 9-a of Rule XII and precedent following Sec. 1 of Rule XIV.]

Eighth. Resolutions offered from the floor for twenty minutes, if not sooner disposed of.

[In the 56th Legislature, Regular Session, the Speaker, Mr. Carr, held that a privileged resolution offered under the Eighth Item was not subject to the twenty-minute limitation and, further, that the time consumed in considering it should not be charged against the resolution period time.

Under recent practice, congratulatory resolutions on the Speaker's desk are handled at one time. The Reading Clerk announces the resolution numbers and names of persons or groups congratulated. The resolutions are then adopted by a single voice vote.]

Ninth. The unfinished business, to be considered until finally disposed of.

Tenth. Disposal of business on the Speaker's table, as follows:

(1) Resolutions unfinished from the previous legislative day, and Senate concurrent resolutions.

[See Sec. 3, Rule 16 for modification of first part of sub-item (1).]

(2) Reports of standing and special committees, except those relating to bills and joint resolutions.

(3) Postponed bills, resolutions and other propositions, to be laid before the House in accordance with Section 8 of Rule XII.

(4) Bills on their third reading.

(5) Bills on their second reading.

Eleventh. The Chaplain shall close the last session on any calendar day with a prayer, same to precede immediately the Speaker's declaration of recess or adjournment.

[By the "daily order of business" is meant all of the items above set out in Sec. 1 of this rule, while the regular order or "order of the day," as used in the reconsideration rule, means the several sub-items under the tenth main item above, "Disposal of business on Speaker's table."

For the information of Members, the Speaker has distributed at the beginning of each day a Calendar showing the order of business (the ninth and tenth items above) for that particular day, or so much thereof as can be mimeographed on a single sheet of paper. The order of business, as shown by this calendar, is determined absolutely by the Rules, and the Speaker has no control over it except on suspension days. On suspension days the Speaker can recognize Members in any order he pleases to move a suspension of the regular order of business. See annotation at end of Sec. 3 of Rule XXII. Only bills eligible under the printing

rule when the printed daily calendar is made up should be placed on same and considered, despite the fact that they may be eligible for consideration later in the day. If this plan is not followed, proponents and opponents of bills may be caught unprepared. This does not mean, however, that the House cannot suspend its own rules for the consideration of a measure whenever it so desires.

It has been held many times that a bill, resolution or other matter re-referred from Committee A to Committee C, but a motion to re-refer from B back to A would have to follow the reconsideration rule, or receive a two-thirds vote for a suspension of the Rules for the particular purpose. (See the first two paragraphs of Rule VII.)

Sub-item (2) of the tenth item above refers to all types of committee reports other than those which are made on bills and joint resolutions. When a report is taken up under Sub-item (2) it is read by the clerk and the matter reported on is before the House for consideration. The report is not before the House for adoption or rejection since it is advisory only. Occasionally such reports carry certain recommendations for action by the House or by the Legislature. Such action may be carried out by the introduction of a bill, a resolution, or, if in order, by a simple motion. See also annotation following Section 14 of Rule VIII.

Due to the heavy increase of routine motions during the latter part of a session, the Chair will frequently receive non-controversial routine motions at various times during the day other than at the regular routine motion period, e.g., just before or after a recess or before an adjournment.

The author or Member in charge of a bill or proposition reached on the calendar in regular order, or by any other route, has no right to yield for himself or for some other Member to call up another bill or proposition unless the House by a suspension of the rules so permits.

Postponed resolutions are considered under (3) of the tenth item above and as provided in Sec. 8, Rule XII. Resolutions have preference over bills postponed to the same time.]

*Distinction between "unfinished business" and "pending business."*

[During recent years there has become evident a need for distinguishing between the terms "unfinished business" and "pending business," both, however, applying obviously to a partially completed item of business. The question arises as to just where each fits into the Daily Order of Business. The Daily Order of Business is always followed when the House begins a new "legislative day"—after an adjournment. The "ninth" item in Section 1 above is set aside for the consideration of the "unfinished business," but there is no definite mention of where "pending business" is to be considered, although this category of business has been in use for many years. The turn in recent years to the use of "calendar day" rather than "legislative days" in the rules setting aside the various days of the week for the consideration of certain classes of business, has contributed largely to the need for a clear-cut description of the practice relating to this matter. There may be several items of business standing incomplete at a given time, due to the departmentalizing of the week's business by the rules.

To illustrate, in the 52nd Legislature a certain House bill was left unfinished at the end of one week, the House recessing until the following Monday, a Suspension Day under the Rules. It should be noted that when the House recessed it was working under the "tenth" item of Sec. 1 above. Since Monday was a "Suspension Day," the Speaker, Mr. Senterfitt, ruled that the Suspension Calendar should be taken up ahead of the "unfinished business," the "ninth" item having been passed on that particular legislative day in which the House was operating. He pointed out that had the House adjourned over to Monday that the reverse would have been true. The House then took up H. B. 285 under a suspension of the regular order of business, considered it at length and then proceeded to recess for the next three days in succession (during which time other classes of business were considered, House Joint Resolutions on Tuesday, and Senate bills on Wednesday—clearing the Senate Calendar). Following a recess from Wednesday, the House met on Thursday, and since there were no Senate bills on the calendar, the Speaker laid out H. B. 285 as the "pending business"—as distinguished from the "unfinished business," the item for which had already been passed on that particular legislative day in which the House was working, as indicated above.

The test as to whether an incomplete item of business (bill or joint resolution) is to be classified as "unfinished" or "pending" is as follows:

a. If an item (bill or joint resolution) is incomplete at the time of an adjournment (terminating that legislative day) it then becomes the "unfinished business" for the next legislative day upon which it can be considered under the Rules, and

as such must be considered as the "ninth" item in the Daily Order of Business for a legislative day.

b. If an item (bill or joint resolution) is incomplete at the time of a recess, it then becomes the "pending business" when and if the House reconvenes on the same calendar day, or, if the recess occurs at the end of a calendar day, then on the next calendar day it can be considered under the Rules, provided, of course, an adjournment does not occur before it is reached on the calendar.]

*A resolution before the House on reconsideration does not fall within the twenty-minute resolution period.*

Upon adoption of a motion to reconsider, properly made in accordance with the Rules, S. C. R. 29 was before the House. Mr. Edwards raised a point of order that the resolution could not be considered because the resolution period had expired. The Speaker, Mr. Reed, in overruling the point of order stated that when a resolution comes before the House as this one did it does not fall within the twenty-minute resolution period, the eighth item in the daily order of business, but rather by way of a motion to reconsider which must be made just before the tenth item in the daily order of business is reached. (50th Reg.)

*Motion to reconsider the vote by which a bill was re-referred from one committee to another is out of order unless made during the routine motion period.*

During the routine motion period, on the motion of Mr. Celaya, the House re-referred Senate Bill No. 143 from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Later in the day Mr. Leonard moved to reconsider the vote by which Senate Bill No. 143 was re-referred from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Mr. Greathouse raised a point of order on further consideration of the motion to reconsider the vote to re-refer, on the ground that since a motion to re-refer a bill is in order only in the route motion period, then a motion to reconsider a vote to re-refer is not in order at this time.

The Speaker, Mr. Stevenson, sustained the point of order. (43rd Reg.)

*Motion to print a bill on a minority report is out of order unless made during the routine motion period.*

Mr. Greathouse moved that Senate Bill No. 246, reported adversely, with a minority favorable report, be printed.

Mrs. Hughes raised a point of order on further consideration of the motion at this time on the ground that, under the Rules of the House, the motion is out of order at this time.

The Speaker, Mr. Stevenson, sustained the point of order. (43rd Reg.)

*In order in routine motion period to recommit a bill already passed to a third reading.*

The House had previously passed S. B. 21 to a third reading. At a routine motion period, Mr. Young moved to recommit the bill to the Committee on Highways and Roads. Mr. Sparks raised the point of order that such a motion was out of order.

The Chair, Mr. Pierce Johnson, overruled the point of order. (51st Reg.)

SEC. 2. When the House reconvenes the first time on a new calendar day following a recess the daily order of business shall be:

First. Call to order by the Speaker.

Second. Prayer by the Chaplain.

Third. Excuses for absence by Members and officers.

Fourth. The pending business.

Fifth. The remainder of the order of business for the legislative day.

Sixth. Prayer by the Chaplain, if the session is to be the last on that calendar day.

[When the House reconvenes after a recess on the same calendar day, consideration of the business pending at recess, is resumed.]

SEC. 3. A special order, after the first eight items under the daily order of business for a legislative day have been passed, shall have precedence when the hour for considering the same has arrived, except as provided in Rule XVIII, Sec. 6 and 6-a, and Sec. 2 of Rule XVII.

[The only exceptions in Rule XVIII, Secs. 6 and 6-a, to the above rule is that Senate bills have right of way on Wednesdays and Thursdays over House bills set as special orders on those days and the general appropriation bills have priority over special orders. The exception in Sec. 2 of Rule XVII gives House joint resolutions priority on Tuesdays over any other business set as a special order.

In the 50th Legislature Speaker W. O. Reed ruled that a motion to set a special order is in order at any time when other business is not pending. Frequently, when one special order is disposed of, some Member will move immediately to set another, and such practice was formally recognized and approved by this ruling.

If for any reason a special order is not taken up for consideration at the time set, as is frequently the case in order to complete some item of business not requiring much time, the special order character of the bill or resolution is not changed in any wise, it being eligible at any time for which it has been set or thereafter, provided, of course, that other rules covering consideration of classes of business do not become operative so as to defer consideration of the special order.

A motion to suspend the Rules for the purpose of considering a certain bill ahead of a special order, the time for considering which had arrived, was accepted in the 52nd Legislature by the Speaker, Mr. Senterfitt, and the House adopted the motion by the necessary two-thirds vote.

Privileged matters as described in Rule XXIII, Sec. 3, take right of way over special orders.]

*A special order may be taken up at any time (allowed under the Rules) when called for after the time for consideration of it has arrived.*

The House had been considering H. B. 49 for some time after the hour set for the consideration of H. B. 662 as a special order.

Mr. McDonald raised the point of order that even though the time set for the consideration of H. B. 662 as a special order had passed it was still the special order and therefore had right of way at that time.

The Speaker, Mr. Calvert, sustained the point of order. (45th Reg.)

## RULE XXII.

### SUSPENSION OF THE RULES AND ORDER OF BUSINESS.

SECTION 1. No standing Rule of Order of the House shall be suspended except by an affirmative vote of two-thirds of the Members present; provided, however, that in case any particular rule shall contain a specific provision showing the vote by which said rule may be suspended, such vote shall be required for suspension thereof; nor shall any other business be considered on days devoted by these Rules to and used in consideration of Senate bills except with consent of the Senate, when there remains on the calendar any bill of either of these classes which may be considered under the Rules. When the Senate bill calendar is clear, the House shall proceed with the regular order of House bills.

[Under a suspension of the Rules or suspension of the regular order of business, as the case may be, the House may consider Senate bills or Senate joint resolutions on days set aside in these Rules for House bills and House joint resolutions.]

A motion to suspend the Rules shall be in order at any time, except when motions to adjourn or recess are pending, even when the House is operating under the previous question, and a motion to "suspend all rules" shall be sufficient to suspend every rule under which the House is operating for a particular purpose except the provisions of the Constitution, the Statutes and the Joint Rules of the two Houses. If the Rules have been suspended for a given purpose

no other motion to suspend the Rules shall be in order until the original purpose has been accomplished.

[The wording "at any time," as used in the above paragraph, does not, however, give such a motion priority over the motions to adjourn or recess. In the 53rd Legislature the Speaker, Mr. Senterfitt, held that those motions can be made and entertained when a motion "to suspend the Rules" is pending.

Under the above rule it has been the practice for many years for a Member, having in mind "a particular purpose," to move a suspension of the Rules for that purpose. Members have a wide latitude—practically unlimited—in describing such purpose. A single vote, if carried by the required two-thirds, is sufficient to obtain the desired result. For example, in the House Journal of the 50th Legislature there is recorded certain action on H. B. 44. The bill was ruled illegally introduced because three identical copies had not been filed with the Chief Clerk. Then "Mr. Sadler moved that Sec. 1 of Rule XVIII be suspended in order to consider H. B. 44 in the same status as before the point of order by Mr. Fly. . . ." This motion was passed, 100 yeas to 38 nays. Thus a suspension occurred "for a particular purpose." The notion that some motions to suspend the Rules "for the purpose of" are "double motions" is entirely erroneous. The above section gives full and specific authority for a Member to define the "purpose" as he wishes. See the Congressional Precedents just preceding Sec. 2 on "Motion to Suspend the Rules."

In the absence of a specific provision in the Joint Rules regarding their suspension, it has long been held that only a majority vote in each house is required to suspend. If, therefore, Joint Rules are suspended to allow the House to consider a certain bill, House Rules would then apply to bringing it before the House out of regular order, that is, a two-thirds vote would be required.

Because a resolution contains a provision which, if adopt-

ed, would be equivalent to a suspension of the Rules is no reason for the resolution being automatically sent by the Chair to the Committee on Rules. Such resolutions, however, require a two-thirds vote for adoption.

There is nothing in the above section or elsewhere in these Rules requiring a record vote for a suspension of the Rules.

In the 51st Legislature, the Speaker, Mr. Manford, ruled that the purpose for which a suspension of the Rules was voted must be accomplished before another suspension of the Rules is in order.]

*Motion to reconsider a successful suspension of the Rules vote in order under certain conditions.*

A motion to refer a bill having been ruled out because the routine motion period had passed, Mr. Favors moved a suspension of the Rules so the House could consider his motion. This motion prevailed. Mr. Harris of Dallas moved to reconsider the vote on suspension of the Rules and Mr. Lucas raised the point of order that this motion was out of order.

The Speaker, Mr. Homer Leonard, overruled the point of order, stating that such a motion was in order and could be adopted by a majority vote, unless action following the Rules suspension had moved the matter to a new stage, such as the actual reading of a bill the first, second or third time. [Obviously a reading of a bill could not be undone. Under such conditions the matter could be disposed of by several other motions.] (47th Reg.)

*May suspend the Rules for the purpose of reconsidering a vote, even though the time for making the motion to reconsider has passed.*

Mr. Russell moved to suspend Rule XIII, Section 7, so as to make a motion to reconsider the vote by which the "Heart Balm Bill" failed to pass.

Mr. Alsup raised a point of order on the motion to suspend the rules so as to move to reconsider the vote on the failure of the bill, on the ground such motion to reconsider would violate Section 34, Article III of the Constitution relative to passage of a defeated measure.

The Speaker, Mr. Stevenson, overruled the point of order, on the grounds that the House may, by a two-thirds vote, suspend the rule and then vote to revive the bill. (44th Reg.)

MOTION TO SUSPEND THE RULES.—The motion may not be amended (H. P., V, 5322, 5405, 6858), postponed (H. P., V, 5322), or laid on the table (H. P., V, 5405).

A motion to suspend the rules applies to the parliamentary law of Jefferson's Manual as well as to the rules of the House (H. P., V, 6796). When the rules are suspended to enable a matter to be considered, another motion to suspend the rules may not be made during that consideration (H. P., V, 6836, 6837). A motion to suspend the rules may be entertained, although the previous question has been ordered (H. P., V, 6827). Adoption of a motion to "suspend the rules" suspends all rules, including the unwritten law and practice of the House (C. P., VIII, 3406).

SEC. 2. The Speaker shall not entertain a motion to suspend the order of business established by the Rules for the purpose of taking up and considering any bill, resolution or other measure out of its regular order, except on calendar Monday of each week, and during the first six of the last eight calendar days of a session, Sundays excepted; provided, however, that in the last six suspension days it shall require a two-thirds vote to suspend the regular order and take up any measure.

When a request is made on calendar Monday to suspend the order of business for the purpose of taking up any bill, the caption shall be read and the author shall be allowed three minutes to explain the bill and any other Member three minutes in opposition. The Speaker shall then ask if there is any objection to its consideration. If there is no objection, the bill shall be before the House for consideration. If there is objection, the Speaker shall, without further debate, put the motion to the House, and if carried by a majority vote, the regular order of business shall be considered suspended for the purpose of taking up and considering the bill, resolution or other measure.

As provided in Sec. 2-a below, no Member shall be entitled to have more than one bill, resolution or other measure taken up out of its regular order until every other Member has had an opportunity to call up some bill or measure during that session of the Legislature.

Any measure taken up under suspension and not disposed of on the same day shall go over as the pending or unfinished business, as the case may be, of the next sitting day of the House and thereafter from day to day (except the days used for the consideration of Senate bills) until disposed of.

The order of business as referred to in this section shall be considered the business on the Speaker's table as prescribed in the tenth item of Section 1 of Rule XXI.

In case a bill goes over as "unfinished business" to a suspension day, as it would in case of an adjournment, it shall be disposed of before the suspension calendar is taken up, in compliance with the ninth item on the daily order of business for a legislative day. In case a bill goes over as "pending business" to a suspension day, as it would in case of a recess, the suspension calendar shall have priority over same.

[See annotation differentiating between "pending business" and "unfinished business" following the order of business in Sec. 1 of Rule XXI.

A suspension of the regular order of business, as distinguished from a suspension of the Rules, is a suspension of that order of business on the Speaker's table as described in the tenth main item of Sec. 1 of Rule XXI, and such suspension is in order only on Mondays and during the first six of the last eight days of a session, unless permitted by

unanimous consent or under a suspension of the Rules. As directed in the Rules, the Chair holds to the regular order of business on days other than suspension days unless the House directs a departure therefrom by a suspension of the Rules.

The order of recognition on suspension days, i.e., the suspension calendar, is determined entirely by the Speaker. While the Speaker is guided somewhat by the order in which he receives suspension requests from the Members, there is neither rule nor precedent which requires him to adhere to such an order for recognition. In fact, to adhere strictly to a request order would prevent a Speaker from recognizing Members to bring up on suspension days matters of major importance such as public and party demands, emergency measures, etc. Also, if a strict request order is followed (and the order is generally known) it is possible for abuses to occur which are not to the best interests of the membership.

With the approval of Speaker Waggoner Carr, in the 55th Legislature, Regular Session, the House authorized setting a "suspension calendar," the order of recognition to be determined by the Speaker, at which time a two-thirds vote was required to take up bills out of regular order. This plan permitted the dispatch of certain business to which there was relatively little objection.

A special order set for a suspension day is taken up before the suspension calendar is considered, or displaces this calendar when the time for the consideration of the special order arrives, if later in the day.

Senate bills as well as House bills may appear on the suspension calendar on Mondays. This does not happen often however, except toward the end of a session when the calendar is crowded, because Wednesdays and Thursdays are set aside for the consideration of Senate bills in the House, and Members normally want preferred consideration given to their own House bills.

Certain days throughout the week have been set aside in these Rules from time to time for particular classes of busi-

ness to such an extent that now the main body of the House calendar, i.e., bills on third and second readings, is seldom reached. Friday meetings are rare until late in the session, and until recent years there have been almost no Saturday meetings, so with Mondays set aside as suspension days, Tuesdays as Joint Resolution days, and Wednesdays and Thursdays as Senate Bill days, the chance of reaching the main body of the House calendar, particularly bills on third readings, is small. The third-reading bill calendar becomes badly crowded and cannot be reached ordinarily because no adequate provision has been made for it during the week, with the result that it usually becomes necessary to set aside a period for the consideration of bills on third reading by a suspension of the Rules. Even if the House meets on Friday or Saturday, despite the apparent high priority given to bills on third reading in the daily order of business, these bills can be displaced by special orders, postponed business, and unfinished business. This general problem of the weekly calendar deserves much study.]

*Not in order to reconsider vote by which a bill is taken up on suspension of the regular order; in order if vote to take up failed.*

On a Monday the House was considering a bill taken up on a suspension of the regular order of business. It had been read the second time and debate was proceeding. The motion to reconsider the vote by which the bill was taken up and made and, on a point of order that such could not be done, the Speaker, Mr. Homer Leonard, sustained the point of order. He held that other disposition must be made of the bill if the House did not wish to continue its consideration since to permit the reconsideration motion would have the effect of wiping out the second reading and proceedings following. (47th Reg.)

[In the 52nd Legislature the Speaker, Mr. Senterfitt, admitted a motion to reconsider the vote by which a motion to suspend the regular order of business had failed. This motion should not be confused with a suspension of the Rules motion.]

*On suspension days, if the Speaker does not recognize Members for motions to suspend the regular order of business the House considers business in regular order.*

On Wednesday, May 6, 1943, a Senate Bill day, which, under the Rules was also a suspension day since it fell within the first six

of the last eight days of the session, the Speaker laid before the House in regular order S. B. 51. Mr. Leonard raised the point of order against further consideration of the bill on the ground that under the Rules the day was a suspension day, no regular order being recognized, and that the Speaker could entertain only motions to suspend the regular order.

The Speaker, Mr. Daniel, overruled the point of order citing the fact that there is always a regular order of business set up under the Rules and that the suspension of the regular order rule, Sec. 3 of Rule 22, simply states that motions to suspend the regular order of business shall not be recognized except on Monday of each week and on the first six of the last eight days of the session. He pointed out that on many suspension days in past sessions, the Speakers, having control of the suspension calendar, had elected not to recognize motions to suspend the regular order and had thus held to the regular order of business for the day. (48th Reg.)

SEC. 2-a. If a Member shall move to set a bill as a special order, or move to suspend the Rules to take a bill up out of its regular order, and said motion prevails, said Member shall not have the right thereafter to make either of these motions, or to move to suspend the regular order of business on calendar Monday to consider a bill out of its regular order, until every other Member has had an opportunity to have considered via either of these three motions some bill out of its regular order during that session of the Legislature.

A Member shall not lose his suspension privilege if his motion to suspend, or set for special order does not prevail.

[When a bill is under consideration it may be set as a special order, as elsewhere provided in these Rules. Such special order setting is not chargeable to the Member making the motion, as might be interpreted from Section 2-a above.

In the 53rd Legislature the Speaker, Mr. Senterfitt, held that a successful suspension of the Rules to consider a res-

olution out of regular order did not come under the terms of the above section, i.e., was not chargeable to the Member.

Since the above rule can be suspended by a two-thirds vote, that portion limiting a Member to one suspension of the Rules to take up a bill out of regular order is meaningless. However, the Speaker tries to spread recognitions to make such motions throughout the membership.]

SEC. 3. Any bill, resolution or other measure may on any day be made a special order for the same day or for a future day of the session by an affirmative vote of two-thirds of the Members present, and, when once established as a special order, shall be considered from day to day until disposed of; and until it shall have been disposed of, no further special order shall be made. A motion to set a special order shall be subject to the three-minute pro and con debate rule. A three-fourths vote of the membership present shall be required to suspend that portion of this rule which specifies that only one special order may be made and pending at a time.

No special order shall be postponed to a day certain, except by a two-thirds vote of the House, and when so postponed shall be considered as disposed of so far as its place as a special order is concerned.

A bill or resolution laid on the table subject to call may be made a special order.

When a motion is pending to set a particular bill or resolution as a special order, it shall not be in order to move as a substitute to set another bill or resolution as a special order. It shall be in order, however, to substitute, by majority vote, a different time for the special order consideration than that given in the original motion.

[In the 51st Legislature, the Speaker, Mr. Manford, held that when a bill was being considered under a call of the House, a motion to set the bill as a special order for another time was in order.

Under the rules House bills set as special orders cannot be considered on Senate bill days. The Joint Rules also provide that House bills cannot be considered by the House on Senate bill days without the consent of the Senate. For this reason a House Bill may be set as a special order on a Senate bill day but it cannot be considered on that day as long as there are any Senate bills remaining on the daily calendar. See Sec. 6 and 6-a, Rule 18 and Sec. 2, Rule 17.

In the 57th Legislature Speaker James A. Turman held that special orders yield to privilege matters, e.g., consideration of a conference report.

See also annotation following Sec. 2 of Rule XV.]

## RULE XXIII.

### OF COMMUNICATIONS FROM THE GOVERNOR AND SENATE, CONFERENCE COMMITTEES AND REPORTS, SENATE AMENDMENTS, ETC.

SECTION 1. Messages and communications from the Governor shall be received when announced, and shall be read on the date received.

SEC. 2. All messages from the Senate shall be received when announced; Senate bills announced as passed shall be read the first time and referred to the proper committee on the calendar day received or on the next calendar day the House is in session.

SEC. 3. The subject matter of messages from the Senate announcing amendments to House bills and resolutions, non-concurrence in House amend-

ments to Senate bills and resolutions, and requests for conferences, as also all reports of conference committees and all matters of disagreement, amendments and requests between the two houses, shall go to the Speaker's table in their regular order, but may be called up for action of the House at any time, except as against a motion to adjourn.

[A motion to reconsider the vote on a privileged motion, such as those described in Sec. 3, has the same high priority as the original motion.

In view of the high priority given conference reports in the above rule and the wording of Sec. 21 of the Joint Rules, such reports as well as motions to concur or not concur in Senate amendments can be considered on a Senate bill day.

As a rule the Chair refuses to decide upon the germaneness of Senate amendments to House bills, leaving such decision to the House to be expressed by concurrence or noncurrence in the amendments. While there are many precedents which uphold this practice, recent rulings hold that such precedents should not control decisions of the Chair in regard to situations like the one described in the second precedent below. There is nothing in the Rules that could possibly prevent a Member from raising a point of order against a clear violation of Sec. 30 of Art. 3 of the Constitution and having it sustained. Ordinarily, however, the Chair should not be expected to pass upon the germaneness of Senate amendments, and this is borne out by the precedents referred to, which are both reasonable and wise, but recent trends in legislative practice point to the advisability of departing from the established practice in cases as clear as the one cited.

Since direct negatives as substitutes are not in order, if a motion "to concur" in Senate amendments is pending, a substitute "not to concur" is not in order because a refusal to adopt the first motion would gain the same end. A motion not to concur and ask for a conference would be in

order, however, because it contains other matter which keeps it from being a direct negative.

In the 54th Legislature the Speaker, Mr. Lindsey, ruled that making the motion "to concur" or "not to concur" is not exclusively the right of the author (or Member in charge) of a bill, same being the right of any Member. However, he pointed out that custom and propriety dictated that the author or Member in charge of a bill should be given full opportunity to determine upon the course of action and that he would refuse to recognize any other Member until it became evident that the author, or Member in charge, would refuse to act.

A Senate committee substitute for a House bill reported out of a Senate committee and then amended on the Senate floor and finally passed is, so far as the motions to concur or not concur and request a conference in the House are concerned, a single Senate amendment. It is not divisible.]

*In order to postpone a privileged matter, and when postponed the privileged nature is retained.*

The House was considering a Conference Committee report. Mr. Hartzog moved to postpone the report to a time certain. Mr. Morris raised the point of order that the motion was out of order because the report was privileged matter under Section 3 above. The Speaker, Mr. Homer Leonard, overruled the point of order, stating that privileged matters could be postponed or laid on the table subject to call by a majority vote, and that when the time came for their consideration they would retain their privileged nature. (47th Reg.)

*Case where the Speaker ruled out a Senate amendment to a House bill, which amendment clearly changed the purpose of the House bill in a major degree.*

Mr. Celaya moved to concur in Senate amendments to H. B. 1116. Mr. Wood raised a point of order on consideration of the motion to concur on the ground that the amendments were put on the bill in violation of Sec. 30 of Art. 3 of the Constitution which provides that "no bill shall be so amended in its passage through either House, as to change its original purpose."

The Speaker, Mr. Calvert, in sustaining the point of order pointed out that the original House bill as passed and sent to the Senate was a local fishing license law for McLennan County, and that the Senate, by amendments striking out all below and above the enact-

ing clause, had substituted an entirely new bill which was a general fishing license law for the entire State, such a change in the purpose of the original bill being clearly a violation of the Constitution. (45th Reg.) [See annotation just above.]

*Case where bill was declared passed when the Senate receded from its amendments.*

H. B. 373 passed the House and then passed the Senate with amendments. The House refused to concur in the Senate amendments and asked for the appointment of a conference committee. This request was granted, and, while the Lieutenant Governor was considering naming of the conference committee on the part of the Senate, a resolution was offered and adopted in the Senate receding from the amendments to which the House had disagreed originally. The House was duly notified of the passage of the resolution. Mr. Harris of Dallas raised a point of order that when the House disagreed on the amendments and the matter had moved to the status just described that the Senate could not recede.

The Speaker, Mr. Homer Leonard, overruled the point of order and called the attention of the House, first to the fact that the bill and amendments had not been turned over to a conference committee because none existed as yet, the Lieutenant Governor not having named the Senate conferees. He pointed next to the fact that when the Senate receded from its position there were, in fact, no differences between the two houses, both having passed the bill in identical form, and, in support of this position he discussed Congressional Precedents which upheld the idea that whenever by receding or by other parliamentary method the two houses are brought together on the text of a bill then the bill is considered passed. (47th Reg.)

SEC. 4. When a bill, resolution or other matter is returned to the House with Senate amendments, the House may:

(a) Agree to the amendments,

(b) Disagree to all of the amendments and ask for a conference committee,

(c) Agree to one or more of the amendments and disagree as to the remainder and request a conference to consider those in disagreement,

(d) Agree to one or more and disagree as to the remainder,

(e) Disagree to all amendments.

[The Chief Clerk should notify Members when their bills are returned to the House with Senate amendments.

The mover of a main motion to concur in Senate amendments or not to concur and request a conference committee, or a variation of these motions, is allowed the usual twenty minutes to open and close debate on the motion if he so desires. Additional time may be allowed by the House as described in Sec. 6 of Rule X.]

SEC. 5. Senate amendments to House bills or resolutions must be mimeographed and laid on the desks of the Members 24 hours before any action can be taken thereon by the House; however, during the last 72 hours of any session it will not be necessary for the 24-hour period to elapse before action can be taken thereon by the House.

[In light of the above, often, to gain time, the motion "To suspend the Rules for the purpose of concurring in Senate amendments" to a bill or resolution is made. Handling and effect of this motion is exactly parallel to the motion "To suspend the Rules for the purpose of adopting the Conference Report," as discussed in an annotation following Sec. 8 of Rule XXIII in so far as the requirements for a two-thirds vote of the membership is concerned, if a bill is to go into immediate effect. The endorsement of the Chief Clerk, regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and Senate amendments adopted by the following vote: Yeas ——, Nays ——." Whenever a motion to suspend this particular rule is made and carried, even before Senate amendments are laid on Members' desks, the amendments are nevertheless printed in the Journal if adopted.]

SEC. 6. If a bill is to go into immediate effect, Senate amendments thereto must be adopted by a vote of two-thirds of the Members elected to the House.

SEC. 7. In all conferences between the Senate and the House by committee, the number of committeemen from each House shall be five and all votes on matters of difference shall be taken by each committee separately. Reports of conference committees must be signed by a majority of each committee of the conference.

[The names of House conferees should accompany a request to the Senate for a conference, not be sent later.

Six official copies of conference committee reports are signed by the conferees, three going to each House, usually in keeping of the chairmen who file the copies with the presiding officers. When a conference committee report on a House bill is laid before the House one copy of the report goes immediately to the Journal Clerk. If adopted, the Chief Clerk so endorses the other two copies, sending one by messenger to the Senate, and sending the other to the Calendar Clerk for record. The Calendar Clerk holds this copy awaiting action on the report by the Senate. If the Senate adopts the report, an officially endorsed copy will be sent to the House, and the Chief Clerk sends it to the Calendar Clerk. The Calendar Clerk then sends the two copies, showing action thereon by both Houses, to the Engrossing and Enrolling Clerk.]

SEC. 8. Conference committees shall be restricted to adjusting the differences between the two houses on a bill, resolution or other matter in disagreement, and they shall not change text to which both houses have agreed, nor may such committees incorporate in their reports material not in disagreement between the houses even though such material may be germane to a question at issue. The Speaker is authorized to rule out of order a conference committee report made in clear violation of this rule. When the Speaker is in doubt about whether or not a confer-

ence committee has exceeded its authority under this rule, he may submit the matter to the House for a decision.

The following exceptions to this rule are hereby recognized:

(a) When an amendment in disagreement strikes out an entire paragraph and inserts a new text, the entire subject matter of said paragraph is committed to the conferees.

(b) When an amendment striking out an entire section of a bill and inserting a new section is in disagreement, the subject matter of the whole section is committed to the conferees.

(c) When an amendment or group of amendments in disagreement are fundamental to the structure of a whole bill, thus requiring essentially a redraft of the entire bill by the conference committee, the entire subject matter of the bill is committed to the conferees.

(d) When amendments striking out all below and all above the enacting clause of a bill and inserting in fact a new bill are in disagreement, the whole subject matter of the bill is committed to the conferees, and they shall have a wide discretion in incorporating germane material, and may report an entirely new bill on the subject.

[While Sec. 8 above was incorporated in the Rules of the House for the first time in the Forty-fifth Legislature, the provisions of the section have been followed for years in almost every respect by Texas Legislatures. The rule also represents Congressional practice.

Conference committees are composed of five Members, as provided above and in the Joint Rules. Usually where the

vote in the House has been close on the major point or points at issue, the Speaker gives the majority three Members and the minority two Members on the committee. When the vote is not close but there has been a strong minority fight, the minority is usually given one place on the committee.

A conference report must receive a two-thirds vote of each house in order to put the measure into immediate effect, except in case of the general appropriation act. The same is true regarding concurrence in Senate amendments. The mere concurrence in Senate amendments by a two-thirds vote does not put a measure into immediate effect unless final passage in each house was obtained by a two-thirds vote.

A slight deviation from the conference report rule just stated is recognized, because in a decision handed down on June 27, 1931, Judge Morrow, presiding judge of the Court of Criminal Appeals, said: "It seems enough to say that a reasonable and logical interpretation of the controlling provision of the Constitution of this State confers upon the Legislature both the power (by a record vote of two-thirds vote of the members of each House) to change the time within which an act of the Legislature may ordinarily become effective, and requires that they exercise such authority and power at the time when they become aware of the terms of the law as finally agreed upon. Previous action upon a bill in its initial stages, before material and radical changes have been made, would not control." In the light of this decision, it would be reasonable to assume that if a bill did not receive the necessary two-thirds record vote on final passage in both houses and was not subjected to "material and radical changes" in conference, the adoption of the conference report by the necessary two-thirds record vote in both houses would not put the bill into immediate effect. On the other hand, if such changes had been made in conference and the necessary two-thirds record vote obtained on the adoption of the conference report, then the bill would go into immediate effect.

In the 52nd Legislature the Speaker, Mr. Senterfitt, re-

fused to sustain a point of order that proposed additional instructions to House conferees on a particular bill were inconsistent with instructions given earlier. He also refused to rule out of order a proposed instruction for the conferees to advocate a report which would embody the terms of a conference report previously rejected.

In the 57th Legislature, 3rd Called Session, Speaker James A. Turman ruled that a conference committee could not be instructed on a matter not actually in difference between the two houses, in view of the wording and the spirit of the above rule.

See annotation following Sec. 1 of Rule XVII on vote required to concur in Senate amendments to a House joint resolution and to adopt a conference committee report on a joint resolution.

See Texas Precedent on Page 336 where the Speaker refused to rule out of order a bill because it allegedly contained some provisions not within the Governor's call at a special session. He made a parallel ruling regarding the conference report on the same bill.]

SEC. 9. Instructions to a conference committee shall be made after the conference is ordered and before the conferees are appointed by the Speaker and not thereafter.

SEC. 10. A conference report is not subject to amendment, and must be accepted or rejected in its entirety, and while it is pending no motion to deal with the individual amendments in disagreement is in order.

SEC. 11. When a conference committee report is not acceptable to the House for any reason, it may be recommitted to the same committee with the request for further consideration, and the House may or may not give any specific instructions regarding

material under consideration by the committee; or the House may request the appointment by the Senate of a new conference committee and then proceed to empower the Speaker to name new conferees for the House.

SEC. 12. All conference committee reports on appropriation bills shall be mimeographed and laid on the desks of the Members at least 48 hours before any action can be taken thereon by the House.

All conference committee reports on bills other than appropriation bills must be mimeographed and laid on the desks of the Members at least 24 hours before any action can be taken thereon by the House; however, during the last 72 hours of any session it shall not be necessary for the 24-hour period to elapse before action can be taken thereon by the House.

[The first paragraph of the above section does not apply to a bill which only incidentally carries an appropriation.

Frequently, usually to avoid the time lapses required in the above section, the motion "To suspend the Rules for the purpose of adopting the Conference Report" on a particular bill is made. Basically, such a motion requires only a two-thirds vote (of the members present and voting) for adoption. If the motion is adopted, the Speaker declares the Rules suspended and the report adopted. However, such motion must be adopted by a record vote, and receive at least one hundred (two-thirds of the membership) affirmative votes if the bill covered by the conference report is to go into immediate effect. The endorsement by the Chief Clerk regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and Conference Report adopted by the following vote: Yeas ——, Nays ——."

If it is not desired to put a bill into immediate effect, but for reasons it is desired to suspend the Rules to obtain a

vote on the Conference Report, a non-record vote should be taken. If it becomes evident that a record vote is to be demanded (by 3 Members or more), then two separate motions could be utilized. The first motion should be, "To suspend the Rules for the purpose of making the motion to adopt the Conference Report on ——." The second should be, "To adopt the Conference Report on ——." Of course, if a record vote is demanded on the latter motion, and it receives 100 affirmative votes, in so far as the House is concerned the bill would go into immediate effect. This situation is unlikely. A better route would be not to put an "immediate effect" clause in the bill reported by the Conference.]

## GENERAL PRECEDENTS ON CONFERENCES.

*The House, and not the Speaker, decides whether or not a conference committee has violated instructions.*

The House was considering a conference committee report, having previously given its committee certain instructions.

Mr. Hopkins raised a point of order on further consideration of the report on the ground that the committee had violated the instructions given it by the House.

The Speaker, Mr. Barron, overruled the point of order. (41st, 1st C. S.)

[This was a matter for the House, not the Speaker, to decide. It has often been held that a conference report should not be ruled out on a point of order that instructions had been disobeyed. The House may either accept the report or send it back to the conference committee for further consideration, provided, of course, that the Senate conferees have not been automatically discharged by adoption of the report by the Senate.]

*Can not instruct conference committee when to report if the committee has already been appointed.*

Mr. Alsup moved to instruct the conference committee on House Bill No. 1 to bring in a conference report within a certain time.

Mr. Van Zandt raised a point of order on the ground that a conference committee can not be instructed when to report after they have already been appointed.

The Speaker, Mr. Stevenson, sustained the point of order. (43rd, 3rd C. S.)

[Also, any action the House could take would only affect the House conferees, and they alone could not, of course, bring back any report for adoption.]

*Not in order to instruct a conference committee to include in its report, in violation of the Rules, matter not in disagreement between the two Houses.*

The House had just refused to concur in the Senate amendments to H. B. 5. Mr. Morse moved that the conference committee be instructed to include certain matter in its report.

Mr. Jones of Wise raised a point of order against the motion on the ground that it sought, in violation of the Rules, to have the committee include matter which was not in disagreement between the Houses.

The Speaker, Mr. Calvert, sustained the point of order. (45th Reg.)

[The Senate amendments to H. B. 5 were of minor importance in form and content, so far as the bill was concerned, and affected only parts of the bill, so they did not bring the disagreement situation under the exceptions set out in Sec. 8 above.]

*Further point regarding instructions to conferees on inclusion in their report of matter not in disagreement between the two Houses.*

Mr. Sewell moved that the House conferees on H. B. 285 be instructed as follows: That the provisions of H. B. 669 as same passed the House be included in H. B. 285.

Mr. Murphy raised the point of order that the inclusion of H. B. 669 in H. B. 285 is not a matter of disagreement between the two Houses, and that any attempt to instruct the House conferees to include same as a part of H. B. 285 would be out of order.

The Speaker, Mr. Senterfitt, sustained the point of order. (52nd Reg.)

[Under the Rules of the House and Congressional Precedents, the Speaker's ruling was eminently correct. Had the substance of H. B. 669 become a part of H. B. 285 in its passage through either House, resulting in a matter of difference, then instructions relating thereto would have unquestionably been in order, but such was not the case.]

*Practice relating to changes in conference committee reports after adoption.*

[A number of rulings have made it clear that conference committee reports could not be changed by concurrent resolutions after adoption. Such resolutions have sought to "amend" such reports or to direct the appropriate Engrossing and Enrolling Clerk to make specified changes. However, from time to time concurrent resolutions have been adopted which instructed an Engrossing and

Enrolling Clerk to make corrections in typographical errors, punctuation, section numbering, accidental omissions due to stenographic errors, and the like, all of which were changes to which there was little or no objection and all of which were designed to perfect the final legislative product.

In the case of conference committee reports on biennial appropriation bills, for a number of years it has been the practice, because of the size and nature of the bills, to admit concurrent resolutions to correct accidental omissions, wording, titles, totals, typographical errors and the like. Often these were admitted under protest that such changes could not be made in such a manner. Admitting the question of procedural legality in general, presiding officers went along with the procedure as the best for all practical purposes. However, in the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled in order a supplement to the original conference committee report which contained all needed corrections, holding this type of procedure was preferable to a concurrent resolution. The report was adopted. This new procedure is far superior to the old.]

*House has no right to discharge its conferees on a Senate Bill while bill is still in conference.*

Mr. Love moved that the conferees on S. B. 167 be discharged and that a new conference committee be appointed on the part of the House and that the Senate be requested to appoint a new committe to adjust the differences between the two Houses. Mr. Cato raised a point of order on further consideration of the motion on the ground that such a motion as Mr. Love's must originate in the House where the bill originated while the bill is still in conference. The Speaker, Mr. Gilmer, sustained the point of order. (49th Reg.)

*Case where conference on a House bill was dissolved by action of the Senate in discharging its conferees.*

In the 56th Legislature, 2nd Called Session, the Speaker, Mr. Carr, held that a conference had been dissolved because the Senate, in the light of a report by its conferees that the conference was deadlocked, had discharged them and so notified the House. The House then requested a new conference and this request was granted.

SENATE AMENDMENTS.—Revenue bills must originate in the House, but the Senate may concur with amendments (H. P., II, 1480). Instances wherein the Senate has acquiesced in the constitutional requirement as to revenue bills, while holding to a broad power of amendment (H. P., II, 1497-1499). It is for the House and not the Speaker to decide whether or not a Senate amendment on the subject of revenue violates the privileges of the House. (H. P., II, 1320.)

DISAGREEMENTS BETWEEN THE HOUSES—CONFERENCES.—Sometimes one House disregards the request of the other for a conference and recedes from its disagreement, thereby rendering a conference unnecessary (H. P., V, 6316, 6318).

The majority of the managers of a conference should represent the attitude of a majority of the House on the disagreements (H. P., V, 6336). In a conference the managers of the two Houses vote separately (H. P., V, 6336). The House may instruct its managers of a conference, and the motion to instruct should be offered after the vote to ask for or to agree to a conference, and before the managers are appointed (H. P., V, 6379-6382). The motion to instruct conferees may be amended unless the previous question has been ordered (H. P., V, 6525). While it is unusual to instruct conferees before a conference is had, it is in order to move instructions for a first conference as for any subsequent conference. (C. P., VIII, 3230.)

A conference may be had on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two Houses themselves (H. P., V, 6401). After a conference has been agreed to and the managers for the House appointed it is too late to reconsider the vote whereby the House acted on the amendments in disagreement (H. P., V, 5664).

Conferees do not usually admit persons to make arguments before them (H. P., V, 6263).

The motion to agree or concur should be put in the affirmative and not in the negative form (H. P., V, 6166). A conference report being presented, the question on agreeing to it is regarded as pending (H. P., V, 6517). The motion to agree is the pending question to a conference report, and the motion to disagree is not admitted (H. P., II, 1473).

Although a conference report may be in disregard of the instructions given the managers, yet it may not be ruled out on a point of order (H. P., V, 6395). A conference report must be accepted or rejected in its entirety, and while it is pending no motion to deal with individual amendments in disagreements is in order (H. P., V, 6323). A conference report is not subject to amendment, but must be considered and disposed of as a whole (C. P., VIII, 3306).

The rejection of a conference report leaves the matter in the position it occupied before the conference was asked (H. P., V, 6525). Where managers of a conference are unable to agree, or where a report is disagreed to in either House, another conference is usually asked (H. P., V, 6288-6291). Where a conference report is ruled out of order, the bill and amendments are again before the House as when first presented, and motions relating to amendments and conference are again in order (C. P., VIII, 3257).

The Speaker may rule a conference report out of order if it is shown that the conferees have exceeded their authority (C. P.,

VIII, 3256). [Exceeding authority does not mean violating instructions given conferees.]

Action on a conference report by either House discharges the committee of conference and precludes a motion to recommit, but until one House has acted on the report the motion to recommit to the conferees, with or without instructions, is in order (C. P., VIII, 3241).

The failure of a conference does not prevent either House taking such independent action as may be necessary to pass a bill (H. P., V, 6320).

## RULE XXIV.

### OF PETITIONS AND MEMORIALS.

SECTION 1. All petitions and memorials shall be filed with the Chief Clerk. Every petition or memorial shall be signed by the petitioner or memorialist. Petitions and memorials shall be printed in the Journal only when specifically ordered by a vote of the House.

SEC. 2. No memorial or other paper presented to the House shall be withdrawn from its files, except by order of the House. But when an act may pass for the settlement of any private claim, the Chief Clerk is hereby authorized to transmit to the officer charged with settlement the papers relating to the claim.

## RULE XXV.

### OF PRINTING.

SECTION 1. Motions to print in the Journal official State documents, reports and other matter transmitted by the department heads, or to print in the Journal or otherwise memorials, petitions, documents or

any other papers shall be decided by a majority vote of the House.

[In the 52nd Legislature the Speaker, Mr. Senterfitt, held that a motion to print a paper in the Journal was subject to the three-minute pro and con debate rule.]

## RULE XXVI.

### OF ABSENTEES.

SECTION 1. No Member shall absent himself from the sittings of the House without leave. No Member shall be excused upon his own motion. Leaves of absence may be granted by a majority vote of the House and may be revoked at any time by a similar vote. The names of absentees, both excused and not excused, shall appear upon the Journal.

## RULE XXVII.

### OF WITNESSES.

SECTION 1. The rule for paying witnesses summoned to appear before the House, or any of its committees, shall be as follows: For each calendar day a witness shall attend, the sum of three dollars ($3.00); and for coming to or going from the place of examination he shall receive actual and necessary expenses, and two dollars ($2.00) for each calendar day which is necessarily consumed in going to and returning from said place of examination; but nothing shall be paid for traveling home when the witness was at the place of trial when summoned. The certificate of the chairman of the committee before which a witness is summoned, of the amount due

such witness, shall be sufficient authority for the same to be paid.

[Following the custom of some years, in the 52nd Legislature necessary living expenses (hotel and meals) were paid for witnesses attending the "Crime Committee" hearings at Austin and elsewhere in the State where such committee meetings were held. These were paid in addition to the $3.00 witness fee and the necessary expenses "coming to or going from the place of examination."]

## RULE XXVIII.

### OF ADMISSION TO THE HOUSE.

SECTION 1. Persons hereafter named, and none other, shall be entitled to the privileges of the floor of the House when the House is in session, viz., the Members of the House; employees of the House when in the discharge of their official duties as may be determined by the Committee on Rules; Members of the Senate; employees of the Senate when in the discharge of their official duties; the Governor and his Executive and Administrative Assistants; the Lieutenant Governor; the President and Vice-President of the United States; United States Senators and Members of Congress; Governors of other states; judges of the Supreme Court and Court of Criminal and Civil Appeals; duly accredited newspaper reporters, correspondents, and radio and television commentators who have complied with Sections 2 and 3 of this rule; contestants in election cases pending their contest in the House; and immediate families of the Members of the Legislature.

No person shall be admitted to the area on the floor of the House enclosed by the railing when the

House is in session, except: Members of the House, the Governor; the Lieutenant Governor; duly accredited newspaper reporters, correspondents, and radio and television commentators who have complied with Sections 2 and 3 of this rule; Members of the Senate; immediate families of Members of the House; officers and employees of the Senate and House when said officers and employees are actually engaged in the discharge of their official duties.

It shall be the duty of the Committee on Rules to determine what duties by officials and employees of the House are to be discharged on the floor of the House, and specifically in the area enclosed by the railing, when the House is in Session; and it shall be the duty of the Speaker to see that said officers and employees do not violate the regulations so laid down by the Committee on Rules.

No newspaper reporter, or other person whomsoever, whether a state officer or not, except the Governor, who is lobbying or working for or against any pending or prospective legislative measure, shall in any event, be permitted upon the floor of the House or in the rooms leading thereto, when the House is in session.

[Invitations to persons to address the House are usually extended by simple resolution, adopted by majority vote. If the invitation is for an address to a Joint Session, a concurrent resolution is required.

It has been the custom for many years for the Speaker, upon the request of Members, to issue passes to the floor during sessions. This practice is, of course, contrary to the above rule, but has been long established through common consent. Under recent practice Speakers or Rules committees rarely issue passes to others than relatives of Members,

former Members, and certain other distinguished visitors on a highly selective basis. If, at any time, a strict enforcement of the Rules is called for, the floor is immediately cleared of all not eligible under the above rule.

Upon the request of Members, the Speaker will publicly recognize the presence in the gallery of named individuals and groups and welcome them to the House.]

SEC. 2. While the House is in session, no person shall be admitted to the floor of the House or allowed its privileges, as a press correspondent, radio or television commentator, unless said person is a regularly employed, salaried, staff correspondent or reporter in the employ of a newspaper or press association serving newspapers, or publications requiring telegraphic coverage, or unless said person is a regularly employed, salaried employee of a duly licensed radio or television station or network.

Any person seeking admission to the floor of the House under the foregoing provisions must present to the Committee on Rules fully accredited credentials from his publication, radio or television station or network showing that he is engaged primarily in reporting the sessions of the Legislature while the Legislature is in session. Regularly accredited staff correspondents, or radio or television commentators, who have duly qualified under the provisions of this rule, may, when requested to do so, make recommendations through their professional committees to the Committee on Rules as to the sufficiency or insufficiency of credentials of any person seeking admission to the floor of the House under this rule.

If the Committee on Rules shall determine that such credentials come within the contemplation of

this rule, said Committee shall so notify the Speaker of the House in writing who shall issue a pass card to such person, and this pass card which shall not be transferable must be presented to the Doorkeeper at all times when said person seeks admission to the House while the same is in session. Persons being admitted to the House pursuant to the provisions of this rule shall be assigned appropriate and convenient seats or work stations in the House by the Speaker.

When the Legislature is in session permission to televise or broadcast by radio (either live or recorded, including film) meetings of the House or any of its standing committees may be granted only by the Speaker upon recommendation of the Committee on Rules. Said Committee shall make detailed recommendations to the Speaker regarding regulations promulgated by it governing television or radio broadcasts, and publish same in the Journal, and shall identify persons in the technical crews to whom pass cards to the floor of the House and galleries are to be issued by the Speaker. Permits granted under this authority shall be revocable by the Speaker upon recommendation of the Committee on Rules.

If any person, admitted to the House under this rule shall lobby or work for or against any pending or prospective legislation or shall violate any of the other Rules of the House, the privileges extended to said person under this rule shall be suspended by a majority vote of the Committee on Rules. The action of the Committee shall be reviewable by the House only if two members of the Committee request an appeal from the decision of the Committee, which

appeal shall be in the form of a minority report and shall be subject to the same rules that are applicable to minority reports on bills. Suspension shall remain in force until the accused person purges himself and comes within the Rules or until the House by majority vote reverses the action of the Committee.

SEC. 3. Every newspaper reporter and correspondent, radio or television commentator, before being admitted to the House during its Sessions shall file with the Committee on Rules a written statement showing the paper or papers, or radio or television station or network, which he represents, and certifying that no part of his salary or compensation is paid by any person, firm, corporation or association except the paper or papers, or radio or television station or network, which he represents.

[Standing committee proceedings are not recorded in any fashion other than by clerks and in the official committee minute books, and in accordance with Sec. 7 of Rule VIII. Tape or shorthand recordings by others than official clerks are usually not permitted. Occasionally, committees will order some portions of their hearings recorded.]

SEC. 4. At 8:30 a.m. each meeting day the Sergeant-at-Arms shall clear the floor of all persons not entitled to the privileges thereof under the Rules. The floor shall remain so cleared during all sessions of the House.

The floor of the House shall remain open on all days when the House is not in session. It shall also remain open for the period of any noon or evening recess except that it shall be cleared by the Sergeant-at-Arms 15 minutes before reconvening time. In

addition, the floor shall be open during the inauguration of the Governor and Lieutenant Governor and other public ceremonies provided for by resolution.

SEC. 5. Provided, that this rule shall not be construed to prevent any citizen from appearing before any of the committees of the House, when in session. And it is further provided that no motion shall be in order to invite any person to address this House while it is in session, except those entitled to the privilege of the floor as defined by Section 1 of this rule, and except when no business is pending before the House.

SEC. 6. Solicitors and collectors shall not be admitted to the House during its sessions.

## RULE XXIX.

### AMENDMENTS TO THE RULES.

SECTION 1. All propositions to amend any rule or order shall be by simple resolution and be at once referred, without debate, to the Committee on Rules, and reported therefrom within two calendar days.

[A majority vote is required for the adoption of a simple resolution to amend the Rules.]

## RULE XXX.

### WHEN RULES ARE SILENT.

SECTION 1. On any question or order or parliamentary practice where these Rules are silent or in-

explicit, the Rules of the House of Representatives of the United States Congress, and its practice as reflected in Hinds' and Cannons' Precedents, shall be considered as authority.