

RULE XXVI.

UNFINISHED BUSINESS OF THE SESSION.

§ 901. Resumption of business of a preceding session. All business before committees of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

At first the Congress attempted to follow the rule of the English Parliament that business unfinished in one session should begin anew at the next; but in 1818, after an investigation of a joint committee in 1816, a rule was adopted that House bills remaining undetermined in the House should be continued at the next session after six days. This rule did not reach House bills sent to the Senate; but in 1848 the two Houses remedied this omission by a joint rule. Business referred to committees of the House was still subject to the old rule of Parliament; but in 1860 the present rule was adopted as a supplement to the rule of 1818. In 1890, desiring to do away with the limitation of the six days and apparently overlooking the main purpose of the rule of 1818, the House rescinded that portion of this rule which dated from 1818. Also, in 1876 the joint rules were abrogated, leaving no provision, except the headline of the rule, for the continuance of business not before committees. The practice, however, had become so well established that no question has ever been raised (V, 6727).

The business of conferences between the two Houses is not interrupted by an adjournment of a session which does not terminate the Congress (V, 6260-6262), and even where one House asks a conference at one session the other may agree to it in the next session (V, 6286). Where bills were enrolled and signed by the presiding officers of the two Houses at the close of one session they were sent to the President and approved at the beginning of the next session (IV, 3486-3488).

RULE XXVII.

CHANGE OR SUSPENSION OF RULES.

§ 902. Motions to suspend the rules. 1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend

the rules except on Mondays and Tuesdays, and during the last six days of a session.

This rule has been built up gradually on an old rule of 1794, which provided that no rule should be rescinded without one day's notice. In 1822 a clause was added that no rule should be suspended except by a two-thirds vote; and in 1828 it was provided that the "order of business, as established by the rules," should not be changed except by a two-thirds vote. This rule marks the great purpose of the motion, which was to give a means of getting consideration for bills which could not get forward under the rule for the order of business. Originally in order on any day, the motion was, in 1847, restricted to Mondays of each week, and, in 1880, to the first and third Mondays of each month. In 1874 the old limit of 10 days at the end of the session was reduced to six days. In the 93d Congress, the rule was amended to permit the Speaker to recognize for such motions on the first and third Mondays and on the Tuesdays immediately following those days and to eliminate the distinction between days on which committees and individuals has preference (H. Res. 6, Jan. 3, 1973, pp. 26, 27); and in the 95th Congress, the rule was amended to permit the Speaker to recognize for such motions on every Monday and Tuesday (H. Res. 5, Jan. 4, 1977, 95th Cong., pp. 53–70). Originally of great use in establishing the order of business, when the older and more defective rules for the order of business existed, the use of the motion has changed since the House in 1890 adopted rules for the order of business which enables the House on any day to go to any public bills on its calendars. Also about the same time the perfection of the process of getting bills before the House out of order by a majority vote through a report from the Committee on Rules still further diminished the importance of the motion to suspend the rules (V, 6790).

While originally the motion was used to suspend the rule on the order of business in order to consider a particular bill (V, 6852, 6853), in the later practice it is more usual to move "to suspend the rules and pass" the bill (V, 6846, 6847), and a division of the question may not be demanded, either as to the two branches of the motion or as to distinct substantive propositions in the subject of the motion (V, 6141–6143). The motion may not be amended (V, 5322, 5405, 6858; Dec. 21, 1973, pp. 43251–63; June 4, 1985, pp. 13983, 13986, 13989), postponed (V, 5322), or laid on the table (V, 5405). The motion to reconsider may not be applied to a negative vote on the motion (V, 5645, 5646; VIII, 2781; Sept. 28, 1996, p. —), although it may be applied to an affirmative vote (Sept. 28, 1996, p. —). The motion to refer may not be applied to the bill which it is proposed to pass under suspension of the rules (V, 6860). The motion to suspend the rules applied to the parliamentary law of Jefferson's Manual as well as to the other rules of the House (V, 6796), and may even be used to deny the right to have read a paper on which the House is to

vote (V, 5278–5284). While it has been held that the right of a Member to have read the paper on which he is called to vote is not changed by the fact that the procedure is by suspension of the rules (V, 5277; VIII, 3400), the precedents are not uniform in this regard, and in earlier instances the separate motion to suspend the rules and dispense with reading of pending bills, amendments and Senate amendments was held in order (V, 5278–84). Under the modern practice, only the motion “to suspend the rules and pass” is itself read and is held to suspend all rules inconsistent with its purposes, including a rule requiring that a recess be taken (V, 5752), or that a quorum be present when a bill is reported from committee (Sept. 22, 1992, p. —). Thus only the title of the bill is normally read by the Clerk, and amendments included in the motion are not reported separately, but the Chair may, in his discretion, where objection is made to that procedure, require the reading of an amendment which is not printed or otherwise available (July 17, 1950, pp. 10448–49). Where a motion to suspend the rules and agree to a resolution which provided for concurring in a Senate amendment with an amendment consisting of the text of a bill introduced in the House, the Speaker ruled that reading of the resolution itself was sufficient and that it could be re-read to the House only by unanimous consent (Dec. 21, 1973, pp. 43251–63). It may be used also to change a rule (V, 6862), or to make a new rule, as was more frequently done in the earlier years of the House when it was the only way for making a special order except by unanimous consent (IV, 3152–3162). In the later practice special orders may still be made by motion to suspend the rules (IV, 3154); but usually they are made by majority vote of the House on a report from the Committee on Rules (IV, 3169). The motion to suspend may include a series of actions, as the discharge of a committee from consideration of a bill and the passage of it (V, 6850), the reconsideration of the vote passing a bill, amendment of it, and passage again (V, 6849), the permission to a committee to report several bills (V, 6857), an order to the Clerk to incorporate in the engrossment of a general appropriation bill a provision not otherwise in order (IV, 3845), an authorization to the House to entertain a specified motion to suspend the rules on a future day, not a suspension day (IV, 3845), a motion to take a bill (V, 6288; VIII, 3425), or a motion to reconsider, from the table (V, 5640). A motion to suspend the rules may provide for the passage of a bill regardless of whether it has been reported or referred to any calendar or even previously introduced (VIII, 3421, July 16, 1996, p. —), may include an amendment without the formality of committee approval (June 22, 1992, p. —), and may provide for agreeing to a conference report which has been ruled out of order by the Speaker (Dec. 20, 1974, p. 41860). One motion to suspend the rules having been rejected, the Speaker may recognize for a similar motion (Dec. 21, 1973, pp. 43270–81).

In the early practice, when the motion to suspend the rules was used to enable a matter to be taken up for consideration out of order, it was not admitted when a subject was already before the House (V, 5278, 6836, 6837, 6852, 6853). A bill taken up under this early practice might be amended (V, 6842, 6856) by the House, or withdrawn by the mover, in which case another Member might not present it (V, 6854, 6855). In the later practice, where the motion includes both suspension of the rules and action on the subject it is admitted, although another matter be pending (V, 6834), although the yeas and nays may have been demanded on another highly privileged motion (V, 6835), or although the previous question may have been ordered or moved on another matter (V, 6827; see also Sept. 17, 1990, p. 24695; V, 6831–6833; VIII, 3418). Earlier rulings, however, did not, while a series of Senate amendments were pending, permit a motion to suspend the rules in order to permit a vote to be taken on the amendments in gross (V, 6828, 6830). But in the earlier practice, also, while a matter was pending a motion to suspend the rules in order to dispense with the reading otherwise required was admitted (V, 5278). The motion to suspend the rules has been ruled out of order when the House is considering a bill under a special order (V, 6838); and when a question of high privilege under rule IX is before the House a motion to suspend the rules and consider another matter is not in order (V, 6825, 6826; VI, 553, 565). But the motion to suspend the rules has been held of equal privilege with the motion to instruct conferees after 20 days of conference, which under clause 1(c) of rule XXVIII is “of the highest privilege” (Mar. 1, 1988, pp. 2749, 2751, 2754). A motion to suspend the rules and approve the Journal was held in order, although the Journal had not been read and the then highly privileged motion to fix the day to which the House should adjourn was pending (IV, 2758). While the motion is of high privilege, it may be superseded by a question of the privilege of the House (III, 2553; VI, 565). Pursuant to clause 8 of rule XVI the Speaker may entertain one motion to adjourn pending a motion to suspend the rules, but after that vote shall not entertain any other motion until the vote is taken on the motion to suspend the rules. Moreover, in the absence of a motion to suspend, the ordinary motions relating to business of the House may be made on suspension days as on other days (IV, 3080). The motion to suspend the rules may be made on days other than suspension days by unanimous consent (V, 6795) or by adoption of a resolution reported by the Rules Committee. On “suspension days” the motion to suspend the rules has been admitted at the discretion of the Speaker since 1881 (V, 6791–6794, 6845; VIII, 3402–3404), and no appeal may be taken from the Speaker’s denial of recognition (II, 1425), and no advance notice to Members of bills to be called up under suspension of the rules is required (Mar. 20, 1978, pp. 7535–36), but the rules forbid the Speaker to entertain a motion to suspend the rules relating to the privilege of the floor (§919; V, 7283; VIII, 3634), the use of the Hall of the House (§918; V, 7270)

or prohibiting the introduction of persons in the galleries (§ 764; VI, 197). Where a special rule requires that the object of a motion to suspend the rules be announced on the floor at least one hour prior to the Chair's entertaining the motion, unanimous consent is required to permit the Chair to entertain the motion prior to that time (Sept. 28, 1996, p. —).

Prior to the 93d Congress, the rule gave to individuals preference the first Monday of the month for making motions to suspend the rules, and preference on the third Mondays for committees to make the motion (V, 6790). In rare instances the Speaker has called the committees in regular order for motions to suspend the rules, but this method is not required (V, 6810, 6811). In the earlier practice the committee motion must have been formally and specifically authorized by the committee (V, 6805-6807); but after the motion was seconded and debate had begun it was too late to raise a question as to the authorization (V, 6808). Under the later practice authorization by a committee is not required (VIII, 3410). The committee may not present a bill which has not been referred to it (V, 6813) and is not within its jurisdiction (V, 6848). A bill offered on a committee suspension day, in the early practice, could carry with it only such amendments as were authorized by a committee (V, 6812), but in the modern practice the formality of committee approval is not required (June 22, 1992, p. —). If on a committee day an individual motion was made and seconded, it was then too late to make a point of order (V, 6809).

Prior to the 102d Congress, certain motions to suspend the rules were required to be seconded, if demanded, by a majority by tellers, but this requirement was eliminated from the rule in the 102d Congress (H. Res. 5, Jan. 3, 1991, p. 39). This requirement for a second was adopted in 1874, was rescinded two years later, but was again adopted in 1880. The object of it was to prevent consumption of the time of the House by forcing consideration of undesirable propositions (V, 6797). The requirement (formerly clause 2) was amended in the 96th Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16) so that a second was not required where printed copies of the proposed measure were available. Copies of reports on bills considered under suspension are not required to be available in advance. The Constitutional right of a Member to demand the yeas and nays, or the right of a Member under clause 5(a) of rule I to demand a recorded vote, did not exist on the question of ordering a second under the former clause 2, which only permitted the ordering of a second by tellers if a quorum was present (V, 6032-6036; VIII, 3109; Dec. 16, 1981, p. 31851). The fact that a majority of the Members of the House did not pass between the tellers on the question of ordering a second did not conclusively show that a quorum was not present in the Chamber, and the Speaker could count the House to determine whether a quorum was actually present (Dec. 16, 1981, p. 31851). But where a quorum failed on the vote for a second, under clause 4 of rule XV the yeas and nays were ordered (IV, 3053-3055; Dec.

21, 1973, pp. 43251–63). Where the Chair allocates the time in opposition to the motion to the ranking minority member of the reporting committee, a challenge that that member does not qualify by being opposed, in order to control such time, must be made when the time is allocated by the Chair (May 15, 1984, p. 12215; Speaker Wright, June 2, 1987, p. 14223). The motion to suspend the rules may be withdrawn at any time before the Chair puts the question and a voice vote is taken thereon (July 27, 1981, p. 17563; July 16, 1996, p. —).

2. When a motion to suspend the rules has been submitted to the House, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

§ 907. The forty minutes of debate on motion to suspend the rules.

Formerly clause 3, this provision was amended and redesignated in the 102d Congress to conform to the repeal of the former clause 2, relating to the requirement of a second (H. Res. 5, Jan. 3, 1991, p. 39). Before the adoption of this clause in 1880 (V, 6821) the motion to suspend the rules was not debatable (V, 5405, 6820). The 40 minutes of debate is divided between the mover and a Member opposed to the bill, unless it develops that the mover is opposed to the bill, in which event some Member in favor is recognized for debate (VIII, 3416). Where recognition for the 20 minutes in opposition is contested, the Speaker will accord priority first on the basis of true opposition, then on the basis of committee membership, and only then on the basis of party affiliation, the latter preference inuring to the minority party (VIII, 3415; Nov. 18, 1991, p. 32510; Sept. 27, 1996, p. —). When the mover and the opponent divide their time with others, the practice as to alternation of recognitions is not insisted on so rigidly as in other debate (II, 1442). Debate should be confined to the object of the motion and may not range to the merits of a bill not scheduled for suspension on that day (Nov. 23, 1991, p. 34189).

This clause formerly included a paragraph (b) dealing with the Speaker's authority to postpone further proceedings on motions to suspend the rules and pass bills or resolutions. Paragraph (b) was added in the 93d Congress (H. Res. 998, Apr. 9, 1974, pp. 10195–99), amended in the 95th Congress (H. Res. 5, Jan. 4, 1977, pp. 53–70), and amended further in the 96th

Congress (H. Res. 5, Jan. 15, 1979, pp. 7-16). The paragraph was deleted entirely in the 97th Congress (H. Res. 5, Jan. 5, 1981, pp. 98-113) when all of the Speaker's postponing authorities were consolidated into clause 5 of rule I.

The last provision of this clause allows 40 minutes of debate when the previous question is ordered on a proposition on which there has been no debate (V, 6821; Mar. 22, 1990, p. 4996). However, any previous debate on the merits of the main proposition precludes the 40 minutes (V, 5499-5502). The demand for 40 minutes of debate: must come before the vote is taken on the main question (V, 5496); is not available when the question on which the previous question is ordered is otherwise nondebatable, such as the motion to close debate (VIII, 2555, 2690); is not available on an undebated amendment where the motion for the previous question covers both the amendment and the original proposition, which has been debated (V, 5504); and is not available on incidental motions (V, 5497-5498), on propositions previously debated in Committee of the Whole (V, 5505), on conference reports accompanying measures that were debated before being sent to conference (V, 5506-5507), or on ancillary measures, such as a concurrent resolution to correct an enrolled bill (V, 5508). Debate allowed under this provision is equally divided and controlled between the person demanding the time and a Member representing the opposition (Sept. 13, 1965, pp. 23602-06; May 8, 1985, p. 11073). Priority in recognition for time in opposition is accorded to a Member truly opposed (VIII, 2689).

3. A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing a special rule for the consideration of a public bill or resolution reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: *Pro-*

§ 908. Motion to discharge a committee.

vided, That a Member may not file a motion to discharge the Committee on Rules from consideration of a resolution providing for the consideration of more than one public bill or resolution, or admitting or effecting a nongermane amendment to a public bill or resolution: *Provided further*, That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal. Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record. The Clerk shall cause the names of the Members who have signed a discharge motion during any week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of that week. The Clerk shall make available each day for public inspection in an appropriate office of the House cumulative lists of such names. The Clerk shall devise a means by which to make such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and

referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately consider such resolution, the Speaker not entertaining any dilatory motion except one motion to adjourn, and, if such resolution is adopted, the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consid-

eration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: *Provided*, That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: *Provided further*, That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Dis-

charge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

This clause was adopted December 8, 1931 and amended January 3, 1935 (VII, 1007). It displaced a rule providing for a motion to instruct a committee to report a public bill or resolution. The first discharge rule was adopted June 17, 1910, pp. 8439, 8445. It was amended during the 62d Congress (Apr. 4–5, 1911, pp. 18, 80). It was further amended in the 62d Congress (H. Res. 407, Feb. 3, 1912, p. 1685), the 68th Congress (H. Res. 146, Jan. 18, 1924, p. 1143), and the 69th Congress (H. Res. 6, Dec. 7, 1925, p. 383). Formerly clause 4, this provision was redesignated in the 102d Congress to conform to the repeal of the former clause 2, relating to the requirement of a second; it was at the same time amended to enable debate on a resolution discharged from the Committee on Rules (H. Res. 5, Jan. 3, 1991, p. 39). Under the previous form of the rule, where the Committee on Rules was discharged from further consideration of a resolution the House immediately voted on adoption of the resolution (Speaker Rayburn, Jan. 24, 1944, pp. 631–32).

In the 103d Congress, after a successful petition under this clause placed on the calendar a motion to discharge the Committee on Rules from further consideration of a resolution to require publication of the names of Members who had signed pending discharge petitions, the clause was so amended (H. Res. 134, Sept. 28, 1993, p. —). In the 104th Congress the clause was amended to ensure the periodic publication of such names (sec. 219, H. Res. 6, Jan. 4, 1995, p. —). Before the 103d Congress signatures on a motion to discharge a committee were not made public until the requisite number had signed the motion (VII, 1008; Apr. 12, 1934, p. 6489). In the 105th Congress the clause was amended to clarify that, to be a proper object of a discharge petition, a resolution providing a special rule must address the consideration of only one measure and must not propose to admit or effect a nongermane amendment (H. Res. 5, Jan. 7, 1997, p. —).

The phrase “a majority of the total membership of the House” was construed to mean 218 Members (Speaker Byrns, Apr. 15, 1936, p. 5509). The word “days” has been construed to mean “legislative days” (Speaker

Bankhead, Dec. 10, 1937, p. 1300). The rule does not authorize signature of discharge motions by proxy (VII, 1014).

The rule does not apply to a bill that has been reported by a committee during the interval between the placing of a motion to discharge on the calendar and the day when such motion is called up for action in the House (Apr. 23, 1934, p. 7156). The Committee on Rules may not be discharged from further consideration of a resolution providing for an investigating committee (Apr. 23, 1934, p. 7161).

The death or resignation of a Member who has signed a motion does not invalidate his signature (May 31, 1934, p. 10159). It may be withdrawn by his successor (Dec. 7, 1943, p. 10388; Jan. 17, 1946, p. 96; Mar. 5, 1946, p. 1968; July 30, 1946, pp. 10464, 10491; Mar. 2, 1948, pp. 1993, 2001; Jan. 16, 1950, p. 436). The seven days that the motion must be on the calendar before it may be called up begins to run as of the day the motion is placed on the calendar (Dec. 14, 1937, p. 1517). A discharge petition in the 102d Congress received the requisite number of signatures on the same day it was filed (May 20, 1992, p. —), and subsequently by unanimous consent the House dispensed with the motion to discharge and agreed to consider the object of the petition (a special order of business resolution) on a date certain under the same terms as if discharged by motion (June 4, 1992, p. —). In the 103d Congress a discharge petition also received the requisite number of signatures on the same day it was filed (Feb. 24, 1994, p. —).

The right to close twenty minute debate on a motion to discharge a Committee is reserved to the proponents of the motion (VII, 1010a); and the chairman of the committee being discharged, if opposed to the motion, has been recognized to control the ten minutes in opposition (Aug. 10, 1970, p. 27999).

Where a measure not requiring consideration in the Committee of the Whole House on the State of the Union is brought before the House by a successful motion to discharge, the Member moving its consideration is recognized in the House under the hour rule (Aug. 10, 1970, p. 28004).

The point of order provided in clause 5(a) of rule XXI does not apply to an appropriation in a bill taken away from a committee by the motion to discharge (VII, 1019a).