LEGISLATIVE AND CONGRESSIONAL PRECEDENTS

ADJOURNMENT.

The universal practice is that the motion to adjourn shall not be repeated until "business has been transacted" between the two motions unless all motions were made before a vote was taken. The calling of the roll, the reception of a message from the Senate or the address of a member of the House has been held to be the transaction of business. Business must intervene before a motion can be made after one adjournment has failed.

Business must intervene between motions to adjourn.

A motion to adjourn having been voted down, two other motions were immediately made.

Mr. O'Quinn raised a point of order on the motion to adjourn on the ground that no business had intervened since another motion to adjourn had been lost, and that, therefore, the motion of Mr. Brelsford to adjourn should not be entertained by the Chair.

Sustained. (29th, p. 724.)

Business must intervene between motions to recess.

Mr. Brown of Wharton moved that the House take a recess to 8 p. m. today.

Mr. Love of Williamson raised a point of order on the motion to take a recess, contending that it should not be put, on the ground that no business had been transacted since a similar motion had been rejected by the House.

Sustained. (30th, p. 1163.)

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 of Mr. Jenkins, he yielding 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, p. 1163.)

AMENDMENTS—GENERAL.

Proposed amendments agreed to only by the House.

Hines' Precedents, Vol. 5, Sec. 5756, says, "A proposed amendment may not be accepted by the member in charge of the pending measure, but can only be agreed to by the House."

This is also the practice in the Texas House.

An amendment may be similar to one lost, yet so different that it is in order.

Mr. Morrow offered the following amendment:

"Amend by inserting in line 23, on page 1, after the word 'drawback,' the following words: 'free pass.'"

Mr. Kennedy raised the point of order that the amendment was not in order, for the reason that an amendment similar in purpose had been tabled.

Overruled. (26th, p. 1190.)

Is an amendment covering the same matter embodied in an amendment previously tabled in order?

The House was considering Senate bill No. 11.

Mr. Hogsett offered an amendment to strike out Section 5. This was tabled.

Later on Mr. Hogsett offered the following amendment:

"Amend Senate bill No. 11 by striking out, in line 12, page 3, the words 'or purchase,' and the words 'or sell and convey,' in line 18, and the words 'to own and,' in line 21 of said page 3, and the words 'or purchase,' in line 22 of said page 3 of said act."

Mr. Lane raised the point of order that the amendment by Mr. Hogsett was not in order, for the reason that the same had been embodied in an amendment that was tabled.

Overruled. (27th, p. 220.)

Deficiency Appropriation Bill pending, Mr. Bean offered an amendment striking out all of page 10 to line 12, and further from line 12 to line 21, which was tabled.

Mr. Morrow then offered an amendment striking out lines 9, 10 and 11, page 10.

Mr. Schluter raised the point of order that the amendment was out of order, for the reason that a similar amendment had been offered and tabled.

Overruled. (27th, p. 786.)

Can an amendment be considered when it covers matter previously passed upon?

The House was considering House bill No. 3 in reference to the retirement of certain State bonds. It had voted down an amendment striking out the words, "Shall become due and payable forty years from their date, but the State shall reserve an option of redeeming them at any time after five years from their date" and proposing to insert in lieu thereof the following: "Shall become due and payable twenty years from their date."

Mr. Seabury offered the following amendment to the bill: "Amend by striking out the words 'forty years' and inserting the words 'twenty years' wherever they occur in the bill."

Mr. Boyd raised a point of order on consideration of the amendment, stating that it covers a matter already passed upon in a preceding amendment, and should therefore not be entertained.

Overruled. (28th, called, p. 30.)

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 the 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, p. 151.)

Because the House has adopted an amendment is no reason why it should not consider another one embodying the same matter.

Mr. Love of Williamson offered the following amendment to the bill:

"Amend line 4, page 2, after the word 'equal,' the following: 'Every citizen or taxpayer in the county in which the contract is let, with all things equal, price, quality, work, etc., shall have preference in letting of the contract.'"

Mr. Hamilton raised a point of order on consideration of the amendment on the ground that another amendment embracing the same had been adopted.

Overruled. (30th, p. 301.)

Because an amendment was ruled out of order at a certain stage of the proceedings is no reason why it might not 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 is 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, p. 555.)

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 an employe 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, p. 1193.)

An amendment is not in order if a former amendment containing the same matter has been tabled.

Mr. Bridgers offered an amendment covering the matter contained in an amendment which had just been tabled.

Mr. Stollenwerck raised the point of order that the amendment was out of order, for the reason that it sought to do the same thing that the amendment just tabled sought to do.

The Chair sustained the point of order. (27th, p. 359.)

An amendment to strike out 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 same.

The point of order was sustained. (28th, p. 175.)

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 sustained the point of order. (35th, 1st C. S.)

Not in order to offer an amendment to the caption of a bill until all amendments to the body of the bill have been considered and disposed of.

Mr. Burgess offered an amendment to the bill which amended both the caption and the body.

Mr. Burmeister raised a point of order on consideration of the amendment on the ground that no amendment to the caption of the bill is in order until all amendments to the body of the bill have been considered and disposed of.

Sustained. (34th, p. 407.)

Though an amendment should be voted down, it would be in order on a subsequent reading of the bill.

Mr. Fuller raised a point of order on consideration of an amendment on the ground that the House had already rejected the subject matter of the amendment.

Overruled. (31st, p. 834.)

(Note.—This amendment had been offered at a former reading of the bill.)

A bill being considered after having been vetoed by the Governor cannot be amended. (32nd, p. 732.)

It is not in order to amend a bill repealing a statute so as to re-enact the identical statute. (32nd, p. 736.)

The purposes of an amendment cannot be changed by an amendment. (32nd, p. 967.)

A general bill cannot be changed into a local bill by an amendment. (32nd, p. 1325.)

AMENDMENTS—GERMANE.

The fact that the 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 that the Constitution declares that 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 which relate to the general subject of the original proposition, but which so changes 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 are excluded. 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 legislators, strictly construe the rule, and must use due precaution in the consideration of the germaneness of an amendment.

(Note.—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, so it was decided not to include in this volume the great quantity of precedents which would probably be of no value. The great quantity of these precedents bears witness to the fact that the field for questions of germaneness is practically boundless. A great many of these precedents may be found in the Manual of the Thirty-third Legislature.)

To a bill amending a general law in several particulars an amendment providing for the repeal of the whole law was held to be germane.

Hines' Precedents, Vol. 5, Sec. 5824.

This has been held many times in the Texas Legislature, as has the ruling which naturally follows from it, i. e., a bill providing for the repeal of a whole law may be amended so as to amend the law instead of repealing it.

APPROPRIATIONS.

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 employes filling places created by the biennial appropriation bill." (29th, called, p. 95.)

BILLS—CONGRESSIONAL PRECEDENTS.

The fact that the subject of a pending bill has already been acted on in another form is a matter for the consideration of the House, but does not justify the Speaker in ruling the bill out. (V. 2, 1325.)

A joint resolution is a bill within the meaning of the rules. (V. 4, 3375.)

No bill, petition, memorial or resolution referred to a committee may be brought back into the House on a motion to reconsider.

All bills, petitions, memorials or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

Committees may not change the title or subject of bills committed to them, and must set down on a separate paper the amendments which they recommend.

In the House amendments are offered to any part of a bill after it is read the second time. (V. 4, 3392.)

A new bill may be engrafted by way of amendment on the words "be it enacted," etc. (V. 5, 5781.)

The principle of germaneness relates to a proposition by which it is proposed to modify some pending bill, and not to a portion of the bill itself. (V. 5, 6929.)

An amendment inserting an additional section should be germane to the portion of the bill where it is offered. (V. 5, 5822.)

In voting on the engrossment and third reading and passage of a bill a separate vote on the various propositions of the bill may not be demanded. (V. 5, 6144.)

The question on the engrossment and third reading being decided in the negative, the bill is rejected. (V. 4, 3420.)

A bill having been rejected by the House, a similar but not identical bill on the same subject was afterwards held to be in order. (V. 4, 3384.)

The refusal of the House to consider a bill does not amount to its rejection and does not prevent its being brought before the House again. (V. 5, 4930.)

The fact that a bill has passed the House does not preclude that body from passing another, not identical, bill on the same subject.

It is a common occurrence for one house to ask of the other the return of a bill for the correction of errors. (V. 4, 3460.)

A resolution to recall from the Senate a bill alleged to have passed the House improperly was held to be privileged. (V. 4, 3479.)

A bill which had not in fact passed the House having been sent to the Senate by error, a resolution requesting its return was entertained as a matter of privilege. (V. 4, 3478.)

A motion being made to reconsider the vote on a bill which has gone to the Senate, a motion to ask the recall of the bill is privileged. (V. 5, 5669.)

BILLS—ADVERSE REPORT.

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 object 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, p. 1206.)

Mr. Terrell of McLennan raised the point of order on consideration of the bill, and said:

"I make the point of order that this bill can not be considered at this time for the reason that House bill No. 30, on the same subject, was adversely reported by the Committee on State Affairs, and thereby 'killed.' The Constitution, Article 3, Section 34, provides that when any measure has been defeated by either branch of the Legislature, no other bill embodying the same question shall be considered at that session. House bill No. 30 was killed by this House, acting through its regularly constituted committee; therefore, this Senate bill is out of order and can not now be considered."

Overruled. (30th, p. 414.)

BILLS—ADVERSE ACTION ON IN THE SENATE.

In the Twenty-sixth Legislature (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 of the case. A bill might be similar, even containing, apparently, at least, the same subject matter and yet be so different as not to come within the rules. So this ruling can not be safely considered as a precedent one way or the other. Each case must stand or fall according to the facts. The Joint Rules require each house to notify the other when measures are defeated.

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 overruled the point of order, stating that while the Constitution prohibits the passage by either house of a bill after being officially notified of the defeat by the

other house of a bill containing the same substance, that it did 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 as to make it agreeable to the Senate.)

BILLS—CONSIDERATION OF.

After the House had appointed a committee to notify the Senate and the Governor that its labors had been completed and that it was ready to adjourn, the consideration of a free conference committee report was not in order.

Pending consideration of a conference report, Mr. Maddox raised a point of order on further consideration of the report on the ground that the House has appointed committees to notify the Senate and Governor that its labors had been completed and it was ready to adjourn.

Sustained. (32nd, p. 1401.)

House can not act on a resolution or a bill which has been transmitted to the Senate without recalling the same.

Question then recurring on the motion of Tarver to reconsider the vote by which House Concurrent Resolution No. 20 was adopted, Mr. Cole raised the point of order that the resolution being a concurrent resolution and having been sent to the Senate and having been already adopted by that body, and the House having been duly informed of said action, as is shown by the Journal, it would be a discourtesy to the Senate for the House to entertain a motion to reconsider without first informing the Senate that such a motion is pending in the House, and returning the same to the Senate with request that action thereon be reconsidered and the resolution returned to the House.

Sustained. (26th, p. 365.)

Bill relating to the assessment of property held not to violate the constitutional provision requiring revenue bills to originate in the House.

Senate bill No. 4, being what is known as the "full rendition bill," was before the House.

Mr. Lively raised a point of order on consideration of the bill on the ground that it is a revenue-raising bill, and that it should have originated in the House.

Overruled. (30th, called, p. 150.)

Relating to rule which requires that Senate bills be passed

to a third reading seventy-two hours before the final adjournment of the session.

The House was considering a Senate bill on its second reading. The Speaker directed the Clerk to call the roll on the passage of the bill to a third reading.

A point of order was raised before the Speaker announced the vote on further consideration of the bill and the announcement by the Speaker of the vote, on the ground that under the rules if a Senate bill is not passed to a third reading seventy-two hours before the final adjournment of the session that it could not be so passed, and that during the roll call the seventy-two hour limit had been passed and that the bill was dead.

The Speaker declined to rule on the point of order and submitted it to the House. The House overruled the point of order. (37th Reg.)

BILLS—GENERAL.

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. (26th, p. 942.)

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 the towns and counties whose railroad connections are affected by the Huntington wharves.

Overruled. (26th, p. 942.)

Bills 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. McDowell raised the point of order that the bill was

not a local bill and that it was not in order to consider same today.

Sustained. (26th, p. 1157.)

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, p. 844.)

Bill relating to Confederate Home at Austin is a general bill.

Bill relating to the government of the Confederate Home located at Austin was read on local bill day, whereupon Mr. Seabury raised the point of order that the bill was not a local bill.

The point of order was sustained, and the bill went back to the Speaker's table. (27th, p. 1032.)

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, p. 1162.)

An act to amend the general game (fish) law is not a local bill.

Pending House bill No. 100, to amend the general laws of the State of Texas, relating to the fish law, and to exempt certain counties from the provisions of said act.

Mr. Seabury raised the point of order on consideration of the bill, stating that the bill was general in its application, and not local, and that it was not in order to consider it today unless by unanimous consent.

Sustained. (28th, p. 156.)

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, p. 918.)

Mr. Brelsford, rising to a point of order, requested of the Speaker that he lay before the House, as a local bill, on its second reading and passage to engrossment, House bill No. 260, a bill to be entitled "An Act to create the county of Ross out of parts of Eastland, Comanche, Brown, Coleman and Callahan counties."

The Speaker (Mr. Robertson of Bell) held that the bill was not a local bill and could not be taken up except by unanimous consent.

Mr. Brelsford appealed from the ruling the Chair.

The House sustained the ruling of the Chair. (29th, p. 1045.)

Mr. Canales raised a point of order that this is a local bill (1) because it seeks to locate a county seat; (2) because it only affects certain territory, and under Sections 56 and 57 of Article 3 of the Constitution it requires it to be advertised thirty days, and evidence of such fact to be exhibited to the Legislature, which is not done in this case, and therefore the bill is not properly before the House.

The Chair (Mr. O'Bryan) overruled the point of order.

Mr. Robertson of Bell raised a point of order that it is not a local bill, for the reason that it is sought by the Legislature to create a county out of four different counties; it is general in its nature; 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, p. 492.)

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

Pending, on local bill day, House bill, the nature of which 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 half of a district court for Dallas county and another half of a district court for Grayson county, and makes changes also in the time of the meeting of the district court in Collin county.

Sustained. (31st, p. 602.)

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, p. 837.)

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

The House was considering a bill of that character on local bill day, when Mr. Cable raised a point of order on further consideration of the bill at this time on the ground that the bill is not a local bill.

Sustained. (31st, p. 911.)

The House may by unanimous consent consider a general bill on local bill day.

The House was considering a general bill.

Mr. Fitzhugh raised a point of order on consideration of the bill on the ground that tonight was set apart under the rules of the House for the consideration of local bills only.

The Chair overruled the point of order, stating that the bill was taken up by unanimous consent of the House. (31st, p. 912.)

Bills relating to judicial districts general.

The House was considering a bill changing certain counties from the Twenty-fourth to the Thirty-sixth Judicial District.

Mr. Reedy raised a point of order on consideration of the bill at this time on the ground that the bill was not a local bill.

Sustained. (31st, p. 917.)

A bill reorganizing one or more judicial districts is not a local bill.

The House was considering a bill reorganizing the Fortieth and Sixty-second Judicial Districts on local bill day,

whereupon Mr. Cox of Rockwall raised the point of order that the bill was not a local bill and could not be considered at this time, and the Speaker sustained the point of order. (32nd, p. 1038.)

A general bill can not by amendment be changed to a local bill.

The House, 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, p. 1153.)

BILLS—PRINTING OF.

It has been the practice to not print local bills in the House on a simple motion if approved by a majority of those voting. This is all right so far as purely local bills are concerned. All motions to not print a general bill should be ruled out of order, because the rule, as will be seen, is plain and imperative.

General bills must be printed.

Mr. Bryant moved that House bill No. 466 be not printed.

Mr. Boner raised a point of order on consideration of the motion to not print the bill, on the ground that it is not a local bill.

The Speaker sustained the point of order. (34th Reg.)

No bill can be considered unless it has been printed and laid upon the desks of the members, unless the House has specifically ordered otherwise.

Mr. Wilmeth raised the point of order that the printed bill had not been laid on the desks of members, and moved that the Sergeant-at-Arms be directed at once to place upon the desks of the members all the printed bills now in his possession.

The motion prevailed, and the Sergeant-at-Arms was directed to comply with the order. (30th, called, p. 40.)

No bill can be considered unless it has been printed and laid on the desks of the members.

Mr. Gilmore raised a point of order on consideration of

the bill at this time, stating that it is not in order, for the reason that the bill had not been printed and laid on the desks of the members, as required under the rules of the House.

The Speaker sustained the point of order, stating that while the calendar shows that the bill had been printed, it had not been laid on the desks of the members. (31st, p. 234.)

A bill must be printed and laid on the desks of the members before it can be considered.

Mr. Vaughan raised a point of order on further consideration of the bill at this time on the ground that it has not been printed and placed on the desks of the members.

The Speaker sustained the point of order. (36th, 2nd C. S.)

A bill which has been reported adversely must be ordered printed, printed and laid upon the desks of the members before it can be considered.

Mr. Bagby moved to suspend the regular order of business to take up and have placed on its second reading Senate bill No. 401.

Mr. Terrell raised a point of order on consideration of the motion to suspend on the ground that the bill has been reported adversely, and a motion to take up the bill is not in order until the bill has been ordered printed, and printed copies laid on the desks of the members.

The Speaker sustained the point of order. (36th Reg.)

BILLS—READING OF.

The first reading of a bill is by caption. At this reading the only thing in order is the reference of the bill to the proper committee.

After the bill has been reported from a committee, it is in order, after taking it up, for the bill to be read in full, this being the second reading of the bill, and no motion to suspend the reading of the bill is in order if any member demands it.

The second reading of a bill is in full, the third reading by title unless some member demands a reading in full, but this reading may be dispensed with if so ordered by a majority vote of the House. This practice was written into a rule by the Thirty-eighth Legislature.

No bill can be read more than once on the same day unless it contains the emergency clause.

Mr. Gaines raised a point of order on further consideration of House bill No. 58 at this time, stating that it is not in order to place the bill on its third reading today, for the reason that the bill does not declare an emergency.

Sustained. (31st, p. 328.)

BILLS—RECALLING FROM GOVERNOR.

The practice of recalling bills from the Governor for the purpose of amending or correcting has grown to be an established rule of the Legislature. When it is necessary to recall a bill from the Governor, the house in which the bill originates should pass a resolution something like this:

"Resolved by the....., the.....concurring, That the Governor be and is hereby requested to return to the ....., ...B. No....for further consideration."

This resolution having been adopted by both houses and properly signed by both presiding officers should be officially communicated to the Governor, whereupon the Governor should return the bill by message to the house in which it originated.

When the bill has been returned to the house in which it originated the following concurrent resolution should be adopted:

"Resolved by the....., the.....concurring, That the action of the Speaker and the President of the Senate in signing.....B. No..... be rescinded and that the Speaker of the House and the President of the Senate erase their names from the enrolled bill."

The Senate having agreed to this resolution, the Speaker will cancel his signature and the bill will then be sent to the Senate, where the President will also cancel his signature.

This will leave the question back to the last action had before the bill was enrolled. If the bill is to be considered further, then every step must be retraced in regular order until the bill is again in a stage which permits the desired action.

If a bill is to be recalled to correct an error in the enrollment, a concurrent resolution authorizing the correction of the error will be in order rather than following the procedure indicated above.

BILLS—RECALLING FROM THE SENATE.

If a motion to reconsider the vote by which a bill was finally passed by the House prevails or is pending, it is in order to recall a bill sent to the Senate. But the motion can not be made except on the day the final vote was taken or on the next day before the order of the day is taken up.

Held that a bill must be recalled from the Senate before a motion to reconsider it is considered.

Mr. Tidwell moved to reconsider the vote by which the House finally passed Senate bill No. 103.

Mr. Bledsoe raised the point of order on further consideration of the motion to reconsider on the ground that the bill should be recalled from the Senate before the House considers a motion to reconsider.

The Speaker sustained the point of order. (36th Reg.)

BILLS—RECOMMITTING OF.

Not in order to recommit a bill reported adversely with no minority report.

Mr. Barker moved to reconsider the vote by which the House on last Friday refused to recommit House bill No. 155, the bill having been reported adversely by the Committee on State Affairs.

Mr. Owen raised a point of order on the motion to reconsider on the ground that under the rules of the House it is not in order to recommit a bill which has been reported adversely by a committee, unless the passage of the bill has been recommended by a minority of the committee.

The Speaker sustained the point of order. (37th Reg.)

BILLS—RESCINDING VOTE DEFEATING THEM.

Held out of order resolution to rescind vote by which enacting clause was stricken out.

Mr. Robertson of Travis offered the following resolution:

Be it resolved, That the action of the House taken on January 24, 1911, in adopting the amendment by striking out the enacting clause of House bill No. 41, relating to the fixing of salaries of judges of the courts of this State, be and the same is hereby rescinded.

The Speaker (Mr. Rayburn) held the resolution to be out of order, from which ruling Mr. Robertson of Travis appealed.

The Chair was sustained by a vote of 81 to 19. (32nd, p. 1075.)

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.

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 can not 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, gave the following reasons:

Rule 14, 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 12, 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 3, 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 that 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 provisions of Section 34 of Article 3 of the Constitution would be meaningless.

For the above reasons, the Speaker sustains the point of order. (33rd, p. 891.)

BILLS—SUBSTITUTES.

Held that a substitute for a whole bill could not be offered.

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.

The Speaker sustained the point of order. (34th Reg.)

(The proper way to substitute a new bill is 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.)

BILLS—VETOED.

Section 14, Article 4, of the Constitution says:

"Every bill which shall have passed both houses of the Legislature shall be presented to the Governor for his approval. If he approve, he shall sign it, but if he disapprove it, he shall return it, with his objection, to the house in which it originated, which house shall enter the objection at large upon its Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the Journal of each house, respectively."

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 the 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 overruled the point of order and announced that the bill had passed. (30th, p. 1529.)

Cannot 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, p. 732.)

Held that the substance of a bill which failed to pass over the Governor's veto can not be offered as an amendment to a subsequent bill.

The House having under consideration an act to adopt and establish the Revised Civil Statutes, Mr. Nickels and Mr. Kennedy offered an amendment which was in fact the seven o'clock closing law, which had been vetoed by the Governor and the Governor had been sustained.

Mr. Buchanan raised a point of order on consideration of the amendment on the ground that it is not germane to the purpose of the bill, and that the subject matter of the amendment had already been voted down during this session of the Legislature.

Sustained. (32nd, p. 1287.)

CALENDAR OF THE DAY.

On suspension days the regular order of business may, by a majority vote, be suspended and any bill or measure taken up that may be desired. However, the practice has been that the Speaker recognize only those whom he wishes to recognize on suspension days; therefore, after pending business has been disposed of, only such bills may be brought before the House as the Speaker desires. It is entirely within his

discretion to refuse to recognize any one for any purpose except to call up such bills as he may desire called up. Formerly the practice was to recognize members indiscriminately at the pleasure of the Speaker, but the later practice is not to recognize a member but one time to take a bill up out of its regular order until all the other members have had an opportunity to have the regular order suspended, and this custom has been made a fixed rule. On Senate bill days only Senate bills can be considered without the consent of the Senate. Special orders can be made on any day except Senate bill days, providing only one special order can be pending at the same time. Special orders must be made by an affirmative vote of two-thirds of the members present.

A bill is not considered on the calendar until it has been reported from a committee, printed and distributed unless the House has ordered it not printed; then it goes on as soon as it has been reported from a committee.

Except on suspension days, bills must be considered in their numerical order if reported from a committee, printed and distributed. Bills on their third reading take precedence. A Senate bill may be taken up on suspension days subject to the limitations prescribed by the rules on either its second or third reading, or it may be made as a special order.

COMMITTEES—CONFERENCE.

Power of a conference committee with reference to incorporating new matter in its report.

Conference committee's report on House bill No. 7 was under consideration. Mr. Cope raised a point of order on consideration of report, on the ground that the report includes provisions not within the disagreements of the two houses on the bill.

Overruled. (34th, p. 1215.)

Case similar to the one above.

Q. Shall the conference report on Senate bill No. 140 be adopted?

Mr. Pedigo raised a point of order on consideration of the report on the ground that the committee has exceeded its authority by recommending the adoption of subject matter in the bill not in disagreement between the two houses.

The Speaker overruled the point of order. (36th, 2nd C. S.)

In order to instruct House conferees.

Mr. Tillotson moved that the House instruct the House conferees on House bill No. 116 to adhere to the provisions of the original bill.

Mr. Haney raised a point of order on consideration of the motion on the ground that the House had already authorized the appointment of a conference committee to be free of instructions.

Overruled. (34th, p. 1081.)

COMMITTEES—POWERS OF.

So far as legislation is concerned, committees of the House have very little power, for the reason that their reports are advisory only, and, aside from the fact that a favorable report secures the printing of a bill, which places it on the calendar, it has but very little value. However, if a bill is reported adversely and no minority report is filed, the bill is dead.

COMMITTEES—REPORTS OF.

Adverse report of a committee does not kill a resolution.

A resolution providing that some one should be employed to transport the mail to and from the House had been reported adversely by the Committee on Contingent Expenses, to which it had been referred.

Mr. Hodges raised the point of order, and stated that inasmuch as the committee report was adverse, it had the effect of killing the resolution, and that there was nothing before the House.

Overruled. (28th, p. 147.)

Committee reports are purely advisory.

Senate bill No. 4 pending on adverse report, Mr. Terrell of McLennan raised a further point of order on consideration of the bill on the ground that it is not properly before the House, since it has been reported adversely by the Committee on Revenue and Taxation, and that House bill No. 1, on the same subject, was reported favorably and should be considered.

Sustained. (30th, called, p. 150.)

Bill can not be considered when not reported from a committee.

The Speaker laid before the House and it was read the second time a Senate bill, when Mr. Hill raised a point of

order on the consideration of the bill at this time on the ground that it had not been reported from a committee of the House.

Sustained. (32nd, p. 1322.)

A bill reported adversely with no minority report can not be considered by the House.

Mr. Wiginton moved to suspend the regular order of business to take up and have placed on its second reading and passage to third reading, Senate bill No. 122.

Mr. Williams of McLennan raised a point of order on consideration of the bill by the House, on the ground that the bill had been reported adversely by the committee, and that no minority report was filed.

The Speaker sustained the point of order. (36th, 2nd C. S.)

COMMITTEES—IN VACATION.

It often becomes necessary for the Legislature to appoint a committee to do some special work which of necessity must be done in vacation—that is, after the session has adjourned sine die. The opponents of these committees invariably take the position that they are not authorized, and that the Legislature has no power or right to create a committee to sit between sessions of the Legislature. They base their contentions upon Section 18, Article 3, of the State Constitution, which provides that no member of either house shall, during the time for which he is elected, be eligible to any office or place of appointment which may be made in whole or in part by the Legislature.

The precedents began with the Twenty-sixth Legislature.

In the House there was pending a resolution providing for the appointment of a joint committee to sit during recess and investigate the affairs of the State, for which members were to be paid.

Mr. Dorroh raised the point of order that the House has no authority to make the appointment of this committee for the reason that Section 18, Article 3, of the Constitution, reads in part as follows: "No member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment of which may be made, in whole or in part, by either branch of the Legislature."

The Speaker held the point of order not well taken, and stated that precedent and long established custom would sus-

tain the House in adopting such resolution if it chose to do so. (26th, p. 1062.)

PRECEDENTS.

In 1879 the Legislature authorized the appointment of a committee of two members from the House and one member from the Senate, to be appointed by the Speaker and the President of the Senate, to continue the investigation of land forgeries.

In 1891 a committee of three on the part of the House and two on the part of the Senate were appointed by the Speaker of the House and the President of the Senate to investigate the receivership of the International & Great Northern Railroad.

In 1901 a joint committee appointed by the presiding officers of the two houses was appointed to investigate the affairs of the State generally.

In 1909 a joint committee appointed by the Speaker and Lieutenant Governor was appointed to investigate the penitentiary.

Each one of the foregoing committees sat in vacation and each member of the committee received for his service $5 per day for the time he was engaged in the work and all necessary expenses.

The Attorney General ruled that the Legislature had authority to provide that a committee should be composed of members of the House and Senate to act after final adjournment of the Legislature; Speaker of the House and Lieutenant Governor may make appointments during session of the Legislature.

AUSTIN, TEXAS, March 15, 1909.

Hon. Thomas M. Campbell, Governor of Texas, Capitol.

DEAR SIR: Senate bill No. 159, providing for the appointment of four members of the Senate and five members of the House as a committee on investigation of the penitentiaries, etc., has had my consideration. This act presents the following questions:

1. Did the Legislature have the authority to provide that this committee should be composed of members of the Senate and the House of Representatives, respectively, to act after the final adjournment of the Legislature?

2. Can such members be compensated by the Legislature

as members of said committee while they are members of their respective houses?

3. Has such committee authority to make such investigation after the adjournment of the Legislature and make their report to the Governor?

4. Can the Lieutenant Governor and the Speaker of the House of Representatives make the appointments required by the act during the present session of the Legislature?

The act provides for the appointment of four members of the Senate by the Lieutenant Governor and five members of the House by the Speaker, who shall constitute a committee on investigation to visit the penitentiaries at Huntsville and Rusk, respectively, and such other places as in their judgment may be necessary to the end that a thorough investigation of the penitentiary system may be made, and providing that said committee shall sit in vacation, and makes an appropriation therefor, etc.

I answer each of the above questions in the affirmative.

CASES CITED.

My opinion is that the act is constitutional and that the committee can be appointed and can lawfully exercise the powers and discharge the duties prescribed by said act, though the Legislature may have been finally adjourned.

Yours respectfully,
(Signed) R. V. DAVIDSON,
Attorney General.

COMMITTEE OF THE WHOLE HOUSE.

A bill having been considered in the Committee of the Whole House in part, it would not be in order to resume consideration in the House until the final report of the Committee of the Whole House had been made.

Mr. Decker offered the following substitute for the pending amendments:

"That House bill No. 111 be adopted down to line 28, page 32; provided the appropriation for State University may be amended or added to."

Mr. Bailey raised the point of order that the bill is not properly before the House, for the reason that it was considered in part by a Committee of the Whole House, and then taken up in the House without said Committee of the Whole having made a final report to the House.

Mr. Bailey then moved that the House adopt so much of the bill as was considered in Committee of the Whole, together with such amendments as were adopted by the committee. (29th, p. 1009.)

(Note.—While the record does not disclose the ruling of the Chair, the presumption is that the point was well taken.)

Held that a resolution carrying an appropriation could be considered without referring it to the Committee of the Whole.

Pending resolution carried an appropriation.

Mr. Kennedy raised a point of order on consideration of the resolution, stating that, as the resolution proposed an appropriation, it should be considered in a Committee of the Whole House.

Overruled. (30th, p. 40.)

Held not necessary for bill carrying an appropriation to be considered in the Committee of the Whole House.

Bill carrying an appropriation pending in the House without having been referred to the Committee of the Whole.

Mr. Kennedy raised a point of order on further consideration of the bill on the ground that the bill carries an appropriation, and that it should be considered in a Committee of the Whole House before being finally passed.

Overruled. (30th, called, p. 313.)

DECORUM AND DEBATE.

It is a general parliamentary rule that there must be something before the House before a member may proceed in debate, and this something must be a definite motion and may be required to be in writing. A withdrawal of the motion prohibits further debate on the motion. But sometimes, when a report or a message from the Governor, for instance, has been before the House, it has been debated upon before any specific motion was made in relation thereto. Before debate begins, the motion must be stated by the Speaker or read by the Clerk.

A member who desires to speak should address the Chair, and, having obtained recognition, may proceed if he does so in an orderly and parliamentary way—i. e., avoiding personalities—until he consumes his time, which, under the rules, is ten minutes, which may be extended by motion to twenty minutes, and after that he can speak only by unanimous consent, unless he is the mover of a proposition

or has the bill or measure under consideration in charge. Then, on motions to table or under the previous question, he has twenty minutes in which to close the discussion. The time limit of ten minutes does not apply to appropriations. According to the rules, a member may speak fifteen minutes only on appropriations. A member having the floor may not be taken off by an ordinary motion, even by the higher privileged one to adjourn, but he may be interrupted by messages from the Senate or from the Governor, this being the custom rather than the written rule. A member may yield the floor for a motion to adjourn or resume his seat while a paper is being read in his time without losing the right to the floor. If a member yields the floor to another to offer an amendment, he loses his right. A member desiring to interrupt another in debate must secure recognition from the Chair for permission to ask the member speaking if he will yield. The latter may exercise his own discretion as to whether or not he will yield.

The rule which should be adhered to is that when speaking a member must confine himself to the subject under debate. In discussing an amendment, the debate must be confined to the amendment and not include the general merits of the bill.

In recognition for general debate, the Speaker should alternate between those favoring and those opposing.

It is entirely proper, when a member seeks recognition, for the Speaker to ask, "For what purpose does the gentleman rise?" And, as we have seen, the Speaker may, or may not, recognize a member, from which there is no appeal. That there should be no appeal on questions of recognition is a wise and beneficent rule. Were it otherwise, endless confusion would often exist, and instead of a deliberative assembly we would have a mass meeting uncontrollable.

It may be added that no member is entitled to the floor unless he adheres to the rules. If he indulges in accusations against the integrity of his fellow members, he may be taken off the floor and reprimanded. If he persists he will be in disorder.

When a motion is made to table a proposition, the mover of the proposition or the member reporting it from a committee has the right to close the debate.

Mr. Fuller being recognized to speak to the motion to table, Mr. Ray raised a point of order that the motion to table is not debatable.

The Chair overruled the point of order, stating that the mover of the proposition has the right to close the debate. (31st, p. 826.)

While under the previous question, the mover has the right to close the debate, he can not speak after the vote has been taken and when the Chair is about to announce the vote.

The House was considering an amendment to the rules. The previous question had been ordered. After the vote had been taken, but before the same had been announced, Mr. Seabury, chairman of the Committee on Rules, arose to address the House.

Mr. Wells of Grayson raised the point of order that, for the reason that the previous question had been moved and seconded, and that the House had voted, and the Chair being in the act of announcing the result, further discussion was out of order, even by the mover of the proposition.

The Chair sustained the point of order, and stated that the gentleman from Starr would have had the right to address the House under the previous question if he had sought recognition at the proper time, but since the House had come to a vote on the question and the result was about to be announced, the Chair would only permit further discussion by unanimous consent. (27th, p. 239.)

DILATORY MOTIONS.

A motion to adjourn held not to be dilatory.

Pending a motion to adjourn, Mr. Satterwhite raised the point of order that the motion to adjourn is purely dilatory and for the purpose of obstructing proceedings, and should not be entertained.

Overruled. (27th, p. 1223.)

Yeas and nays—Demand for, a constitutional right and not dilatory.

Constitution, Article 3, Section 12: Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

Rule 9, Section 6: The yeas and nays of the members of the House on any question shall, at the desire of any three members present, be called and entered on the Journal.

Yeas and nays having been demanded on a pending motion, Mr. Mays raised a point of order on the demand for the yeas and nays on the ground that the yeas and nays are being continually demanded by certain members for the purpose of obstructing the proceedings of the House, and that the Chair should not entertain the demand.

The Chair (Mr. Harris) overruled the point of order. (29th, p. 1345.)

EXPENSE—CONTINGENT.

A motion to purchase a portrait of a Texas pioneer and pay for it out of the contingent expense fund held in order.

A resolution to purchase a portrait of General Ed Burleson and pay for it out of the contingent expense fund of the House was offered.

Mr. Murray of Wilson raised a point of order on consideration of the resolution, stating that the resolution proposes to appropriate money out of the contingent fund for a purpose that can not be construed as contingent expenses, and that said appropriation can not be made except by bill, without doing violence to the Constitution and the Rules of the House, which provide that (see Rule XXI, Section 1) "no appropriation of money shall be made except by bill."

Overruled. (29th, p. 451.)

EMPLOYES.

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

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 typewriters for the use of the House, the proposition to provide for such service on Jannary 21st was entirely different from the proposition coming at this time. (27th, p. 323.)

ENACTING CLAUSE.

Motion to strike out the enacting clause takes precedence of all other amendments.

Mr. Bridgers offered as an amendment to a pending bill a motion striking out the enacting clause.

Mr. Napier raised the point of order that the amendment by Mr. Bridgers should not be put to a vote until the friends of the bill shall have time to perfect it.

Overruled. (27th, p. 110.)

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

Mr. Bolin raised a point of order on further consideration of the 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 contains the enacting clause, and that the omission is clearly a mistake of the printer. (28th, p. 786.)

Held that an original bill must have an enacting clause.

The House was considering House bill No. 302 on its second reading. A point of order was raised on further consideration of the bill on the ground that the bill contained no enacting clause. Upon examination the Speaker found that there was no enacting clause in the bill and so informed the House. But inasmuch as the rule of the House which provides that a bill must have an enacting clause was based on an article in the Constitution which had been construed in various ways and since the Chair had refused to rule on constitutional questions, he left the point of order up to the House. The House sustained the point of order. (37th Reg.)

JUDGES—DISTRICT.

Leave of absence granted district judges within the power of the House.

A resolution granting a district judge permission to leave the State pending, Mr. Jenkins raised a point of order on consideration of the resolution, stating that it is entirely unnecessary and superfluous, for the reason that there is neither any constitutional or statutory law that makes it necessary that the Legislature grant a district judge leave to absent himself from the State.

The Speaker overruled the point of order and said: "The

contention of the gentleman from Brown that such a resolution is futile and unnecessary may be correct, but that question is one to be passed on by the House and not by the Chair." (30th, p. 455.)

Mr. Gafford raised a point of order on consideration of the resolution on the ground that there is no law requiring that a district judge obtain permission of the Legislature in order that he may absent himself from the State.

The Speaker overruled the point of order, and stated that it is within the power of the House to pass such a resolution should it desire to do so. (30th, p. 668.)

ORDERS OF THE HOUSE.

The House can instruct a committee at any time.

Mr. Cobbs offered a resolution instructing a committee to "at once report on the bill."

Mr. Love of Dallas raised a point of order on consideration of the amended resolution on the ground that the House had this day granted the Committee on Revenue and Taxation ten days' further time for consideration of all bills before it, and that the House could not, immediately following said action, direct the committee to report a bill at once.

The Speaker overruled the point of order, holding that the adoption of the resolution would simply be an order of the House. (29th, p. 486.)

The House can instruct a committee.

Mr. Fitzhugh offered a resolution ordering a bill still in a committee unreported, printed and set down for a hearing at 2:30 p. m. next Friday.

Mr. Williams raised a point of order on consideration of the resolution on the ground (1) that it would have the effect to change the rules of the House and that it should go to the Committee on Rules, and, furthermore, (2) that it seeks to establish a special order before another special order of the calendar is finally disposed of.

The Speaker sustained the point of order (2) in so far as it relates to a conflict with another special order not disposed of, but held that the House could instruct a committee and that part of the resolution is in order. (29th, p. 486.)

PERSONAL INTEREST.

Mr. Middlebrook raised a point of order on further consideration of the bill (anti-pass bill), stating that, as a

majority of the members were personally interested in the subject matter of the bill, they are disqualified under Section 22, Article 3, of the Constitution of Texas, from voting on the bill, and that a quorum could not be secured to vote on its passage.

Overruled. (28th, p. 786.)

(Note.—The Speaker evidently believed that the "question of personal interest" was one for each member to decide for himself.)

PREVIOUS QUESTION.

By consent or by agreement, an amendment may be offered after the previous question has been ordered.

To an amendment, Mr. Wheless raised the point of order that the amendment was not in order, for the reason that it had been withdrawn, and that it was in order to offer it after the previous question had been moved and ordered.

The Speaker overruled the point of order and stated that the amendment had been offered as a substitute for the amendment by Mr. Powell, and held out of order at that time as not being germane to the amendment, but that it would be entertained later.

In the meantime the previous question had been moved and ordered, but with the understanding by the mover that the amendment by Mr. Shannon was before the House. (26th, p. 1018.)

Previous question must be confined to motions actually before the House.

Mr. Smith moved the previous question on engrossment of the bill and asked unanimous consent of the House to include in this motion for the previous question all the amendments which the members may choose to send up at this time.

Mr. Hodges objected and raised the point of order that such a motion for the previous question could not be entertained.

Sustained. (28th, p. 792.)

Can not adjourn under the previous question.

The previous question having been ordered, a motion to adjourn was made.

Mr. Rice raised a point of order on the motion that same is not in order until the vote on which the main question is ordered is concluded.

The Chair (Mr. Glenn) sustained the point of order. (29th, called, p. 68.)

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 rescinding the order or completing the consideration of the bill.

During the consideration of the appropriation bill the House had ordered that it be considered by departments, and while the House was considering public health and vital statistics 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 rescinded.

Sustained. (29th, called, p. 121.)

The fact that there has not been a free and full discussion of a matter does not prevent the asking of the previous question.

Mr. Kennedy raised a point of order on the motion for the previous question, stating that inasmuch as the rules provided that full and free discussion should be allowed on all questions, and that, as this resolution had just been offered and had not received consideration in the House, the Chair should not entertain the motion for the previous question.

Overruled. (30th, p. 104.)

No motion is in order while the House is operating under the previous question except a motion for the reconsideration of the vote by which the previous question was ordered.

Mr. Wilmeth moved to reconsider the vote by which an amendment was adopted under the previous question.

Mr. Canales raised a point of order on consideration of the motion to reconsider on the ground that the House is now acting under the previous question, and that no motion is in order until the main question is disposed of.

Sustained. (30th, p. 317.)

RECESS.

A recess can not be had when a quorum is not present.

Mr. Brelsford moved that the House take a recess to 10 o'clock a. m. next Monday, upon which motion yeas and nays were demanded.

While the Clerk was proceeding with the roll call Mr. Hendricks raised a point of order on consideration of the motion, stating that the last roll call having developed the want of a quorum, a motion for a recess is not in order, but that it is in order to entertain a motion to adjourn.

Sustained. (28th, called, p. 92.)

The House having recessed does not displace the business of the day; nor does it require the consideration of postponed or special orders set for the calendar day to which the House recessed.

Mr. Gilmore raised a point of order on further consideration of the bill at this time, for the reason that the House should take up House Joint Resolution No. 10, the same having been postponed on last Friday until Tuesday, March 2, at 2 o'clock p. m.

The Speaker overruled the point of order, stating that the House having recessed on yesterday until today, the present proceedings are a continuation of Monday's session of the House. (31st, p. 676.)

RECONSIDERATION.

When any motion has been carried or lost, any member who voted with the prevailing side may on that day or the next sitting day before the order of the day is taken up move to reconsider the vote by which the proposition was carried or lost. If the motion is not disposed of when made it is spread upon the Journal, but can not be called up after that legislative day without one day's notice having been given. However, all motions to reconsider during the last three days of the session must be disposed of when made. A motion to reconsider can not be withdrawn, but may be called up by any member. If a motion to reconsider is not disposed of when made upon an amendment or other incidental matters it is regarded as determined and lost upon the final vote upon the main question.

The motion can not be entertained during the absence of a quorum when the vote proposed to be reconsidered requires a quorum, but on votes incidental to a call of the House it may be entertained, although a quorum is not present.

The mover of a proposition is entitled to first recognition to reconsider. The practice is that where a bill is passed the person having the bill in charge makes the motion to reconsider and to lay the motion on the table, or if the bill

is defeated, its leading opponent makes a similar motion. The effect of these motions is to prevent further discussion or delay on motions to reconsider. Sometimes, especially where a two-thirds vote is necessary to carry the proposition, some member who favors the measure votes in the negative that he may move to reconsider the motion, which is spread upon the Journal, to be called up at a more favorable time. Again, this method is resorted to by persons who are really opposed to bills, but vote for them in order to move to reconsider and await a more favorable opportunity for defeating the proposition. On a yea and nay vote only those who are recorded as voting with the prevailing side are entitled to make the motion to reconsider. In case of a tie vote, a proposition is lost, and therefore only those who voted against the proposition can make the motion to reconsider.

Where it requires a two-thirds vote to carry a proposition, those who voted in the negative, if the proposition fails to receive the necessary two-thirds vote, are the only ones who can make the motion to reconsider. But where there is no roll call any member present and voting may make the motion to reconsider, but a member who was absent or who was paired in favor of the prevailing side and did not vote can not make the motion.

The congressional practice is that the motion to reconsider may be made after the previous question has been ordered, but such is not the case in the House, as our rules prohibit the making of any motion after the previous question has been made, except, of course, a motion to reconsider the ordering of the previous question which can not be made after the previous question has been partially executed. That is, if there are several amendments pending and the previous question is ordered on the amendments and the main proposition and one of the amendments has been voted upon the previous question can not be reconsidered, but the House must proceed under it. It has been held in Congress that after a conference has been agreed to and the managers for the House have been appointed it is too late to move to reconsider the vote whereby the House acted on the amendments in disagreement. While the motion to reconsider can be made at any time, subject only to the limitations herein named, yet it may not be considered while another question is before the House.

A bill may be taken up and considered on final passage

notwithstanding a motion to reconsider has been put on the Journal and not acted upon.

Mr. Henderson of Lamar then raised the point of order that it is not proper to take up a bill and consider it on its third reading and final passage while a motion to reconsider the vote by which it passed the third reading is on the Journal and not disposed of.

Overruled. (26th, p. 755.)

Notice to call up a motion to reconsider must be given as required by the rule.

An effort was made to call up a motion to reconsider.

Mr. Kennedy raised a point of order that notice of intention to call up a motion to reconsider as required by the rules had not been given, and that, therefore, the motion to reconsider can not be called up until proper notice is given.

Sustained. (26th, p. 755.)

The ordering of the main question can be reconsidered.

Mr. Bridgers, by consent, moved to reconsider the vote by which the House had ordered the main question.

Mr. Powell raised the point that it was not in order to entertain a motion to reconsider a vote ordering the main question, and stated that House Rule No. 46 is plain and precludes any motion whatever, and that House Rule No. 55 so shows.

Overruled.

Mr. Lane appealed from the ruling of the Chair, and the House sustained the Chair. (26th, p. 1220.)

The motion to reconsider and table when carried is a final disposition of the matter.

Mr. Maddox raised a point of order on consideration of the resolution on the ground that the House having tabled the motion to reconsider the vote by which the adjournment resolution was adopted, the resolution can not be further considered by the House. The Speaker declined to rule on the point of order, and submitted the question to the House for its decision. The House sustained the point of order. (34th, p. 693.)

Point similar to the one above.

Mr. Tillotson offered a resolution recalling a sine die adjournment that had been passed and sent to the Senate. Mr. Lewelling raised a point of order on the ground that it was not in order for the House to recall a resolution from the

Senate except for the purpose of correcting an error therein.

Overruled. (34th, p. 692.)

Mr. Maddox raised a point of order on consideration of the resolution on the ground that the House having tabled the motion to reconsider the vote by which the adjournment resolution was adopted, the resolution can not be further considered by the House.

The Speaker declined to rule on the point of order, and submitted the question to the House for its decision. The House sustained the point of order.

Case where a point of order on a motion to reconsider came too late.

Mr. Fitzpatrick moved to reconsider the vote by which the resolution (H. J. R. No. 1) failed to pass and to table the motion to reconsider. Motion to table was lost with a yea and nay vote. After result of vote was announced Mr. Bagby raised a point of order on consideration of the motion to reconsider and table, on the ground that Mr. Fitzpatrick did not vote on the prevailing side, and that it was not in order for a member not of the prevailing side to so move.

Overruled, the Speaker stating that the point of order came too late. (35th Reg.)

Member must have voted with the prevailing side or he can not move reconsideration.

Mr. Calvin raised the point of order on the motion made by Mr. Duff, stating that under the rules of the House the motion is not in order, the gentleman from Jefferson having voted with the minority, as shown by the roll call.

Sustained. (28th, p. 407.)

During the last three days of the session all motions to reconsider must be disposed of when made.

Mr. Love called up a motion to reconsider that had been laid on the table subject to call.

Mr. Napier raised the point of order on consideration of a motion to reconsider, stating that under said rule a motion made during the last three days of the session must be disposed of when made.

Sustained.

Mr. Duff spoke to the point of order and appealed from the ruling of the Chair.

The House sustained the ruling of the Chair. (28th, p. 1160.)

The House having fixed the number of clerks, a resolution to appoint five additional clerks is not in effect a reconsideration of the original resolution.

Mr. Witcher offered a resolution reciting that, whereas, the clerks that have been discharged were discharged without any chance whatever to hold their positions and that the resolution was not carried out as passed by the House; and as it is now it casts a reflection upon the ones who were efficient and faithful, therefore, be it resolved, that the Speaker be and he is hereby authorized to appoint five additional clerks to serve this House during this called session.

The resolution was read a second time.

Mr. Moran raised a point of order on consideration of the resolution, stating that it was in the nature of a reconsideration of the vote on the resolution adopted yesterday, relative to committee clerks, and therefore should not be entertained.

Overruled. (28th, called, p. 25.)

The previous question will not apply to a motion to reconsider and table.

A bill was passed under the previous question. The vote by which it passed was reconsidered, and pending the vote after reconsideration a motion was made to adjourn.

Mr. Brelsford raised a point of order on the motion to adjourn, stating that the House acting under the previous question, it is not in order to entertain a motion to adjourn until the previous question is exhausted.

The Chair overruled the point of order, stating that the previous question extended no further than the final passage of the bill, and could not operate on motion subsequently made, as in this case, the motion to reconsider and table, which, furthermore, being undebatable, can not take the previous question under any circumstances. (29th, p. 169.)

When a motion to reconsider is put and carried, the proposition which is reconsidered becomes the pending business.

During the morning call, while the House was under the head of "Routine Motions," the vote by which an amendment was adopted was reconsidered.

Mr. McKenzie raised a point of order on consideration of the pending amendment and substitute therefor on the ground that the order of business before the House is "Routine Motions," and the motion to reconsider being of that nature, and, having been disposed of, it is not in order to

consider the amendment, said consideration being in effect to bring up the whole bill before the House.

Overruled. (30th, called, p. 135.)

The fact that when a Senate bill finally passes the House, after having been amended by the House, and that a motion to reconsider the vote by which the bill finally passed was laid on the table, does not stop the House from receding from its amendments to the bill.

Mr. Brown of Wharton raised a point of order that neither motion is now in order, for the reason that when the bill passed the House the vote by which the bill passed was reconsidered and tabled, and that it is not now in order to take it up again.

Overruled. (30th, called, p. 390.)

To make a motion to reconsider, one must have voted with the prevailing side.

Mr. Johnson, having voted for a motion which was lost, moved for a reconsideration.

Mr. Standifer raised a point of order on consideration of the motion to reconsider on the ground that the gentleman from Galveston (Mr. Johnson) could not make a motion to reconsider, for the reason that he voted with the losing side.

Sustained. (31st, p. 906.)

Not in order under previous question.

A motion to reconsider is not in order when the House is acting under the previous question. (33rd, p. 834.)

It is not in order to amend a motion to reconsider.

Mr. Stamps moved to reconsider the vote by which House concurrent resolution was adopted. Mr. Campbell offered an amendment to the motion to reconsider.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not in order to amend a motion to reconsider.

Sustained. (32nd, p. 153.)

A motion to reconsider must be made within the time prescribed by the Rules.

Mr. Elliott moved to reconsider the vote by which the House, on last Saturday, refused to pass House Joint Resolution No. 5 to engrossment, and asked to have the motion to reconsider spread on the Journal.

Mr. Kennedy raised a point of order on consideration of the motion to reconsider on the ground that the time allowed

under the rules of the House for consideration of the motion had expired.

Sustained. (32nd, pp. 924-5.)

One day's notice must be given before a motion to reconsider which has been spread on the Journal can be called up.

Mr. Burmeister called up the motion to reconsider the vote by which the House on March 6 refused to pass House Joint Resolution No. 15, the motion to reconsider having been duly made on that day to spread on the Journal.

Mr. Bagby raised a point of order on consideration of the motion to reconsider at this time, on the ground that one day's notice had not been given that the motion would be called up, as required by the rules.

Sustained. (34th, p. 1044.)

Mr. Burmeister appealed from the ruling of the Chair. Appeal was seconded. Mr. Rowell called to the chair. Mr. Burmeister then withdrew his appeal, indicating by this action that in his opinion the Speaker's ruling was correct.

RESOLUTIONS.

Because a resolution or bill is similar to any other bill or resolution pending does not prevent its consideration.

Mr. Kennedy offered a resolution that the House take a recess from next Wednesday afternoon until Friday morning at 9:30.

Mr. Childs raised the point that the resolution is not in order, for the reason that a similar resolution is now pending in the House, and this should not be entertained until the other is disposed of.

Overruled. (26th, p. 383.)

House can not by simple resolution rescind its acts in adopting a concurrent resolution.

The House had adopted a Senate resolution to adjourn, and a simple resolution was pending, rescinding said action and asking the Senate to return said concurrent resolution.

Mr. Clements raised a point of order that the resolution being a simple resolution and proposing to rescind the action of the House adopting a concurrent resolution, it is therefore not in order.

Sustained. (27th, p. 990.)

Resolutions can only be considered during the time set apart for their consideration.

The House resumed consideration of the pending question, same being, Shall Senate Concurrent Resolution No. 1 pass?

Mr. Moran raised a point of order on further consideration of the resolution, stating that the time allotted (one-half hour) under the rules for consideration of resolutions had expired.

The point of order was sustained, and the resolution went to the Speaker's table. (28th, called, p. 49.)

Rules may be suspended for the consideration of a resolution.

It being Monday, Mr. Duncan moved to suspend the rules relative to the consideration of resolutions that he might offer a resolution.

Mr. Hamilton raised a point of order on the motion for the reason that the Duncan resolution did not come within the meaning of the rule.

Overruled. (30th, p. 167.)

In order to request the Senate to return a resolution.

Mr. Tillotson offered a resolution requesting the Senate to return to the House the House 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 overruled the point of order. (34th Reg.)

Twenty-minute rule does not apply to resolutions which go over to the next legislative day as unfinished business.

Mr. Sullivan moved to suspend the rule limiting the time for the consideration of resolutions until the resolution was disposed of.

Mr. Watson raised a point of order on consideration of the motion to suspend, on the ground that the resolution being unfinished business is not subject to the rule limiting the time for consideration, and that it should be considered until disposed of.

Sustained. (34th, p. 309.)

A resolution having been read once under a suspension of

the rules, it is within the province of the House to have it read a second time.

Mr. Baskin raised a point of order on consideration of the motion for a second reading of the resolution offered under a suspension of the rules, and stated that it should not be entertained for the reason that the rules had been suspended simply for the purpose of having the resolution read the first time.

The Speaker overruled the point of order, and stated that it was entirely within the province of the House to have the resolution read second time if it so desired. (30th, p. 168.)

A resolution may be withdrawn at the pleasure of the author.

Mr. Cobbs then withdrew the resolution from further consideration of the House.

Mr. Jenkins raised a point of order on the withdrawal of the resolution, stating that the resolution is the property of the House and should not be withdrawn without the consent of the House.

The Speaker overruled the point of order, and on appeal, the House sustained the Chair. (30th, p. 170.)

A resolution expressing thanks for courtesies shown the members of the House is in order regardless of the fact that many members did not participate in the courtesies.

To a resolution expressing thanks to the people of Fort Worth and Gainesville for courtesies shown the membership while on an excursion to said cities, Mr. Bogard raised a point of order on the ground that it carried the presumption that the whole House went on the excursion to Fort Worth, and Gainesville also, when in fact many did not go.

Overruled. (30th, p. 1088.)

A resolution offered by unanimous consent must be read first time.

Mr. Bryan having obtained unanimous consent to offer a resolution and the Clerk was reading the resolution, Mr. McConnell obtained the floor, rising to a point of order, and moved that further reading be suspended. Mr. Carswell moved to lay the motion on the table, whereupon the point of order was made that, the resolution being offered by unanimous consent, the reading should be concluded without interruption, which was sustained, and the Clerk proceeded to read the resolution. (30th, called, p. 261.)

Resolution covering the same matter as one previously voted down is not in order.

A resolution providing for the election of warrant clerk pending, Mr. Gaines raised a point of order on consideration of the resolution for the reason that the House had already voted down a resolution covering the same subject matter.

Sustained. (31st, p. 70.)

Resolution requesting the Attorney General to do certain things in order.

A resolution pending requiring the Attorney General to investigate the books of certain electric companies and report back to the Legislature at his earliest convenience, Mr. McDaniel raised the point of order that the resolution and amendment is out of order for the reason that the resolution seeks to impose a duty upon the Attorney General's Department and should be done by bill duly referred to a committee, and further that it is an act by the Legislature imposed upon the Executive Department.

Overruled. (32nd, p. 139.)

RESOLUTIONS—TIME FOR CONSIDERATION OF.

Instance where it was held that resolutions could not be taken from the Speaker's table except during hour set apart for consideration of resolutions.

March 5, 1901, Mr. Ragland asked to have taken from the Speaker's table and laid before the House for consideration the Phillips resolution inviting Mrs. Carrie Nation of Kansas to address the House. (This resolution was introduced on February 26th, and had gone to the Speaker's table.) Whereupon, Mr. Walker raised the point of order that the time for consideration of resolutions had expired.

Sustained. (27th, p. 586.)

RESOLUTIONS NOT IN ORDER.

A resolution containing an undue reflection on the House not in order.

To a sarcastic resolution criticising in a measure the House for not adjourning on Washington's birthday, Mr. Dean raised a point of order on the ground that it was an undue reflection upon this House and should not be considered.

Sustained. (30th, p. 622.)

Resolution to appoint a committee to secure information as to the benefits to be derived by the people by reason of the defeat of certain legislation held not in order.

Mr. Bryan, by unanimous consent, offered a resolution in the House May 8, 1907: Whereas, in that the House and Senate having refused to take up for consideration the two cent fare bill, and alleging that the defeat of the bill had been urged upon the ground that what the people most desired and needed was a reduction in freight rates for the benefit of the farmers and other toiling citizens, and assumed that these assurances were made in good faith; that the farmers and other citizens of the State were anxiously awaiting information as to the extent of the reduction to be made in view of the failure of the bill, and declaring that the people were entitled to know and the members of the Legislature were entitled to have the people know how much the Legislature saved the people in freight rates by defeating the bill. Said resolution proposed the appointment of a committee by the Speaker to interview the representatives of the various railroads and ascertain from them the amount of reduction to be made in freight rates in view of the defeat of the bill, and to know when said reduced rates would be put into effect, and such other information of like import.

The Chair declared the resolution out of order. (30th, called, p. 261.)

RESOLUTIONS—PRIVILEGED.

A resolution fixing the date of sine die adjournment privileged.

During the consideration of a resolution fixing the date of a sine die adjournment, the time expired for which a special order was postponed (set aside) and the Chair was about to lay the special order before the House, when Mr. Robertson raised the point of order that the resolution to adjourn sine die is a question of the highest privilege, and should take precedence over even a special order, and that the same should now be the question before the House.

Sustained. (29th, p. 689.)

A resolution setting apart days on which the House shall accept the invitation of the Cattle Raisers' Association to be the guests of Fort Worth was held to be a privileged resolution.

Resolution being considered, Mr. Mobley raised a point

of order on consideration of same at this time on the ground that it is not a privileged motion.

Overruled. (31st, p. 1043.)

Held that the resolution providing for the temporary adjournment of the Legislature is privileged.

The House was considering a concurrent resolution by Mr. Kirby providing for the adjournment of the Legislature from February 25 until Monday, April 7, 1913, and Mr. Lewelling made the point of order that it was not a privileged matter.

Overruled. (33rd, p. 681.)

A resolution relating to a special message of the Governor and providing for the return of the message to the Governor with the compliments of the House was held to be a privileged resolution.

Mr. Schluter raised a point of order on further consideration of the resolution at this time on the ground that it is not privileged.

Overruled.

REVENUE BILLS.

Speaker refuses to accept from the Senate a revenue or taxing bill.

A 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 can not 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 sustained the point of order and the Chief Clerk was instructed to return the bill to the Senate. (32nd, p. 864.)

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 a character as to prevent its originating in the Senate.

The House was considering Senate bill No. 8, creating a State Highway Department and establishing 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.

Overruled. (33rd, p. 1664.)

REGULAR ORDER—SUSPENSION OF.

The fact that the House has refused to suspend the regular order does not prevent the making of other motions to suspend the regular order of business.

A motion was made to suspend the regular order of business. Mr. Schluter raised a point of order on consideration of the motion to suspend, stating that, as the House had just twice refused to suspend the regular order, it was an indication that the House desired to take up the bills on the Speaker's table in the manner prescribed by the rules, and that further motions, at this time, to suspend were in their nature dilatory, and should not be entertained.

Overruled. (28th, p. 678.)

Held that a member is entitled to make only one motion to suspend the regular order until each member desiring to make such a motion has had an opportunity to so do.

Mr. Bland moved to suspend the regular order of business to take up and have placed on its second reading and passage to engrossment House bill No. 677.

Mr. Canales raised a point of order on consideration of the motion at this time on the ground that Mr. Bland having heretofore during the session made a motion to suspend the regular order is not entitled to again move to suspend the regular order until each member of the House desiring to make such a motion has been recognized for that purpose.

The Speaker sustained the point of order. (35th Reg.)

An extension of time for the consideration of resolutions is not a suspension of the regular order.

Mr. Sullivan moved to suspend the rule limiting the time for consideration of resolutions, and that the time be extended until the pending resolution has been disposed of.

Mr. Bagby raised a point of order on consideration of the motion to suspend, on the ground that such an extension of time is in effect a suspension of the regular order, which may not be done under the rules of the House except on suspension day.

The Speaker overruled the point of order, stating that the motion has the effect only of a temporary suspension of the rule limiting the time for the consideration of resolutions, and that Rule XXII permitted such a suspension by a two-thirds vote of the members present. (34th Reg.)

RULES—AMENDING THE.

Resolution relating to the filing of resolutions held an amendment to the rules.

Mr. Lane proposed a resolution providing that "all bills and joint resolutions shall first be filed with the Reading Clerk, who shall number, file and read the same in the order in which they are handed in."

Read second time, and Mr. Seabury raised the point of order that the resolution seeks to amend the rules of the House, and can not be entertained, under the rules, without one day's notice being given thereof.

The point of order was sustained and the resolution went over. (27th, p. 14.)

A resolution covering a subject already embraced in the rules or orders of the House is not in order.

Mr. Gray moved that the lobby be removed to the galleries and the desks so arranged as to reserve for the members the exclusive use of the Hall.

Mr. Napier raised the point of order that the resolution is unnecessary, since the rules, if enforced, cover the same subject.

Sustained by the Speaker, who stated that any member had the right to call for strict enforcement of the rules. (27th, p. 625.)

Resolution setting apart Friday of each week to consider revenue-raising bills an amendment to the rules.

Mr. Beaty offered a resolution setting apart Friday of each week for the consideration of revenue providing bills.

Mr. Seabury raised the point of order that the resolution seeks to amend the rules, and that as the proper notice had not been given, it should go over one day.

The Chair sustained the point of order, and the resolution went to the Speaker's table. (27th, p. 730.)

Invitation to a person to address House not an amendment to the rules.

Pending resolution to invite Governor Hogg to address the

House, Mr. Grisham raised a point of order on further consideration of the resolution, stating that it is in the nature of an amendment to the rules, and, therefore, should be referred to the Committee on Rules.

Overruled. (28th, p. 643.)

Amendment to the rules must be referred to the Committee on Rules.

A resolution declaring that it would not be in order for the Speaker to entertain a motion to extend the time of a member on the floor was pending.

Mr. Hamilton raised the point of order that the resolution, being a proposition to amend the rules, it should be referred without debate to the Committee on Rules.

The Chair sustained the point of order. (30th, p. 1286.)

RULES—COMMITTEE.

It is within the province of the Committee on Rules to propose a resolution to the House for its consideration.

Pending before the House was the report of the Committee on Rules, which proposed a resolution providing for the erection of a railing in the rear of the House, separating the lobby from the desks of the members.

Question—Shall the resolution be adopted?

Mr. Duff raised a point of order on the consideration of the resolution, and stated "that the matter covered by the resolution was not within the apparent jurisdiction of the committee, and that the resolution had not otherwise been moved in the House nor referred to the committee; that the committee had no authority voluntarily to propose a resolution not pertaining to either the rules of the House, the joint rules, or the rules of order."

Overruled. (28th, p. 87.)

Held that a motion to suspend a rule of the House does not of necessity go to the Committee on Rules without debate.

A motion pending to suspend a rule of the House, Mr. Dotson raised a point of order on further consideration of the resolution at this time on the ground that the rules of the House require that resolutions proposing to amend the rules be referred to committee without debate.

Overruled. (32nd, p. 1273.)

RULE—SUSPENSION OF CONSTITUTIONAL.

Does not require four-fifths of all the members elected to the House to suspend the constitutional rule requiring bills to be read on three several days.

On the suspension of the constitutional rule requiring bills to be read on three several days, the vote was 99 to 1.

Mr. Mears raised a point of order on the announcement of the Chair, stating that Section 9 of Rule XIX requires that it shall take a four-fifths majority of all members elected to the House to suspend the constitutional rule and place a bill on another reading, and that 107 is a four-fifths majority of this House; therefore the motion has failed.

The Speaker overruled the point of order.

Mr. Brown of Wharton appealed from the ruling of the Chair.

The House sustained the ruling of the Chair.

The following authorities were submitted to support the ruling of the Speaker:

Cooley on Constitutional Limitations, 7 ed., p. 201.

State vs. McBride, 4 Mo., 303.

Fellson vs. Meehan, 21 La. Ann., p. 79.

Zila vs. Central Railway, 84 Mo., 304, 34 L. R. A., 469; Amer. Enc. of Law, Vol. 15, p. 772.

Day vs. State, 68 Texas, 544.

William Green vs. Miller, 32 Miss., 650.

Southworth vs. Railway, 2 Mich., 287.

State vs. McBride, 29 Amer. Dec., 636-6.

These authorities sustain the contention that a four-fifths vote means of those present, a quorum being present, and not four-fifths of the total membership of the House. (30th, p. 1388.)

The rules having been suspended to take up a bill, it must be disposed of before another bill can be taken up.

The House had suspended the rules to take up for consideration House bill No. 5, and, while the House was considering the bill, Mr. Moore moved to suspend the rules and take up House bill No. 96.

Mr. Briggs raised a point of order on consideration of the motion to suspend on the ground that it is not in order to entertain a motion to suspend the pending business until the matter before the House, which is House bill No. 5, on its

second reading, and which was taken up under a motion to suspend the regular order of business, is disposed of.

Sustained. (30th, called, p. 273.)

To suspend the constitutional rule requiring bills to be read on three several days requires vote of four-fifths of the members present, a quorum being present.

Mr. Cope moved to suspend the constitutional rule requiring bills to be read on three several days in each house and that House bill No. 8 be placed on its third reading and final passage. The motion prevailed by the following vote: Yeas 103, nays 21.

Mr. Bryan raised a point of order on further consideration of the bill at this time on the ground that four-fifths of the members of the House did not vote for the suspension of the constitutional rule requiring bills to be read on three several days.

The Speaker overruled the point of order. (4th C. S., 35th Leg.) (The Speaker held in this case, as has been held in many others, that the vote necessary to suspend the constitutional rule mentioned was four-fifths of those voting, a quorum being present.) (35th, 4th C. S.)

SENATE BILL DAY.

Only Senate bills can be considered on those dates.

Mr. Lane raised the point of order that it is not proper to take up and consider a House bill today, since the two houses had passed a concurrent resolution setting apart certain days for consideration of bills coming from the other house until such bills are disposed of.

Mr. Shropshire also raised the point of order—

1. That the rules provide that the local bills be considered on Saturdays.

2. That a concurrent resolution adopted by both houses has set apart Wednesdays and Thursdays for the consideration of bills coming from the opposite house, and that it would not be proper, without consent of the Senate, to consider House bills on these days as long as there are Senate bills in the House not disposed of.

The Speaker held that the first point of order was not well taken, but sustained the second and that raised by Mr. Lane. (26th, p. 836.)

Senate bills have right of way on Senate bill day.

A House bill was being considered on Senate bill day.

Mr. Crockett of Mitchell raised a point of order on further consideration of the bill at this time, for the reason that today being set apart under the rules of the House for the consideration of Senate bills, it is not in order to consider this bill at this time.

Sustained. (31st, p. 706.)

SPEAKER—MAY VOTE WHEN.

Under Section 6, Rule 1, the Speaker is not required to vote except where his vote would be decisive or where the House is voting by ballot, and in case of a tie vote the question shall be lost.

Challenge of Speaker's right to vote overruled.

The Speaker announced that the vote stood 57 yeas and 56 nays, that the Chair would vote nay, and declared the resolution lost.

Mr. Brownlee made the point of order that the vote was not a tie, and the Speaker cast his vote against the resolution after the result had been announced.

The Speaker overruled the point of order. (32nd, p. 279.)

SPECIAL ORDERS.

A special order having been made and undisposed of precludes the making of another special order until that one is disposed of.

Mr. Kennedy of Limestone raised the point of order that the motion was out of order for the reason that there is a special order now pending in the House, same being House bill No. 173, and that no other special order can be made until same is disposed of.

Sustained. (27th, p. 358.)

Special orders have the right of way.

The Speaker laid before the House, as unfinished business from yesterday, same being a special order, Substitute House bill No. 183.

Mr. Cobbs raised a point of order on consideration of the bill today, stating that, this being Senate bill day, under the rules, the bill should go over until tomorrow, unless taken up under suspension of the regular order, under the rule making the last six days of the session suspension days.

Overruled. (28th, p. 1010.)

The House having refused to suspend the regular order of

business to take up House bill No. 218, Mr. Rosser Thomas moved to make it a special order for next Wednesday.

Mr. Dean raised a point of order on consideration of the motion, on the ground that the bill is not on the Speaker's table.

Overruled. (29th, p. 1056.)

Mr. Canales raised a point of order on further consideration of the bill at this time, and stated that the hour set apart for taking up the special order had arrived, and that the House should proceed at once with its consideration.

Sustained. (30th, called, p. 62.)

Held that House bills pending on special orders can not be considered on Senate bill day unless all Senate bills have been disposed of.

On April 30th, on motion of Mr. Canales, the House, by a vote of 71 to 27, ordered that House bill No. 67 be made a special order to be taken up and placed on its second reading and passage to engrossment tomorrow, Wednesday, May 1, at 9:30 a. m. When that hour arrived, Senate bill No. 4 was pending before the House.

Mr. Terrell of McLennan raised a point of order on consideration of the bill at this time on the ground that House bill No. 67 had been set as a special order for this hour, and that the Speaker should lay said bill before the House.

The Chair held that, this being Senate bill day, Senate bills take precedence over other matters until disposed of. (30th, called, p. 150.)

Platform recommendation can be made special order.

Held that the rule providing that platform demands shall have precedence according to their number does not preclude the setting as a special order of a platform demand or recommendation. (33rd, p. 902.)

Bill, resolution or other measure may be set as a special order for the same day on which the motion is made.

Mr. Darroch moved that House bill No. 46 be set as a special order for 3:45 o'clock p. m. today.

Mr. Horton raised a point of order on consideration of the motion on the ground that under the rules of the House a special order can only be set for a future day of the session.

The Speaker overruled the point of order. (37th Reg.)

SUBJECTS OF LEGISLATION (CALLED SESSIONS).

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; and no such session shall be of longer duration than thirty days. (Sec. 40, Art. 3, Constitution.)

The proclamation of the Governor and the journals of the two houses are not competent evidence to show that an act passed at a special session of the Legislature is invalid because its subject matter was not embraced in the proclamation. County of Presidio vs. National Bank, 20 C. A., 511; 44 S. W., 1069.

The courts will not go into an investigation to determine whether as a matter of fact the Legislature, at a called session, enacted legislation not embraced in the messages of the Governor. State vs. Larkin, 41 C. A., 264; 90 S. W., 912.

Proclamation of the Governor "to reduce the taxes, both ad valorem and occupation, so far as it may be found consistent with the support of an efficient State government," embraced the whole subject of taxation, and authorized an act levying an occupation tax upon persons engaged in the sale of the Police Gazette, etc. Baldwin vs. State, 21 Cr. App., 593; 3 S. W., 109.

It was not the intention of this section to require the Governor to define with precision as to detail the subjects 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.

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.

Proclamation authorizing the reapportionment of the judicial districts of the entire State, by implication, authorizes the reapportionment of any number of such districts. Brown vs. State, 32 Cr. App., 133; 22 S. W., 601.

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.

The call of the Governor to enact laws * * * amending and changing the existing laws governing court procedure, etc., authorized the act changing the terms of the criminal district courts of Galveston and Harris counties. Long vs. State, 58 Cr. App., 209; 127 S. W., 208; Brown vs. State, 32 Cr. App., 119.

In the absence of a constitutional provision limiting the same the jurisdiction of the Legislature, when confined in the special session, is as broad as at a regular session and this section of the Constitution constitutes an exception to the general rule, and is a limitation of the general power of the Legislature. And where such limitation is thus imposed upon the general power of the Legislature, it should be strictly construed, and should not be given effect as against such general power, unless the act in question is clearly inhibited by such limitation. Long vs. State, 58 Cr. App., 209; 127 S. W., 208; Brown vs. State, 32 Cr. App., 119.

This section requires that the subjects for legislation be presented to the Legislature by the Governor in writing. Casino vs. State, 34 S. W., 769.

The courts will take judicial knowledge of the proclamations, messages and public communications of the Governor to the Legislature. Casino vs. State, 34 S. W., 769.

This section is mandatory and requires that legislation at a called session be confined to subjects presented to the Legislature by the Governor. Casino vs. State, 34 S. W., 769.

The approval by the Governor of an act not within the scope of his call does not give such act vitality. Casino vs. State, 34 S. W., 769.

Proclamation of the Governor "to enact adequate laws simplifying the procedure in both civil and criminal trials in the courts of this State, etc.," embraces and authorizes Act of May 14, 1907, relating to contests of local option elections. Such proceeding is a "civil trial." Stockard vs. Reid, 121 S. W., 1144.

Under this section the Legislature can not, at a special session, investigate matters not included in the Governor's call, or investigate a matter upon which it could not legislate under the call. See ex parte Wolters, 144 S. W., 531.

This section does not preclude the appointment, at a special session of the Legislature, of an investigating committee to obtain information for future use, even on a subject not committed by the Governor. Ex parte Wolters, 144 S. W., 531.

Message of Governor at special session asking for increase of appropriation for the offering of rewards and enforcement of the law was not broad enough to include the subject of irregularities and violations of law at a recent election so as to authorize the Legislature to investigate such subject, though the Governor in his message mentioned his offer of rewards for the arrest and conviction of offenders at such elections. See ex parte Wolters, 144 S. W., 531.

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 sustained the point of order.

(For a full discussion of this point see page 403 of the Journal of the First Called Session, Thirty-fifth Legislature.)

QUESTION OF PRIVILEGE.

A member can not abuse the Speaker under a plea of personal privilege.

Mr. Onion obtained the floor and stated that he desired to speak to a question of personal privilege.

While he was proceeding with his statement Mr. Duff rose to a point of order, and stated that the gentleman from Bexar (Mr. Onion), under the guise of personal privilege, was simply criticising the Speaker of the House, and should not be allowed to proceed.

The Chair (Mr. Schluter) overruled the point of order, and in so doing stated that he had not listened attentively to the trend of the gentleman's remarks, and was not therefore prepared to pass upon the propriety or impropriety of same.

Mr. Onion then proceeded with his statement, and, continuing further, Mr. Standifer raised a point of order and stated that the gentleman from Bexar (Mr. Onion), instead of speaking to a question of personal privilege, was denouncing the Speaker of the House for the failure of a certain bill in the House, and that the gentleman from Bexar should not be allowed to proceed unless he confined himself to a question of privilege.

The Chair sustained the point of order, and the incident closed. (28th, p. 1206.)

The House has the right to arraign the author of a newspaper article reflecting unjustly on the membership.

Mr. Terrell of Travis offered the following resolution as a substitute for the motion of Mr. O'Quinn:

Resolved, That the staff correspondent of the Beaumont Journal, who is now present, and who avows himself the author of an article which reflects unjustly on the membership of this body, be arraigned by the Sergeant-at-Arms, and required at the bar of the House to purge himself of the contempt manifest in such article.

Mr. Mays raised a point of order on consideration of the motion and the pending substitute, stating that the House is entirely without jurisdiction in the matter, and that both should be out of order.

Overruled. (28th, called, p. 39.)

QUORUM.

Can only adjourn from day to day with less than a quorum.

During a call of the House to secure a quorum, a motion was made to adjourn from Friday until Monday.

Mr. Glenn raised a point of order on the motion to adjourn until next Monday on the ground that to adjourn until next Monday would be violative of Section 10 of Article III of the State Constitution, which reads:

Section 10. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members.

The Speaker did not sustain the point of order, but the House refused to adjourn except until the next day. (29th, called, p. 12.)

Mr. McKinney moved that the House adjourn until 2 o'clock p. m. next Monday, and, there being no quorum present, Mr. Hamilton raised the point of order on the motion to adjourn until next Monday, stating that there being no quorum of the House present, the House could only adjourn from day to day, quoting Section 10 of Article III of the State Constitution.

Sustained. (30th, p. 320.)

When there is less than a quorum present, it is in order

for the House to take the necessary steps to compel the attendance of the absent members.

There being no quorum present, Mr. Baker moved that the Clerk furnish the Sergeant-at-Arms with the names of members absent without leave, and that the Sergeant-at-Arms be directed to bring enough of the members to make a quorum.

Mr. McKenzie raised a point of order on the motion, stating that it was not competent to transact business without a quorum present.

Overruled. (30th, p. 1176.)

VOTING.

The Speaker is not required to vote except where his vote would be decisive. But a member called temporarily to the chair may vote.

When the Clerk announced that the vote was a tie, and Mr. Smith of Grayson, in the chair, not having voted, directed the Clerk to record him as voting "nay," Mr. Bailey raised the point of order that a member of the House called to the chair temporarily by the Speaker did not have the right, under the rules, to cast the deciding vote when the Speaker-elect is present on the floor.

The Chair held the point of order not well taken. (26th, p. 1441.)

VOTING—VERIFICATION OF.

When the verification of a yea and nay vote has been demanded, no member has a right to have his vote recapitulated unless he actually voted; and no member can change his vote.

Under no sort of a circumstance should a member be permitted to change his vote after the result has been announced. To do this would establish a dangerous precedent that might lead not only to confusion, but which would open the door to fraud.

After the vote is announced and a verification of the vote is pending it is too late for a member to vote.

Pending the verification of a vote, several members came into the hall who were absent when the roll was called, and Mr. Terrell of Cherokee rose to a point of order, stating the fact, naming the members, and requested that they be al-

lowed to vote after having the question stated to them by the Chair.

The Chair overruled the point of order, stating that the result having been announced and a verification demanded, no change could be made except to correct an error where a member had been wrongly recorded when his name was called. (30th, called, p. 271.)

Verification in order only when there is a probability of the result of the vote being changed by such verification.

During the First Called Session of the Thirty-third Legislature the result of a roll call having been announced, yeas 37, nays 66, Mr. Tarver called for a verification of the vote.

Mr. Terrell raised a point of order on the demand for a verification of the vote, on the ground that the rules do not give a member a right to make such a demand unless there is a probability that such verification would change the result of the vote.

The point of order was sustained. (33rd, first called, p. 360.)