

## **RULES OF THE SENATE**

### **WITH ANNOTATIONS**

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#### **QUORUM.**

1. Two-thirds of all the Senators elected shall constitute a quorum, but a smaller number may adjourn (or recess) from day to day, and compel the attendance of absent members. (See Constitution, Art. III, Sec. 10.)

#### **ABSENTEES.**

2. In case a less number shall convene, the Members present may send the Sergeant-at-Arms, or any other person or persons, for any or all absent Members.

3. No Member shall absent himself from the sessions of the Senate without leave unless he be sick or unable to attend.

#### **ROLL CALL.**

4. Upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the county shall be added.

#### **CALL OF SENATE.**

It shall be in order to move a call of the Senate at any time to secure and maintain a quorum for the following purposes:

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

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

When a call of the Senate is moved for one of the above purposes and seconded by five members, and ordered by a majority of those present, the Doorkeeper shall close the main entrance of the Hall, and all other doors leading out of the Hall shall be locked and no member be permitted to leave the Senate without written permission of the presiding officer until after the subject matter upon which the call was ordered has been disposed of. The Secretary shall call the roll of Members and note the absentees and those for whom no sufficient excuse is made may, by order of the majority of those present, be sent for and arrested wherever they may be found, by the Sergeant-at-Arms or officers appointed by him for that purpose, and their attendance secured and retained, and the Senate shall determine upon what conditions they shall be discharged. Members who voluntarily appear shall, unless the Senate otherwise directs, be immediately admitted to the Hall of the Senate, and they shall report their names to the Secretary to be entered upon the Journal as present. Until a quorum appears, should the roll call fail to show one present, no business shall be done except to compel the attendance of absent Members or to adjourn.

When a quorum is shown to be present, the Senate may proceed with the matters upon which the call was ordered, or may enforce and await the attendance of as many of the absentees as it desires to have present. If the Senate decides to proceed, the

Sergeant-at-Arms shall not be required to bring in other absentees unless so ordered by a majority vote of the Senate.

When a call of the Senate is ordered, as hereinabove authorized, the Hall of the Senate shall be held to include the Senate Chamber, the Sergeant-at-Arms room, the Senate reception room, the Senate cloak room and the corridors leading thereto.

*In order to raise the point of "no quorum."*

Senator Bailey, during the consideration of Senate Bill No. 251, raised the point of order that no quorum was present and demanded a roll call to ascertain the fact. Senator Floyd made a point of order that a roll call could not be demanded for the mere purpose of ascertaining a lack of a quorum. The Chair (Senator Pollard, presiding) overruled the point of order. (38th Reg.)

*Motion to maintain a quorum during a call of the Senate not privileged.*

Senator Woodruff raised the point of order that a motion for a call of the Senate to maintain a quorum is a privileged motion. The Chair, Senator Walter C. Woodward, overruled the point of order, holding that the motion to maintain a quorum when a quorum is present, is out of order. (43rd Reg.)

*Motion out of order to excuse certain members during a call of Senate.*

Senator DeBerry, during a call of the Senate, raised a point of order that it was out of order to substitute a motion for a call of the Senate and attempt to qualify it by excusing certain members. The Chair, Senator Grady Woodruff, sustained the point of order. (43rd Reg.)

## PRESIDING OFFICERS OF THE SENATE.

5. The Lieutenant Governor of the State shall, by virtue of his office, be President of the Senate (see Constitution, Art. IV, Sec. 16); decide all questions of order, subject to appeal by any Member; have direction and control of all committee clerks and employees of the Senate and assign them to their duties. He shall have control of such parts of the Capitol as have been, or may be, set apart for the

use of the Senate and its officers. He shall have the right to name a Member to perform the duties of the Chair, but such substitution shall not extend beyond such time as a majority of the Senators present vote to elect another Member to preside, and if a majority of the Senators present so vote, the Member called to the Chair by the Lieutenant Governor or by the President Pro Tempore of the Senate shall vacate the Chair, and the Member elected by a majority shall preside until the Lieutenant Governor or President Pro Tempore shall take the gavel and preside.

[In the absence of the Lieutenant Governor and the President Pro Tempore, it has been the practice in the Senate for either the Lieutenant Governor or President Pro Tempore to designate someone to serve in his absence. He may be administered the oath of office by the Secretary and may perform all the duties of the President Pro Tempore. (For the form of the designation by the Lieutenant Governor or President Pro Tempore, see Senate Journal, Regular Session, 34th Legislature, p. 146.)

The President may submit a point of order relating to the constitutionality of a proposition, or any other point of order on which he does not desire to rule, direct to the Senate for its decision.

Appeals on questions as to the priority of business must be decided without debate.

A Member called to the chair pending an appeal does not accept another point of order or another appeal before the first appeal is disposed of.]

DECISIONS AND APPEALS.—In the practice in Congress the Speaker may require that a question of order be presented in writing (V, 6865). He is not required to decide a question not directly presented by the proceedings (II, 1314). Debate on a point of order being for his information is within his discretion (V, 6919, 6920).

He does not decide on the Legislative effect of propositions (II, 1274, 1323, 1324), or on the consistency of proposed action with other

acts of the House (II, 1327-1336), or on the Constitutional powers of the House (II, 1255, 1318-1320, 1490), or on the propriety or expediency of a proposed course of action (II, 1275, 1325, 1326, 1337; IV, 3091-3093, 3127).

The right of appeal cannot be taken away from the Senate (V, 6002), but appeals may not be entertained from a response to parliamentary inquiries (V, 6002). Appeals on questions as to the priority of business must be decided without debate.

6. The Senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members President Pro Tempore, who shall perform the duties of Lieutenant Governor in any case of absence or disability of that officer and whenever the said office of Lieutenant Governor shall be vacant. (See Constitution, Art. III, Sec. 9.)

#### REMOVAL OF SENATOR FROM CHAIR.

7. If any Senator other than the regularly elected President Pro Tempore be presiding and fails or refuses to recognize any Senator to make a motion that is in order, or to raise a point of order that it is in order to raise, or fails or refuses to entertain an appeal from his decision, or to put such question to the Senate or fails to recognize any Senator to demand that a point of order under discussion be immediately decided, or fails to put the question, if seconded by ten Senators, "Shall the point of order be now decided?" such Senator so offending shall be deemed guilty of violating the high privileges of the Senate, and until such offending Senator shall purge himself of such contempt and be excused by the Senate, he shall not again be called to the chair during the session. If such Senator so presiding shall refuse to recognize any

Senator when addressed in proper order, or to entertain the motion, the point of order, or appeal of any Senator, or to pass upon the same, or to recognize a Senator to make the demand when seconded by ten Senators that a point of order under discussion be immediately decided, then the Senator seeking recognition may rise in his seat, and without recognition, read a written demand upon the Senator presiding, provided the same is signed by a majority of the Senators present, and if the Senator presiding persists in his refusal, then any number of Senators constituting a majority of the Senators present may present such written demand to the Sergeant-at-Arms, or the Assistant Sergeant-at-Arms, and such written demand shall be a full and sufficient warrant for arrest, empowering such officer, or either of them, to arrest said Senator so presiding and eject him from the chair, and retain him under arrest until he shall be released by order of the Senate.

Should the Sergeant-at-Arms or the Assistant Sergeant-at-Arms fail or refuse to act and carry out such demand, they shall be removed from office on a majority vote of the Senate.

When such Senator is removed as aforesaid and the chair remains vacant, the Secretary shall call the Senate to order, and a President Pro Tempore Ad Interim shall be elected to preside until the Lieutenant Governor or a regularly elected President Pro Tempore shall appear and take the gavel.

As soon as order is restored the Chair shall cause a record of the fact of removal to be made.

## ELECTION OF OFFICERS.

8. A Secretary, Assistant Secretary, Journal Clerk, Assistant Journal Clerk, Calendar Clerk, Engrossing Clerk, Enrolling Clerk, Sergeant-at-Arms, Assistant Sergeant-at-Arms, Doorkeeper, Assistant Doorkeeper, Chaplain and such other officers as a majority vote may determine to be necessary, shall be elected at the opening of the session of the Legislature to continue in office until discharged by the Senate, who shall perform such duties as may be incumbent upon them in their respective offices, under the direction of the Senate.

## OPEN DOORS.

9. The doors of the Senate shall be kept open, except when there is an executive session. (See Constitution, Art. III, Sec. 16.)

[This rule does not mean that the Senate cannot operate under a call of the Senate. But it has reference to the sessions being open to the public. When the Senate is under call and the doors of the Senate Chamber are closed, the galleries are always opened. The gallery doors may be closed only during executive session.]

## ORDER OF BUSINESS.

10. The presiding officer shall take the Chair at the hour to which the Senate last adjourned.

11. The names of the Senators shall be called alphabetically; should a quorum not be in attendance, a majority of those present shall be authorized to send the Sergeant-at-Arms, or a special messenger,

for the absentees; when there is a quorum present, prayer shall be offered by the Chaplain, and then the Journal of the preceding day shall be read and corrected, if necessary.

[The reading and correction of the Journal as required above is only a Senate Rule, and no Senator has a Constitutional right to demand a reading of the Journal. However, the enforcement of this Rule may be demanded unless it is suspended by the Senate.]

12. The President then shall call:

- (1) For petitions and memorials.
- (2) For reports from standing committees.
- (3) For reports from select committees.
- (4) For Senate Bills on first reading.
- (5) For introduction of resolutions.
- (6) For messages and executive communications.
- (7) For motions to print on minority report.
- (8) For other motions not provided herein.

This concludes the morning call, which the President shall announce to the Senate.

13. At the conclusion of the morning call, the Senate shall proceed to consider business on the President's table, which shall be disposed of in the following order:

- (1) Special orders.
- (2) Unfinished business.
- (3) Senate Joint Resolutions.
- (4) Senate Resolutions.
- (5) Senate Concurrent Resolutions.
- (6) Senate Bills on third reading.
- (7) Senate Bills on second reading.
- (8) House Joint Resolutions.

- (9) House Bills on third reading.
- (10) House Bills on second reading.
- (11) House Concurrent Resolutions.

The above order is for Senate Bill days, except as modified by the joint rules.

14. After the morning call has been concluded on calendar Wednesday and calendar Thursday of each week, House Joint Resolutions and House Bills on special order and on third and second readings, respectively, and House Concurrent Resolutions, shall be taken up and considered until disposed of; provided in case one should be pending at adjournment on Thursday, it shall go over until the succeeding calendar Wednesday as unfinished business.

15. Any bill, resolution or other measure may, on any day, be made a special order for a future time of the session by an affirmative vote of two-thirds of the members present.

### SPECIAL ORDERS

16. A special order shall be considered at the time for which it is set and considered from day to day until disposed of, unless at the time so fixed there is pending business under a special order, but such pending business may be suspended by a two-thirds vote of all the members present. If a special order is not reached or considered at the time fixed, it shall not lose its place as a special order; provided further that all special orders shall be subject to the Joint Rules and Senate Rule 14.

[If, due to the consideration of one special order, another cannot be taken up at the time set, the second special order is taken up as soon as the first is disposed of.]

*A bill set as a special order does not lose its place if not reached at the time set.*

Senator Bee called for the special order of business, S. B. No. 6, which was not reached on last Friday due to the adjournment of the Senate on Thursday. Senator Harley made the point of order that S. B. No. 14 is pending business and would take precedence over the special order. The Chair overruled the point of order. (35th, 1st C. S.)

[Lieutenant Governor Edgar E. Witt frequently ruled that only a majority vote was necessary to set a special order for a day subsequent to that upon which a motion was made; that it would take a two-thirds vote to set a special order for a time certain during the day the motion was made; and that no special order could be set that would take priority over special orders already set. (43rd Reg.)]

**SPECIAL ORDER.**—The President laid before the Senate, as an unfinished special order, on its passage to third reading, H. B. No. 344. Question—Shall the bill be passed to third reading?

Senator Spears raised a point of order against further consideration of H. B. No. 344 at this time, on the ground that it was set for a special order for a day after the day for which H. B. No. 231 had previously been set as a special order and that H. B. No. 231 should, therefore, be considered and disposed of before H. B. No. 344 is considered further.

The President, Coke R. Stevenson, overruled the point of order and held that H. B. No. 344, being an unfinished special order, and being pending business at this time, should be disposed of before H. B. No. 231 is laid before the Senate, as required by Senate Rule 16. (46th Reg. S. J. p. 1853)

**SPECIAL ORDER.**—Senator Weinert called for the consideration at this time of S. J. R. No. 12.

Senator Hill raised a point of order against consideration at this time of S. J. R. No. 12 on the ground that H. B. No. 407 has heretofore been set as a special order the hour for the consideration of which has arrived.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 655)

## DECORUM AND DEBATE.

17. When a Senator is about to speak in debate or to communicate any matter to the Senate, he shall rise in his place and address the President.

18. When two or more Members rise at once, the presiding officer shall decide which one shall speak first, but from his decision an appeal without debate may be taken to the Senate by any member.

[When a bill or other measure is before the Senate, the President first recognizes, for motions for its disposition, the Member who represents the committee or the person who has charge of the bill. Usually the chairman of the committee has charge of the bill, unless he yields to the author or is opposed to the bill, and he is entitled at all stages to prior recognition for motions that are in order which are intended to expedite the passage of the bill. Where a proposition is brought directly before the Senate, the mover is given prior recognition for motions and debate.

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

It is a general Parliamentary Rule that there must be something before the Senate before a Member may proceed in debate, and this something must be a definite debatable proposition, and may be required to be in writing. A withdrawal of the proposition prohibits further debate on the same. Before debate begins, the motion or proposition must be stated by the President or read by the Secretary.

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, avoiding personalities, until he has finished.

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 or other proposition unless it be an amendment to strike out the enacting clause.

The fact that a Member has the floor on one matter does not entitle him to prior recognition for any other motion.]

19. No member shall speak more than once in any one debate until every member desiring to do so shall have spoken, nor shall any member speak more than twice in any one debate without leave of the Senate.

20. When a Member shall be called to order by the President, or by a Senator, he shall sit down and not be allowed to speak, except to the point of order, until the question of order is decided. If the decision be in his favor he shall be at liberty to proceed; if otherwise, he shall not proceed without leave of the Senate.

[It is the custom to warn a Senator that he must be in order, or he will be taken off the floor, and then if he persists in violation of the Rules or fails to proceed in order, the President requests that the Senator be seated, and orders the Sergeant-at-Arms to seat the Senator if he fails to heed the request.]

21. Whenever a Member is called to order by the President of the Senate, or by the Presiding Officer then in the Chair, in accordance with Rule 16 hereof, and such Member fails to sit down and be in order, but continues disorderly, it shall be the duty of the Sergeant-at-Arms and/or his assistants upon the direction of the Presiding Officer to require such recalcitrant Member to take his seat and be in order. Any Member who persists in disorderly conduct, after being warned by the Presiding Officer, may, by motion duly made and carried by a two-thirds vote of the Members in attendance, be required to purge himself of such misconduct and until such Member has purged himself of such misconduct he shall not be entitled to the privileges of the floor.

*Several points regarding dilatory tactics.*

During consideration of H. B. No. 72, Senator Stuart having the floor, Senator Bailey raised the point of order that Senator Stuart was pursuing dilatory tactics and was only filibustering and should be taken from the floor. The Chair, Lieutenant Governor Miller, overruled the point of order, stating that there was no Rule of the Senate taking a member from the floor for pursuing dilatory tactics. On appeal from the decision of the Chair, the Senate sustained the ruling of the Chair. Senator Love raised the point of order that the Senator from Tarrant was confessedly employing dilatory tactics. The Chair overruled the point of order. Senator Woodward raised the point of order that, by reading the provisions of the bill, the Senator from Tarrant was indirectly evading the discussion of the bill. The Chair sustained the point of order. The Senate voted not to allow the Senator from Tarrant to continue. (40th Reg.)

**DILATORY TACTICS.**—The President laid before the Senate on its final passage H. B. No. 17 with amendment by Senator Cotten and motion by Senator Small to table the amendment pending. Senator Small withdrew motion to table. Question—Shall the amendment be adopted?

Pending an address by Senator Cotten on the amendment, Senator Small announced the amendment was acceptable to the sponsors of the bill and raised the point of order that Senator Cotten by continuing his address, is pursuing dilatory tactics.

The President, Coke R. Stevenson, overruled the point of order. (46th Reg.—S. J. p. 2047)

22. If a Member be called to order for using exceptional words, they shall be immediately taken down in writing, that the President may be better enabled to judge them.

23. Every question of order shall in the first instance be decided by the President, from whose decision any Member may appeal to the Senate.

24. While the President is putting the question or addressing the Senate, he shall not be interrupted.

25. While a Member has the floor, no Member shall interrupt him or otherwise interrupt the business of the Senate, except for the purpose of making

a point of order, calling him to order, or for the purpose of moving the previous question, or for the purpose of demanding that a point of order under discussion or consideration be immediately decided; and any Member shall, though another Member has the floor, be recognized by the presiding officer, and be in order to call to order the Member, to make a point of order, or to move the previous question, or to demand that a point of order be immediately decided.

[It is the custom of the President to request a Member to yield for a message.]

*A Member may yield for a motion to recess without losing the floor.*

Senator Stevenson raised the point of order that Senator Woodruff, who had the floor when the previous question was ordered, had yielded the floor by yielding for the motion to recess.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order, holding that Senator Woodruff yielded for the motion only. (42nd Reg.)

*A Member may yield the floor for the consideration of certain measures and resume later if consent is given by the Senate.*

Senator DeBerry raised the point of order that Senator Neal could not yield the floor for the passage of local bills and continue to hold the floor without the unanimous consent of the Senate.

The Chair, Lieutenant Governor Edgar E. Witt, held that a Senator could continue to hold the floor if he yielded for the passage of other bills with the specific understanding on the part of the Senate that he was yielding for that purpose only and would not thereby lose the floor and unanimous consent was given to the other matter taken up. (42nd Reg.)

*A Member who has the floor may not be removed by a motion for the previous question.*

It has been held that the rule above does not mean that a Member speaking can be taken off the floor by the previous question. Lieutenant Governor T. W. Davidson ruled that this rule meant that the motion could be made while a Member was speaking, but that the Member could finish his remarks, at which time the motion for

the previous question would be put, and if the motion prevailed, all other debate would be cut off. (38th Reg.)

DECORUM AND DEBATE.—A Member having the floor may not be taken off his feet by an ordinary motion, even the highly privileged motion to adjourn, unless he shall yield for that purpose (V, 5369-5370). A Member may yield the floor for a motion to adjourn without losing his right to continue when the subject is again continued (V, 5009, 5010). A Member may also resume his seat while a paper is being read in his time without losing his right to the floor (V, 5015). A Member who, having the floor, moves the previous question, may be permitted to resume the floor on withdrawing the motion (V, 5474). But a Member may not yield to another Member to offer an amendment without losing the floor [unless, of course, this is done with the understanding of the Senate and the Chair] (V, 5021, 5030, 5031). A Member desiring to interrupt another Member in debate should address the Chair for permission of the Member speaking, but the latter may exercise his own discretion as to whether or not he will yield, except of course for privileged motions above (V, 5006, 5007, 5008).

YIELDING THE FLOOR.—Pending consideration of H. B. No. 344 and the address by Senator Moore, a Clerk from the House, was announced by the Doorkeeper, and was recognized by the President, to present a message from the House.

Senator Spears raised the point of order that Senator Moore may not yield the floor for the reception of the message without losing his right to resume his address when the message has been communicated to the President.

The President, Coke R. Stevenson, overruled the point of order. (46th Reg.—S. J. p. 1873)

## MOTIONS AND THEIR PRECEDENCE.

26. When a question is under consideration by the Senate, no motion shall be made except:

To fix the day to which the Senate shall adjourn or recess.

To adjourn or recess.

To proceed to the transaction of executive business.

The previous question.

To postpone to a time certain.

To amend.

To commit with instruction.

To commit without instruction.

To lay on the table.

To postpone indefinitely.

Which several motions have precedence in the order in which they are arranged. All amendments tending to perfect a bill shall have precedence of a motion to strike out the enacting clause.

[The motions above, when made with relation to a matter pending, should be voted upon in the order in which they are listed above.

A motion to refer is equivalent to a motion to commit, and a motion to refer to a standing committee has precedence of a motion to refer to a select committee. (See Rule 59.)

There are several kinds of motions to amend, which motions have precedence in the order named below:

1. Committee amendments and amendments by the author or Senator in charge of the bill offered from the floor to the body of the bill.

2. Other amendments offered from the floor to the body of the bill.

3. Amendments to the caption of the bill.

4. Amendments to strike out the enacting clause of a bill.

If a bill is considered section by section, an amendment is not in order except to the section under consideration. After all of the sections have been considered separately, the whole bill is open for amendment.]

*The motion to table takes precedence over a motion to lay on the table subject to call.*

Senator Henderson moved to lay the motion on the table subject to call. As a substitute, Senator Westbrook moved to table the motion. Senator Henderson made the point of order that a motion to lay on the table subject to call cannot be substituted by a motion

to table. The Chair, President Pro Tem. W. L. Dean, overruled the point of order. (35th, 3rd C. S.)

*The motion to table is not a substitute for the motion to refer.*

Senator Neal sent up S. R. No. 28 and it was read.

Senator Purl moved to refer the resolution to the Committee on Employees. Senator Holbrook moved as a substitute that the resolution be tabled.

Senator DeBerry raised the point of order that the substitute motion was out of order, the original being of higher precedence.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd Reg.)

*Not in order to attempt to take out matter inserted after the Senate has refused to reconsider the vote by which it was inserted.*

Senator Holbrook sent up the following amendment:

Amend H. B. No. 336 by striking out of the bill all of the amendment heretofore sent up by the Senator from Dallas, which amendment was signed jointly by the Senators from Dallas and Collingsworth, and which was adopted by a viva voce vote of the Senate.

The amendment was read.

Senator Purl raised the point of order that the amendment was out of order because a previous motion to reconsider his amendment had previously been defeated.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd Reg.)

*Several rulings upholding the right of the Senate to amend, with wide latitude, revenue measures originating in the House.*

Senator Hopkins raised the point of order that the amendment was out of order because bills to raise revenue must originate in the House; that the Senate might amend this bill with reference to natural gas tax but could not introduce a tax on a new commodity in the form of an amendment to this bill, and that the amendment came within the prohibition of Section 33 of Article III of the State Constitution.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order on the basis of a previous ruling by the Attorney General, printed on pages 65 to 67 of the Senate Journal, First Called Session, Forty-first Legislature, and the ruling of Lieutenant Governor Barry Miller then made permitting the adding by the Senate of a license tax to a bill providing for a gasoline tax. (42nd Reg.)

*Point regarding the right of the Senate to amend a revenue bill from the House by adding a new field of taxation.*

The "peddlers' tax" bill was pending before the Senate, and an

amendment was offered placing a tax of ten cents per sack on the manufacture of cement. Senator Williamson raised the point of order that the Senate had no authority to add an entirely new tax to a revenue bill from the House.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

Senator Purl raised a point of order that this bill was a bill to provide a peddler's license for the purpose of regulation and that the amendment was not germane.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

**MOTION TO LAY ON THE TABLE.**—The motion to lay on the table is used as a final, adverse disposition of a matter without debate (V, 5389). It may not be amended (V, 5754) or applied to the motions for the previous question (V, 5410-5411), to suspend the rules (V, 5405), or to any motion relating to the order of business, except the motion to discharge a committee (V, 5403, 5404, 5407). The motion to table may be repeated after intervening business (V, 5398-5400), but the "intervening business" must be such as to carry the question to a new stage in order to permit a repetition of the motion (V, 5709).

**MOTION TO POSTPONE INDEFINITELY.**—The motion to postpone indefinitely opens to debate all the merits of the proposition to which it is applied (V, 5316). It may not be applied to the motion to refer (V, 5317), or to suspend the rules (V, 5316). [And it is reasonable to infer that it is equally inapplicable to the other secondary or privileged motions enumerated in the rules, and motions relating to the order of business.]

**CONSIDERATION OF AMENDMENT.**—Senator Head offered amendment to H. B. No. 92.

Senator Metcalfe raised a point of order against consideration of the amendment on the ground that its effect is to strike out matter from the bill which has been inserted by an amendment previously adopted by the Senate.

The Chair, Lieutenant Governor Coke R. Stevenson, overruled the point of order. (46th Reg.—S. J. p. 611)

**AMENDMENT WOULD CHANGE ORIGINAL PURPOSE OF BILL.**—Constitution, Article III, Sec. 30.

Senator Kelley offered amendment to the amendment (1) by Senator Nelson to Senate Bill No. 224.

Senator Van Zandt raised a point of order against further consideration of the amendment (1) and the amendment to the amend-

ment (1) on the ground that their adoption would change the original purpose of the bill.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 1140)

AMENDMENT NOT GERMANE TO ORIGINAL PURPOSE OF BILL—

Senator Beck offered amendment to House Bill No. 851.

Senator Small raised a point of order against further consideration of the amendment on the ground that it is not germane to the original purpose of the bill (the purpose being only to extend the operation of a law and not to change or supplant it.)

The President, Coke R. Stevenson, overruled the point of order. (46th Reg.—S. J. p. 1242)

LIMITATION OF DEBATE.

27. No debate shall be allowed on a motion to lay on the table, for the previous question, or to adjourn or recess; provided, however, that the author of a measure, or whichever one of the several authors of the same may be by them selected so to do, shall have the right, when a motion to lay on the table shall have been made to close the debate, which privilege he may yield to any other Senator subject to all of the Rules of the Senate.

*No business can be transacted while a motion to adjourn is pending.*

Senator DeBerry raised the point of order that after a motion to adjourn had been made, no further business could be transacted until the motion was disposed of.

The Chair, Lieutenant Governor Edgar E. Witt, held that only business transacted by unanimous consent was in order while a motion to adjourn was pending. (43rd Reg.)

PROPER SUBSTITUTE FOR MOTIONS TO TABLE—MOTION TO TABLE NOT DEBATABLE.—The President laid before the Senate on its second reading and passage to engrossment S. B. No. 224. Senator Weinert moved that the bill be tabled subject to call. Senator Hill moved as substitute that the bill be passed to engrossment.

Senator Moore raised a point of order against consideration of the motion of Senator Hill on the ground it is not a proper substitute for the motion to table subject to call.

The President, Coke R. Stevenson, sustained the point of order.

Pending the remarks of Senator Hill, Senator Moore raised the point of order that the motion to table subject to call is not debatable and that Senator Hill may not speak further at this time.

The President, Coke R. Stevenson, sustained the point of order.  
(46th Reg.—S. J. p. 479)

### CONSIDERATION OF HOUSE BILLS ON SENATE BILL DAYS.

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

[The purpose of this Rule is to save the time and labor of the Legislature, by disposing of the most advanced legislation first. The House bill is not substituted for the Senate bill, but simply is considered instead of the Senate bill, which is displaced on the Calendar by the House bill. An amendment to the House bill by inserting the Senate bill after the enacting clause would be in order, and if adopted would become privileged matter in the House, thus advancing the bill, and practically insuring final action on the measure.

The House bill must be on the Calendar, that is, reported out of the committee, but it would seem since this is a specific rule that the committee report would not have had to lay over one day or that the printed bill be on the desks of the Members twenty-four hours, since the purpose of Rules 38 and 56 have been complied with in connection with the Senate bill on the same subject.

It is not necessary that the bills be identical if generally they cover the same subject and are directed to the same end.]

### PUNISHMENT OF MISCONDUCT.

29. The Senate may punish any Member for disorderly conduct, and, with the consent of two-thirds, may expel a Member, but not a second time for the same offense. (See Constitution, Art. III, Sec. 11.)

30. The Senate, during its session, may imprison for forty-eight hours any person, not a Member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings. (See Constitution, Art. III, Sec. 15.)

31. Any Member who shall receive or offer a bribe, or who shall suffer his vote to be influenced by promise of preferment or reward, shall on conviction, be expelled.

### PROCEDURE IN PASSAGE OF BILLS.

32. No bill shall have the force of a law until it has been read on three several days in each House and free discussion allowed thereon, but in case of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill), four-fifths of the House in which the bill may be pending may suspend this Rule, the yeas and nays being taken on the question of suspension and entered upon the Journals. (Constitution, Art. III, Sec. 32.)

["Four-fifths of the House in which the bill may be pending" has been interpreted to mean four-fifths of all of the Senators recorded on the roll call, those Members present and not voting, and those paired, as well as those voting yea and nay.]

*Only four-fifths of the members present required to suspend the Constitutional Rule requiring bills to be read on three several days.*

Senator Williamson raised the point of order that it was not neces-

sary to secure a four-fifths vote of the Members to suspend this Rule, but only a four-fifths vote of the Members present.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order, stating that reference to precedents and rulings in this connection supported this ruling. (42nd Reg.)

33. The President shall, at each reading, announce whether the bill originated in the Senate or House of Representatives, and whether it be the first, second, or third reading.

34. A bill, when introduced, shall be read and referred to a committee. The first reading of a bill, if a Senate bill, shall be the reading thereof, when first introduced; if a House bill, the reading thereof when submitted to the Senate. And all House bills, when received in the Senate, shall be read and referred to a committee. No action shall be taken upon a bill accepting, rejecting or amending the same until it has been reported upon by a committee. And it shall be the duty of each committee of the Senate when there has been referred to it or is before it for consideration a Senate bill and a House bill containing the same subject to consider first and report upon the House bill.

*A bill not coming within the Governor's call or subsequent message at a Special Session should not even be referred to a committee.*

Senate Bill No. 2 was read first time, but the Chair, Lieutenant Governor Barry Miller, declined to refer the bill, holding that it was not covered by the call of the Governor. Senator Love moved to refer the bill to the Committee on Finance. The Chair held the motion out of order. Senator Love raised the point of order that the President of the Senate did not have the right to decide what bills should be considered by the Senate either within or without the call of the Governor. The Chair overruled the point of order. (41st, 5th C. S.)

[Lieutenant Governor Edgar E. Witt has frequently held that the matter of whether a bill came within the Governor's call should be determined by a vote of the Senate rather than by the ruling of the presiding officer. (43rd Reg.)]

*Bill including provisions to outlaw other forms of betting on horse races held within Governor's call submitting subject of outlawing pari-mutuel betting.*

Senator Small raised, and submitted in writing, the following point of order:

Mr. President:

I raise the point of order that Senate Bill No. 1 is not within the Governor's proclamation convening this extraordinary session of the Legislature, for the following reasons, to-wit:

(1) The sole and only purpose assigned by the Governor as a reason for convening the Legislature in extraordinary session is "to outlaw and prohibit the so-called pari-mutuel betting or gaming on horse races, at race tracks, legalized by Acts of the Forty-third Legislature in 1933."

Sections 2 and 3 of Senate Bill No. 1 attempt to make it unlawful for any person, at any race track in this State, to take or accept any bet, or aid any other person in betting or taking or accepting any bet upon any horse race being run, trotted, or paced in this State. And Section 3 attempts to define the term "bet" or "wager" so as to provide that any bet or wager may be for money or any article of value, or by any device in the form of purchase or sale, or in any other form made for the purpose of concealing the true intention of the parties.

It is evident that pari-mutuel betting or gaming is only one of many different methods of betting and gaming on horse racing at race tracks, and it is equally evident that Senate Bill No. 1 not only attempts to outlaw and prohibit the so-called pari-mutuel betting or gaming on horse racing, but also attempts to make it an offense for any person to take or accept any individual bet on a race, or to make books upon a race, or to take or make a bet of any description, which is clearly beyond the purview of the proclamation of the Governor which confines the Legislature to a prohibition of the particular form of betting known as pari-mutuel betting or gaming.

(2) The text of the Governor's proclamation clearly shows that he had but one form of betting or gaming in mind, and that this form was the pari-mutuel method authorized by Acts of the Forty-third Legislature, and that the Governor specifically restricted the Legislature to a consideration of this one phase or method of betting or gaming, and that, by so limiting the Legislature, by the terms of his message he did not authorize the prohibition of any and all forms of gaming or betting on horse races at race tracks, which necessarily includes individual bets, bookmaking, and every other form of wagering on a horse race.

I desire that this point of order be printed in the Journal, and that it and the ruling of the Chair be made a part of the record of Senate Bill No. 1.

Respectfully,

SMALL.

Senator Small addressed to the President an argument on the question of whether the point of order should be sustained.

Senator Rawlings then called for an immediate decision by the President on the point of order and the call was duly seconded.

The President, Walter F. Woodul, overruled the point of order.

Senator Rawlings asked that the point of order and the fact that it was made and overruled be indorsed on the original copy of Senate Bill No. 1.

The President, Walter F. Woodul, stated that the request would be granted to the extent of having the Secretary of the Senate make an indorsement on the bill to show only the fact that the point of order, as set forth in full in the Journal, was raised and was overruled. (45th, 1st. C. S.)

35. No motion shall be necessary to pass a bill to its second reading. The main question on the second reading of the bill shall be, if a Senate bill, "shall this bill be engrossed and passed to a third reading?" and if it be a House bill, "shall this bill pass to a third reading?"

PROPER SUBSTITUTE FOR MOTIONS TO TABLE—MOTION TO TABLE NOT DEBATABLE.—The President laid before the Senate on its second reading and passage to engrossment S. B. No. 224. Senator Weinert moved that the bill be tabled subject to call. Senator Hill moved as substitute that the bill be passed to engrossment.

Senator Moore raised a point of order against consideration of the motion of Senator Hill on the ground it is not a proper substitute for the motion to table subject to call.

The President, Coke R. Stevenson, sustained the point of order.

Pending the remarks of Senator Hill, Senator Moore raised the point of order that the motion to table subject to call is not debatable and that Senator Hill may not speak further at this time.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 479)

36. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment or as a substitute for the motion or proposition under debate. (See Constitution, Article III, Sections 30 and 35.)

37. No bill shall be considered unless it has been referred to a committee and reported thereon, and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the Legislature. (Constitution, Art. III, Sec. 37.) And no vote shall be taken upon the passage of any bill within the last twenty-four hours of the session unless it be to correct an error therein.

38. Whenever any bill is reported favorably by a committee of the Senate or the Senate so directs by its order, such bill shall be printed and a copy thereof shall be laid on the desk of each Senator unless otherwise ordered by the Senate.

No bill, except a local bill, shall be considered by the Senate until printed copies of said bill shall have been on the desk of each Senator for at least twenty-four hours; and provided further, that the Calendar for each day shall be placed on the desk of each Senator on or before 12 o'clock noon of the preceding day.

[The above rule is complied with if a bill has been printed in the Journal and placed on the desks of the Senators twenty-four hours before action is taken on the bill.

A favorable minority report does not justify the printing of a bill unless ordered printed by the Senate. See Senate Journal, 38th Legislature, Regular Session, 31st day.]

*A bill must be printed and laid on the desks of the Members before it can be considered, even though it has been set as a special order.*

S. B. No. 6 had been laid before the Senate as a special order. Senator McNealus made the point of order that S. B. No. 6 cannot be taken up at this time for the reason that the Senate has ordered the same printed in bill form and this action must be rescinded before the bill can be considered in any different form. The Chair sustained the point of order, holding that the bill could not be laid before the Senate until the same had been printed. (35th, 1st C. S.)

*Held that multigraphed copies of bill were equivalent to printed copies so far as the 24-hour printing rule is concerned.*

The Chair, Lieutenant Governor Edgar E. Witt, laid before the Senate S. B. No. 8.

Senator Holbrook raised the point of order that the bill had not been printed and laid on the desks of the Senators 24 hours.

Senator Woodward stated that multigraphed copies of the bill had been laid on the desks of the Senators 24 hours.

The Chair, Lieutenant Governor Edgar E. Witt, then overruled the point of order. (42nd Reg.)

*A bill must be on the printed calendar on the Senators' desks before it can be considered.*

Senator Stevenson raised the point of order that no calendar containing S. B. No. 8 had been placed on the desks of the Senators.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd Reg.)

*Sunday cannot be counted when determining the time a printed bill has lain on the Senators' desks.*

The Chair, Lieutenant Governor Barry Miller, ruled that Sunday did not satisfy the requirements of the Rule requiring bills to lie on the desks of the Senators 24 hours, and that all bills laid on the Senators' desks on Sunday must lie over until Tuesday morning to satisfy the 24-hour Rule. (41st Reg.)

*Bills involving the expenditure of State funds are not local bills.*

Senator DeBerry raised the point of order that this was not a local bill.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order, holding that bills involving the expenditure of State funds were not local bills. (42nd Reg.)

*The signing of a bill by the President is not "consideration," and therefore may be done during the last twenty-four hours of a session.*

Pending the signing of H. B. No. 513, Senator Hudspeth made the following point of order:

I make the point of order that House Bill No. 513 cannot be signed by the President of the Senate, owing to the fact that it was passed after the 24-hour period, which, under Senate Rule 37, provides that no bill shall be considered 24 hours before final adjournment, and that the signing of the bill is in violation of that rule.

The point of order was overruled.

Senator Hudspeth appealed from the ruling of the Chair.

President Pro Tem. Henderson was called to the Chair and presided.

Question—Shall the Chair be sustained?

The Senate sustained the ruling of the Chair by a viva voce vote.  
(34th Reg.)

39. No amendment shall be adopted at the third reading of a bill without the consent of two-thirds of the Members present.

40. It shall be in order at the third reading of a bill to move its reference to a committee, and should such motion prevail and the same be reported back to the Senate, the said bill shall be considered as on its second reading.

*A bill may be recommitted after amendments have been adopted.*

Senator Williamson moved to recommit the bill to the Committee on State Affairs.

Senator Martin moved to table the motion.

Senator DeBerry raised the point of order that the bill could not be recommitted after amendments had been adopted.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order. (42nd Reg.)

41. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read before signing, and the fact of signing shall be entered on the Journals. (Constitution, Art. III, Sec. 38.)

INDORSEMENT OF BILLS.—Senator Burns moved that the resolution be indorsed on the enrolled copy of the bill.

Senator Van Zandt raised a point of order against consideration of the motion, on the ground that the resolution relates to a House Bill, the enrolling of which is not under the control of the Senate.

Senator Moffett raised a further point of order against consideration of the motion, on the ground that the resolution itself will be enrolled and filed in Secretary of State's office, where it will be available to the courts or others concerned, and that its indorsement on the bill is not necessary to enable the public or the courts to ascertain its contents.

The President, Coke R. Stevenson, sustained the points of order.  
(46th Reg.—S. J. p. 1894)

### SUBSTITUTE BILLS.

42. When the House of Representatives shall adopt and send to the Senate a substitute for a bill that had previously passed the Senate and had been sent to the House, said substitute shall be acted upon by the Senate in the same manner as a bill that originated in the House of Representatives, and any amendment which is in effect a substitute shall be considered a substitute bill.

### RESOLUTIONS.

43. Every resolution that requires the approval of the Governor shall be subject to the rules that govern the proceedings on bills.

[Joint resolutions appropriating money come within this rule.]

*Subject matter of resolutions in special sessions does not have to be submitted by the Governor.*

The Chair laid before the Senate the following resolution:

Simple Resolution No. 8, In regard to investigation of campaign expenses.

Senator Bailey made the point of order that the resolution was not within the Governor's call.

The Chair, Lieutenant Governor Barry Miller, overruled the point of order, because the resolution was not a bill, and did not require the action of both Houses. (39th, 1st C. S.)

Senator Love sent up for consideration a simple resolution. The resolution was read. Senator Stevenson raised the point of order that this resolution was out of order because the Governor's call restricted this Special Session of the Legislature to the consideration of appropriations. The Chair, Lieutenant Governor Barry Miller, overruled the point of order on the ground that a simple resolution need not be restricted to the limits of the Governor's call. (41st, 3rd C. S.)

*A concurrent resolution does not have to take the course of a bill if it appropriates money from the Contingent Expense Fund.*

The President laid before the Senate S. C. R. No. 4.

Senator Price made the point of order that a concurrent resolution must go the course of a bill, and since the resolution carried an appropriation, the resolution was not included in the call.

The Chair, Lieutenant Governor Barry Miller, overruled the point of order, because the resolution provided for the payment of the money out of the Legislative Contingent Expense Fund. (39th, 1st C. S.)

*Not in order to fix a salary by Senate resolution.*

Senator DeBerry called up Senate Resolution No. 29, fixing salaries of certain Senators at \$8.00 per day. Senator Rawlings raised the point of order that the Senate could not by simple resolution fix the pay of individual Senators in an amount different from the amount previously set by the concurrent resolution adopted by both Houses of the Legislature.

The Chair, Lieutenant Governor Edgar E. Witt, submitted the point of order raised by Senator Rawlings to the Senate. The Senate voted to sustain the point of order by the following vote: Yeas 20, nays 6. (43rd Reg.)

#### RESOLUTIONS SENT TO PRESIDENT'S TABLE WHEN INTRODUCED—

Senator Moore offered the resolution and the President laid the resolution before the Senate after it was read.

Senator Spears raised a point of order against consideration of the resolution at this time on the ground that a resolution when introduced should go to the President's table and be taken up for consideration when business on the President's table is reached.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 1598)

44. All resolutions, except courtesy and Senate resolutions shall, upon their introduction, be referred to an appropriate committee and shall not be acted upon at the time of introduction unless by a two-thirds vote of the members present the Senate shall so direct.

#### AMENDMENTS TO THE CONSTITUTION.

45. All amendments proposed to the Constitution shall be subject to Rules that govern the proceedings on bills, except that they shall, in all cases, be

read on three several days, and shall only be passed by a vote of two-thirds of the members elected to the Senate. (See Constitution, Art. XVII, Sec. 1.) When a proposed amendment to the Constitution may be under consideration, the votes of a majority of the Members present shall be sufficient to decide an amendment thereto, or any collateral or incidental questions short of the final question.

*All amendments to the Constitution or bills must be read on three several days, and shall only be passed by a vote of two-thirds of the members of the Senate.*

S. J. R. No. 24 passed to engrossment by the following vote: Yeas 27, nays 1.

Senator Moore raised the point of order that S. J. R. No. 24, having received two-thirds vote, had finally passed and that it was not necessary to be read on three several days and that the Senate rule conflicted with the Constitution.

The Chair, Lieutenant Governor Walter Woodul, overruled the point of order because of Senate Rule No. 38. (44th Reg.)

46. When a Joint Resolution has failed of adoption on third reading, it shall not be again considered during that session.

### MOTIONS.

47. All motions shall be reduced to writing and read by the Secretary, if desired by the presiding officer or any Senator present.

48. After a motion has been stated by the President, or read by the Secretary, it shall be deemed to be in possession of the Senate, but it may be withdrawn at any time before it has been amended or decided.

49. On motion to fix a sum or state a time, the largest sum and the longest time shall have precedence.

[Motions to adjourn or recess, being of high privilege, should not be substituted, but the Senate should have the right to vote on all motions made, the vote being taken on the longest time first. Should the time be the same in a motion to recess and another motion to adjourn, the motion to adjourn being a motion of higher privilege, should be put first.

The motion to recess or adjourn not being debatable, the mover cannot hold the floor to the exclusion of other Senators who might want to make a motion to adjourn or recess to a different hour. After the motion is made, anyone can demand that the question be put, and any business, such as reading of bills, reports or the making of announcements, must be done by unanimous consent and by the mover yielding.]

*The Senate may stand at ease by unanimous consent.*

Senator Hudspeth made the point of order that the Senate when it was ordered to stand at ease on last night had automatically adjourned itself, it having been held that less than a quorum could only adjourn from day to day and could not, under the terms of the Constitution of this State, recess, and that this a new legislative day, being House bill day, and that House bills only are in order.

The point of order was overruled, the Chair stating that the Senate stood at ease by unanimous consent and not by a vote of the Senate.

Senator Hudspeth appealed from the ruling of the Chair. President Pro Tem. Henderson was called to the Chair and presided.

Question—Shall the Chair be sustained?

The Senate sustained the ruling of the Chair. (35th Reg.)

50. Any Member may have the question before the Senate divided, if it be susceptible of a division, into distinct questions; but on a motion to strike out and insert, it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition; nor prevent a subsequent motion simply to strike out; nor shall the rejection of a motion simply to strike out prevent a sub-

sequent motion to strike out and insert. A motion to table shall only affect the matter to which it is directed, and a motion to table an amendment shall never have the effect of tabling the entire measure.

**DIVISION OF THE QUESTION.**—After the question has been put, it may not be divided, nor after the yeas and nays have been ordered (V, 6160-6162), but it may be demanded after the previous question has been ordered (V, 5468, 6149).

It is not in order to demand a division of a related subject; as, when a resolution to adopt a series of rules not made a part of the resolution was before the House, it was held not in order to demand a separate vote on each Rule (V, 6159).

In voting on the engrossment or passage of a bill or joint resolution a separate vote on the various portions may not be demanded, or on the preamble of a bill (V, 6144-6148). When a motion is made to lay several connected propositions on the table, a division is not in order (V, 6138). On a decision of the President involving two distinct questions, there may be a division on appeal (V, 6157).

51. A motion to postpone, or to commit, having been once decided, shall not again be entertained on the same day, at the same stage of the bill or other question before the Senate.

### PETITIONS AND MEMORIALS.

52. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, a brief verbal statement of its contents may be made by the person presenting it.

*Petitions may be received even though they do not relate to a matter pending before the Legislature.*

Senator Bailey obtained recognition to file some petitions relating to amendment of the election laws of the State.

Senator McNealus made the point of order that the petitions are not receivable for the reason that they do not relate to any matter pending before the Legislature.

The Chair, President Pro Tem. E. A. Decherd, overruled the point of order, holding that the right of petition is guaranteed under the Constitution of the State. (35th, 4th C. S.)

REASON FOR VOTE.

53. Any Member shall have the privilege to have spread upon the Journal of the Senate a brief statement of his reason for any vote he may cast.

REPORTS.

54. All committee reports shall be in writing.

55. It shall be in order for the Committee on Engrossed and Enrolled Bills to report at any time.

56. All reports except reports from the Committee on Engrossed and Enrolled Bills shall, after being read, lie on the table one day before consideration, unless committed.

[It has been held that "one day," as used here, means a Legislative day and not a Calendar day.

This Rule applies to resolutions as well as bills.]

57. When a committee shall report an original bill, such bill shall be read with the report, and shall be endorsed by the Secretary as having been read the first time.

*The signed committee report is sufficient evidence that a bill has been properly considered by a committee.*

Senator Purl moved to take up S. B. No. 51 out of its regular order.

Senator Parr raised the point of order that the bill had never been properly before the committee.

The Chair, President Pro Tem. Tom DeBerry, overruled the point of order, holding that he could not go behind the committee report. (42nd, 1st C. S.)

*A favorable minority report must be filed if a bill reported unfavorably is to be considered.*

Lieutenant Governor T. W. Davidson ruled upon a motion made by Senator Darwin to adopt the unfavorable committee report on S. B. No. 266 that the motion was out of order since an unfavorable majority report could not be considered by the Senate in absence of a favorable minority report. (38th Reg.)

[Lieutenant Governor Edgar E. Witt made the same ruling on H. B. No. 213.] (See Senate Journals, May 1st and 2nd, 43rd Reg.)

### COMMITMENT.

58. Motions in writing, reports, and all resolutions, except such as require the approval of the Governor, may be committed at the pleasure of the Senate.

59. When several motions shall be made for reference of a subject to a committee, they shall have the preference in the following order:

First: To a Committee of the Whole Senate.

Second: To a Standing Committee.

Third: To a Select Committee.

### RECONSIDERATION.

60. After a question shall have been decided, either in the affirmative or negative, any Member voting with the prevailing side may, on the same day in which the vote was taken, or within the next succeeding day of actual session, move the reconsideration thereof. When a bill, resolution, report, amendment, order or message upon which a vote was taken shall have gone out of the possession of the Senate and have been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return same, which last motion shall be acted upon, and if determined in the negative shall be a final disposition of the motion to reconsider.

*The motion to reconsider may be made on the next business day.*

Where the next day there was no quorum, Senator Bailey (presiding) ruled that the motion to reconsider could be made the next day business was actually transacted. (38th Reg.)

*The motion to reconsider (and to reconsider and spread on the Journal) must be made before the bill or resolution has advanced to a new stage of consideration, e. g., to another reading.*

Senator Parr moved to reconsider and spread the motion on the Journal, the vote by which the 75c sulphur tax amendment was adopted.

Senator Pollard raised the point of order that it would first be necessary to reconsider the vote by which the bill was engrossed.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd Reg.)

*Motion to reconsider is not in order by Member who was absent when the vote on final passage was taken.*

Senator Greer sent up the following written motion: "I move that the Senate reconsider the vote by which the free conference report on S. B. No. 195 was adopted and that said motion be spread on the Journal." Senator Collie raised the point of order that Senator Greer was not present when the bill was finally passed.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (43rd Reg.)

RECONSIDERATION.—Where the yeas and nays have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the prevailing side or not, may make the motion to reconsider (V, 5611-5613, 5689); but a Member who was absent or who was paired in favor of the majority contention, and did not vote, may not make the motion (V, 5614, 5619).

While the motion to reconsider has high privilege for entry, it may not be considered while another question is before the Senate (V, 5673-5676). When it relates to a bill belonging to a particular class of business, consideration of the motion is in order only when that class of business is in order (V, 5677-5681).

When a motion is made to reconsider the vote on a bill which has gone to the House, a motion to recall the bill is privileged (V, 5669-5671).

The motion to reconsider is adopted by a majority vote, even when the vote reconsidered requires two-thirds for affirmative action (II, 1656; V, 5617, 5618).

The vote by which the previous question was ordered can only be reconsidered one time (V, 5655), and, as previously stated, the motion to reconsider cannot be applied to a vote by which the previous question was ordered after the previous question has been partially executed (V, 5653, 5654).

A motion to reconsider cannot be applied to a negative vote on adjournment, for recess, or suspension of the Rules (V, 5625, 5645, 5646).

A motion to reconsider having prevailed and the vote again taken on the proposition, another motion to reconsider is not in order unless the nature of the proposition has been changed by amendments (V, 5685-5688).

The effect of a motion to reconsider is to suspend the original proposition, or, in other words, to hold the matter in abeyance pending the further pleasure of the Senate. However, should the Legislature adjourn finally, leaving undisposed of a motion to reconsider, and the bill, by oversight, should be enrolled, properly signed by the presiding officers of the two Houses, and approved by the Governor, it would undoubtedly become a law, although a motion to reconsider the vote by which it was finally passed remained undisposed of (V, 5704).

When a motion to reconsider is carried, the question immediately recurs on the proposition reconsidered, and when a vote adopting an amendment is reconsidered the amendment simply becomes the pending amendment (V, 5703, 5704).

A motion to reconsider is debatable unless the proposition upon which the motion to reconsider is made is not debatable (V, 5694-5699).

Although a bill may have gone to the other House or to the Governor, or the Senate has informed the House that it has agreed to the House amendments to a Senate bill, the motion to reconsider may be made if made within the time prescribed by the rules (V, 5666-5668, 5672).

For Practice of Reconsideration and Table, see Hinds' Precedents, Vol. 5, Sec. 5637; Development of Sec. 5634-5639).

*Motion to adopt a conference committee report on joint resolution is in order at any time, without a motion to reconsider.*

Senator Burns received unanimous consent to suspend regular order of business and call up S. J. R. No. 26 and reconsider the vote by which the Senate failed to adopt the conference report on S. J. R. No. 26.

Senator Sanderford raised the point of order that the resolution was not before the Senate and that it had been killed the previous day and that no motion could be made on the Resolution.

The Chair, Lieutenant Governor Walter Woodul, overruled the point of order, stating that a motion to adopt the conference committee report was in order at any time, without a motion to reconsider. (44th Reg.)

RECONSIDERATION.—Senator Nelson moved to reconsider vote by which Senate Bill 19 was passed to engrossment.

Senator Burns raised a point of order against consideration of the motion, on the ground that it comes too late, not having been made on the same day the bill was passed to engrossment nor on the next succeeding legislative day, as required by Senate rule 52.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 1129)

RECONSIDERATION.—Senator Spears moved to reconsider the vote by which the conference report on H. B. No. 194 heretofore was adopted by the Senate.

Senator Weinert raised a point of order against consideration of the motion on the ground that the bill has been duly passed, signed and presented to the Governor, and any further action on the bill, or consideration of it by the Senate would be in violation of Section 14 of Article IV of the State Constitution.

The President, Coke R. Stevenson, overruled the point of order. (46th Reg.—S. J. p. 1437)

61. In all cases a motion to reconsider shall be decided by a majority of the vote.

62. When the reading of a paper is called for, and the same is objected to by any Member, it shall be determined by a majority vote of the Senate, and without debate.

#### QUESTIONS—MODE OF STATING AND VOTING UPON.

63. All questions shall be distinctly put by the President and the Members shall signify their assent or dissent by answering “yea” or “nay.”

64. If the Senate be equally divided on any question, the Lieutenant Governor, if present, shall give the casting vote. (See Constitution, Art. IV, Sec. 16.)

65. The President of the Senate for the time being shall not, by virtue of his office, be entitled to give the casting vote in any case.

66. If the Senate is equally divided on any questions when the Lieutenant Governor is not present, such question or motion shall be lost.

67. Upon the final passage of all amendments proposed to the Constitution, of all bills appropriating money or lands for any purpose, and of all questions requiring a vote of two-thirds, except a motion to suspend the Rules, the presiding officer shall call for the yeas and nays, and they shall be entered in the Journal.

68. At the desire of any three Members present, the yeas and nays shall be entered on the Journal, and the names of the Members present and not voting shall be recorded immediately after those voting in the affirmative and negative, and such Members shall be counted in determining the presence of a quorum. (See Constitution, Art. III, Sec. 12.)

[Verification of a yea and nay vote is not provided for by any Rule and a Member, as a matter of right, may not demand it. But when a vote is close it has been the practice of the National Congress and in the House for the Speaker to order it when requested by any Member voting. During such verification, no Member can change his vote, neither may any Member not having voted cast a vote. It would be dangerous precedent to allow any change in the vote after it had once been announced. And no change should ever be made except in the case of an erroneously recorded vote.]

69. Upon a roll call of the Senate, should any Member who is in the Senate Chamber fail or refuse to answer when his name is called, the Secretary of the Senate shall, under the direction of the President of the Senate, record such Member as present.

#### TWO-THIRDS VOTE—ON WHAT QUESTIONS REQUIRED.

70. (a) A vote of two-thirds of all Members elected to the Senate shall be required:

(1) For the final passage of amendments to the Constitution. (See Constitution, Article XVII, Section 1.)

(2) In cases of great public calamity to release the payment of taxes. (See Constitution, Article VIII, Section 10.)

(3) For the final passage of bills to reduce a county to a less area than nine hundred square miles. (See Constitution, Article IX, Section 1.)

(4) For the passage of an address to the Governor for the removal of any civil officer. (See Constitution, Article XV, Section 8.)

(5) To expel a Member. (See Constitution, Article III, Section 11.)

(b) A vote of two-thirds of all Members elected to the Senate shall be required for the passage of House Bills that have been returned by the Governor with his objections, and a vote of two-thirds of the Members of the Senate present shall be required for the passage of Senate Bills that have been returned by the Governor with his objections. (See Constitution, Article IV, Section 14.)

71. (a) A vote of two-thirds of all Members present shall be required:

(1) For the impeachment of any officer. (See Constitution, Article XV, Section 3.)

(2) To excuse absentees.

(3) To adopt an amendment at third reading of a bill or a joint resolution.

(4) To postpone or change the order of business.

(5) To suspend, rescind or amend any rule of the Senate.

(b) A vote of two thirds of the Members present shall be required for the confirmation of any ap-

pointee of the Governor, unless otherwise directed by law. (See Constitution, Article IV, Section 12.)

#### SUSPENSION OF THE RULES.

72. It shall require a vote of four-fifths of the Senate to suspend the Rule requiring bills to be read on three several days. (See Constitution, Art. III, Sec. 32.)

#### DEFEATED BILL OR RESOLUTION.

73. After a bill or resolution has been considered and defeated by either Branch of the Legislature, no bill or resolution containing the same substance shall be passed into a law during the same session. (See Constitution, Art. III, Sec. 34.)

#### ELECTIONS.

74. In all elections of the Senate, the vote shall be given viva voce, except in the election of officers of the Senate. (See Constitution, Art. III, Sec. 41.)

75. A majority of the whole number of votes cast shall be necessary for a choice in all elections by the Senate.

#### COMMITTEES.

76. All committees shall be appointed by the President, unless otherwise directed by the Senate.

77. The following standing committees shall be appointed:

- (1) A Committee on Civil Jurisprudence.
- (2) A Committee on Criminal Jurisprudence.
- (3) A Committee on Constitutional Amendments.

- (4) A Committee on Educational Affairs.
- (5) A Committee on Internal Improvements.
- (6) A Committee on Finance.
- (7) A Committee on Public Lands and Land Office.
- (8) A Committee on State Penitentiaries.
- (9) A Committee on Public Health.
- (10) A Committee on Military Affairs.
- (11) A Committee on State Affairs.
- (12) A Committee on Commerce and Manufactures.
- (13) A Committee on State Highways and Motor Traffic.
- (14) A Committee on Public Debts, Claims and Accounts.
- (15) A Committee on Contingent Expenses.
- (16) A Committee on Federal Relations.
- (17) A Committee on Counties and County Boundaries.
- (18) A Committee on Public Printing.
- (19) A Committee on Judicial Districts.
- (20) A Committee on Stock and Stock Raising.
- (21) A Committee on Agricultural Affairs.
- (22) A Committee on State Institutions and Departments.
- (23) A Committee on Privileges and Elections.
- (24) A Committee on Public Buildings and Grounds.
- (25) A Committee on Rules.
- (26) A Committee on Engrossed Bills.
- (27) A Committee on Enrolled Bills.
- (28) A Committee on Insurance.
- (29) A Committee on Towns and City Corporations.

- (30) A Committee on Oil, Gas and Conservation.
- (31) A Committee on Labor.
- (32) A Committee on Nominations of the Governor.

(Proviso—that when any nomination of the Governor shall be referred to this committee, it shall not be reported to the Senate at an earlier date than three days, unless otherwise ordered by the Senate.)

- (33) A Committee on Banking.
- (34) A Committee on Congressional Districts.
- (35) A Committee on Senatorial Districts.
- (36) A Committee on Representative Districts.
- (37) A Committee on Game and Fish.
- (38) A Committee on Interstate Cooperation.

Each of said committees shall consist of such members as the Lieutenant Governor shall appoint.

*Bills which carry an appropriation do not necessarily have to go to the Finance Committee.*

Senator Poage raised the point of order that this bill was out of order because it made an appropriation and had not been referred to the Committee on Finance.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order. (42nd Reg.)

78. All Conference Committees of the Senate shall be selected and appointed by the Lieutenant Governor or the President Pro Tempore when the latter shall be presiding.

*Held out of order to instruct a conference committee after it had been appointed, and also out of order to amend conference committee report by resolution.*

Senator Purl sent up Senate Resolution No. 109 (see Senate Journal, May 9, 1933, page 1720, 43rd Regular Session), which sought to instruct the conferees to strike all portions from H. B. No. 167, the appropriation bill, that had to do with legalizing horse racing in this State and making an appropriation therefor, because said rider is in conflict with Section 30, Article III of the Constitution of Texas, which reads, "no law shall be passed, except by bill and no bill shall

be so amended in its passage through either House, so as to change its original purpose. . . .”

Senator Holbrook raised the point of order on Senate Resolution No. 109 seeking to amend H. B. No. 167 that a conference committee could not be instructed after it was appointed and had commenced its deliberation.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (43rd Reg.)

Senator Rawlings raised a point of order, regarding the amending of conference committee report on H. B. No. 167, that a conference committee report could not be amended by resolution.

The Chair, Lieutenant Governor Edgar E. Witt, held that the only changes in a conference report that could be made by resolution were corrections of typographical or clerical errors. (43rd Reg.)

[For further reference to this subject, see Senate Journal, May 18, 1933, 43rd Reg. Session, pages 1921-23.]

*Points similar to the above.*

Senator Moore sent up the following written motion:

We move that the Senate Conferees on H. B. No. 251 be, and they are hereby instructed, to retain the provisions of the Peddlers License and Cigarette Dealers Tax as passed by the Senate; that the Committee retain the Sulphur Tax at not less than 75 cents per long ton; and that the Committee also be instructed to retain a Cement Tax in said bill.

Senator Stevenson raised the point of order that conferees could not be instructed after they had been appointed.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order on the ground that the motion was made as nearly simultaneously with the appointment of the conferees as possible. (42nd Reg.)

79. The Senate may, by resolution, add members to any committee, standing or special, but when such additions are made, no further change in standing committees shall be made, except by and with the consent of a two-thirds majority of all the Senators present.

80. The present committees appointed by the Lieutenant Governor and added to by the Senate are declared to be the committees of the present Senate.

## COMMITTEE OF THE WHOLE.

81. It shall be in order for the Senate at any time after bills and resolutions have been called to resolve itself into Committee of the Whole.

82. In forming a Committee of the Whole Senate, the President shall leave the Chair, and shall appoint a chairman to preside in committee.

83. When in Committee of the Whole, the Lieutenant Governor shall have the right to debate and vote on all questions. (See Constitution, Art. IV, Sec. 16.)

84. The Rules of the Senate, as far as applicable, shall be observed in Committee of the Whole.

85. Upon bills being committed to a Committee of the Whole Senate, the bill shall be read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined; but all amendments, noting the page or line, shall be duly entered by the Secretary, on a separate paper, as the same shall be agreed to by the committee, and so reported to the Senate; after the report the bill shall again be subject to be debated and amended, or committed, before a question to engross it be taken.

## NOMINATIONS BY THE GOVERNOR.

86. When nominations shall be sent to the Senate by the Governor, a future day shall be assigned for action thereon, unless the Senate unanimously direct otherwise.

87. Nominations shall be acted on in executive session only.

88. All nominations approved or definitely acted on by the Senate shall be returned to the Governor, by the Secretary, from day to day, as such proceedings may occur.

WITHDRAWING NAMES SUBMITTED BY AN OUTGOING GOVERNOR.

[Governor Miriam A. Ferguson sent a message to the Senate which requested the withdrawal of the names of three appointees as members of the State Board of Education submitted by the outgoing Governor, Hon. R. S. Sterling. Senator Purl raised the point of order that the present Governor of Texas does not have the power to withdraw the appointments or nominations of another Governor that have been lawfully appointed without the consent of the Senate. Senator Neal raised the point of order that this point of order and further discussion of the matter were out of order because the message must first be referred to the Committee on Governor's Nominations.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

Following the receipt of a ruling by the Attorney General (see page 108 of the Senate Journal, Regular Session, Forty-third Legislature), Senator Woodruff sent up the following written motion: "I move that the Committee on Governor's Nominations be instructed to return instanter without recommendation the question of the request of the Governor to withdraw the names of the appointees to the State Board of Education." Senator Martin raised the point of order that this matter had been referred to the Committee on Governor's Nominations and the report of that committee must be made in executive session. The Chair, President Pro Tempore Walter F. Woodul, overruled the point of order, holding that the report on this particular subject must be made to the Senate in open session.

Senator Parr raised the point of order that the committee had already acted on the request of the Governor and was ready to report to the Senate. The Chair, President Pro Tempore Walter F. Woodul, held that the report had not been received and that as long as the Committee report had not been received, it was in order for the Senate to instruct the committee to report instanter or at any other time. (Senator Martin offered to send up the report.)

Senator Woodruff raised the point of order that this was not a privileged committee report and could not be sent up while his motion was pending. The Chair, President Pro Tempore Walter F. Woodul, held that, by a two-thirds affirmative vote, the Senate could permit the report to be sent up.

Following recess the question recurred upon the motion to instruct

the Committee on Governor's Nominations. Senator DeBerry raised the point of order that the time for the executive session had arrived. The Chair, President Pro Tempore Walter F. Woodul, sustained the point of order.

The report of the executive session was ordered printed in the Journal, and showed that Senator Purl raised the point of order that the request of the Governor to withdraw the nominations was not properly before the executive session. This point of order was sustained by the following vote: Yeas 17, nays 13.

On the following day Senator Woodruff moved not to grant the request of the Governor to withdraw the names. The motion prevailed. (43rd Reg.)]

#### GOVERNOR MAY RE-SUBMIT NOMINATIONS AFTER THE SENATE HAS FAILED TO CONFIRM THEM.

[Following the failure of the Senate to confirm the nomination of F. L. Denison as a member and Chairman of the State Highway Commission, the Governor re-submitted the nomination. The message was read. Senator Holbrook raised the point of order that a nomination once duly submitted to the Senate by the Governor and rejected by the Senate cannot be submitted again during that session. Senator Woodward raised the point of order that the pending point of order amounted to taking action on the nomination and could not be disposed of on this day but a time other than this day must be set by the Senate (Rule 86).

Senator Holbrook withdrew his point of order, reserving the right to renew the point of order when the matter came up for further consideration.

Senator Woodward raised the point of order that, under Senate Rule 87, no action on the nomination could be taken today. The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

Senator Woodward moved to set the consideration of this message as special order immediately following the morning call tomorrow.

Senator Martin moved as a substitute that the Senate go into executive session Monday morning immediately following the morning call to consider the nomination of Mr. F. L. Denison as submitted today by the Governor.

Senator Woodward raised the point of order that the substitute motion was not germane because the original motion related to determining whether or not the nomination would be referred to the Committee on Governor's Nominations. The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

The motion by Senator Woodward to set this matter as special order tomorrow morning immediately following the morning call prevailed.

Senator Martin moved that the Senate go into executive session immediately for the purpose of permitting anyone who so desired to

move to reconsider the vote by which the Senate in executive session yesterday failed to confirm the nomination of Mr. F. L. Denison.

Senator Moore raised the point of order that a motion to reconsider the action of the executive session yesterday on Mr. F. L. Denison must be made in open session rather than in executive session because executive sessions were for the purpose of considering nominations by the Governor and for no other purpose.

Senator Hornsby moved to reconsider the vote on Mr. Denison yesterday.

The Chair, President Pro Tempore Walter F. Woodul, held that the motion was out of order because the Chair could not officially determine in open session which way the Senator voted, because the record of the vote in executive session yesterday was not available to the open session.

The Chair, President Pro Tempore Walter F. Woodul, overruled the point of order raised by Senator Moore, holding that reconsideration was part of the consideration of Governor's nominations, and therefore must be considered in executive session only.

Senator Woodruff raised the point of order that under Senate Rules 86, 87, and 88 the pending motion was out of order because it did not state that the purpose of the executive session was to consider Governor's nominations and that the motion for reconsideration must include a request that the message of the Secretary of the Senate to the Governor concerning the action of the executive session yesterday be returned to the Senate.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order, holding that the motion relative to reconsideration must be made in executive session and need not be included in the pending motion and that a future date for confirmation of nominations must be set at a future time certain but an executive session for the purpose of reconsideration of the action of the executive session yesterday may be ordered immediately, inasmuch as the motion for reconsideration must be made today if at all.

Senator Woodruff raised the point of order that the motion was simply to go into executive session and did not specify the purpose.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order. The motion for the executive session prevailed.

On the following day Senator Woodward raised the point of order that Mr. Frank L. Denison heretofore appointed by the Governor on February 1, to be a member of the State Highway Commission, having been rejected by the Senate on February 8th, 1933, and more than two days having elapsed since the final action in refusing to confirm said appointment, the Governor is without power to resubmit his name to the Senate for further action on the subsequent appointment and that the Committee on Governor's Nominations, nor the Senate, would have jurisdiction to consider the appointment and would be without power to confirm him at this time. No member, within the time al-

lowed, having made any motion to reconsider the vote by which Mr. Denison failed of confirmation, no such motion can now be made and the Governor is without power to abrogate the rule of the Senate which fixes the time for reconsideration by sending up the name of the same person after he was once rejected and the rejection not reconsidered, or set aside.

Senator Woodruff sent up the following written motion: "Mr. President, I move that the point of order raised by the Senator from Coleman be referred to the Attorney General of Texas for his opinion." The motion was read and lost.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order relative to the power of the Governor to resubmit nominations, which had previously been rejected by the Senate.

(For briefs on the point of order and full text of the ruling of Lieutenant Governor Edgar E. Witt, see page 373 of the Senate Journal, Forty-third Regular Session.)

Following the filing of the report of the Committee on Rules, relative to information concerning the vote on confirmation of F. L. Denison, Senator Woodward raised the point of order that discussion of the report of the committee would reveal certain information relative to the proceedings of the executive session, and therefore should not be printed in the Senate Journal until it was acted on by the Senate in executive session. The Chair, President Pro Tempore Walter F. Woodul, sustained the point of order, and instructed the Journal Clerk not to print the committee report in the Journal. (43rd Reg.)]

### EXECUTIVE SESSION.

89. When the Senate is in executive session, the Senate Chamber and gallery shall be cleared of all persons except Secretaries, Doorkeeper and Assistant Doorkeeper, Sergeant-at-Arms and Assistant Sergeant-at-Arms, who shall keep secret proceedings of such session until the injunction of secrecy is removed by unanimous vote of the Senate.

90. When a nomination is considered in executive session, all information and remarks touching the character or qualifications of the nominee shall be kept secret.

91. Any officer or Member convicted of violating

any provisions of either of the two preceding rules shall be liable, if an officer, to dismissal from the service of the Senate, and, if a Member, to expulsion.

#### MESSAGES.

92. Messages, bills, resolutions and other papers shall be sent to the House of Representatives by the Secretary, who shall previously endorse upon them the final determination of the Senate thereon.

93. Messages may be received at any time, except while a question is being put, while the yeas and nays are being taken, or while the ballots are being counted.

#### JOURNALS OF THE SENATE.

94. The proceedings of the Senate, when not in Committee of the Whole or in executive session, shall be entered on the Journal as concisely as possible, care being taken to detail a true and accurate account of the proceedings; the titles of the bill and such parts thereof only as shall be affected by proposed amendments, shall be inserted in the Journal; every report of a committee and vote of the Senate, and a brief statement of the contents of each petition, memorial or paper presented to the Senate, shall also be inserted in the Journal.

95. When a bill shall be returned to the Senate by the Governor, with his objections, they shall be entered at large upon the Journal. (See Constitution, Art. IV, Sec. 14.)

96. The proceedings of the Senate, when in executive session acting upon nominations made by the Governor, shall be kept in a separate book, but the

final result of such session shall be placed upon the Journal of the Senate, and the Secretary shall report the same to the Governor.

### ADJOURNMENT.

97. A motion to adjourn or recess shall always be in order, and shall be decided without debate, and the Senate may adjourn or recess while operating under the previous question.

[A motion to adjourn is not in order when a Member entitled to the floor is addressing the Senate without his consent to yield for the purpose, and when, a quorum being present, no business has been transacted since a motion to adjourn has been lost. The calling of a roll, the reception of a message from the Governor or the House, or the address of a Member of the Senate has been held to be the transaction of business. (See Annotations, Rule 20.)]

*The Legislature may repeal or set aside a resolution setting a date for sine die adjournment if such action is taken before the time set for final adjournment arrives.*

Senator Woodruff called up from the table:

S. C. R. No. 54, Relating to sine die adjournment.

Senator Berkeley sent up the following amendment:

Amend resolution No. 54 by substituting May 27 for May 29th.

Senator Pollard sent up the following written point of order:

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

The point of order was overruled by the Chair, Lieutenant Governor Edgar E. Witt. (42nd Reg.)

*The adoption of a resolution setting a new time for sine die adjournment is not equivalent to a suspension of the Rules.*

Senator DeBerry sent up the following resolution:

"Be It Resolved by the Senate, the House of Representatives concurring, That the sine die resolution for adjournment Tuesday, September 29, 1931, at 6 p. m., be and the same is hereby rescinded and that date of adjournment of Second Called Session of the Forty-

second Legislature be fixed for Friday, October 2, 1931, at 6 p. m."

Senator Woodruff moved the previous question on the further consideration of the resolution.

Senator Cousins raised the point of order that it would take a two-thirds vote to adopt this resolution because it amounted to a suspension of the regular order of business.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order, holding that the resolution could be adopted by a majority vote, inasmuch as it amounted to a reconsideration of a resolution previously adopted by the Senate by a majority vote. (42nd 2nd C. S.)

98. The Senate shall not adjourn or recess for more than three days, nor to any other place than that in which it may be sitting, without the concurrence of the House of Representatives. (See Constitution, Art. III, Sec. 17.)

#### ADMITTANCE TO SENATE CHAMBER.

99. Persons hereinafter named, and no other, shall be admitted to the Senate Chamber while the Senate is in session, viz.:

(1) Members of the Senate and their families, Secretary of the Senate and his family, employees of the Senate and House of Representatives when on official business, Representatives, the Governor, his family and his private secretary, the Lieutenant-Governor and his family, the President and Vice-President of the United States, United States Senators and members of Congress, Governors of other states, judges of the Supreme Court, the Courts of Criminal and Civil Appeals, duly accredited newspaper reporters and correspondents and radio commentators who have complied with Sections 2 and 3 of this rule. It shall be the special duty of the President to see that officers and employees remain upon the floor of the Senate only when actually engaged in the performance of their official duties.

Such persons other than the Lieutenant-Governor and Members of the Senate shall not be permitted to work for or against any proposition before the Senate while on the floor.

No newspaper reporter, or other person whomsoever, whether a state officer or not, who is lobbying or working for or against any pending or prospective legislative measure, shall in any event be permitted upon the floor of the Senate or in the rooms leading thereto, except the Senate reception room, when the Senate is in session.

(2) While the Senate is in session, no person shall be admitted to the floor of the Senate or allowed its privileges, as a press correspondent or radio commentator, unless said person is a regularly employed, salaried staff correspondent or reporter in the employ of a newspaper publishing general news, or press association serving newspapers, or publications requiring telegraphic coverage, or unless said person is a regularly employed, salaried employee of a duly licensed radio station.

Any person seeking admission to the floor of the Senate under the foregoing provisions must present to the committee on rules fully accredited credentials from his publication, press association, wire service or radio station showing that he is engaged primarily in reporting the sessions of the Legislature while the Legislature is in session. Regularly accredited staff correspondents, or radio commentators, who have duly qualified under the provisions of this rule, may, when requested to do so, make recommendations through their standing committees to the committee on rules as to the sufficiency or insufficiency of credentials of any person seeking

admission to the floor of the Senate under this rule.

If the committee on rules shall determine that such credentials come within the contemplation of this rule, said committee shall so notify the President in writing who shall issue a pass card to such person, and this pass card which shall not be transferable must be presented to the doorkeeper at all times when said person seeks admission to the Senate while the same is in session. Persons being admitted to the Senate pursuant to the provisions of this rule shall be assigned appropriate and convenient seats in the Senate by the President.

If any person, admitted to the Senate under this rule, shall lobby or work for or against any pending or prospective legislation or shall violate any of the other rules of the Senate, the privileges extended to said person under this rule shall be suspended by a majority of the committee on rules. The action of the committee shall be reviewable by the Senate only if two members of the committee request an appeal from the decision of the committee, which appeal shall be in the form of a minority report, and shall be subject to the same rules that are applicable to minority reports on bills. Suspension shall remain in force until the accused person purges himself and comes within the rules or until the Senate, by majority vote, reverses the action of the committee.

(3) Every newspaper reporter and correspondent, and radio commentator, before being admitted to the Senate during its session, shall file with the committee on rules a written statement showing the paper or papers which he represents, and certifying that no part of his salary or compensation is paid

by any person, firm, corporation or association except the paper or papers or radio station which he represents.

(4) It shall be in order for the President to entertain a request, motion or resolution for the suspension of this rule, or to present from the chair the request of any Member for unanimous consent.

(5) It shall be the duty of the Sergeant-at-Arms and his assistants to clear the hall of all persons not entitled to the privilege thereof, thirty minutes before the hour of the meeting of the Senate.

(6) Provided that this rule shall not apply to persons who are invited to address the Senate when in session, nor shall it apply to any person who desires to appear before any committee, while going to or returning from the session of said committee, nor to the Governor while delivering an official message; provided further that this rule shall not apply during the inauguration of the Governor and other public ceremonies provided for by resolution of the Senate. All officers and employees of the Senate are prohibited from lobbying in favor of or against any measure or proposition pending before the Senate, and should any officer or employee violate this rule, the same shall be cause for dismissal from the service of the Senate by the President.

(7) Provided further that the privileges of the floor shall not be extended to any person or persons except members of the Senate, and the Governor, desiring to make an address before the Senate on pending or contemplated legislation.

(8) Solicitors and collectors shall not be admitted to the Senate during its sessions.

[Article 183 of the Revised Penal Code, 1925, provides: "No person employed in any manner to represent the interest in legislation of any person, association or corporation shall go upon the floor of either House of the Legislature, reserved for members thereof, while in session, except upon invitation of such House. Any person violating the provisions of this article shall be fined not to exceed one hundred dollars."]

### SENATE RULES—WHEN SILENT.

100. The President of the Senate shall decide all questions not provided for by the standing Rules of Order of the Senate, and Joint Rules of Order of both Branches of the Legislature, according to parliamentary practice, laid down by approved authors subject to appeal to the entire Senate, as in other cases.

#### AMENDMENT NOT GERMANE TO ORIGINAL PURPOSE OF BILL—

Senator Sulak offered amendment to the amendment by Senator Roberts to Senate Bill No. 330.

Senator Metcalfe raised a point of order against further consideration of the amendment to the amendment on the ground that it is not germane to the original purposes of the bill.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 829)

(Hinds Precedents of the House of Representatives—Vol. 5, Sec. 5810, p. 408; also sec. 5811, p. 414.)

### PREVIOUS QUESTION.

101. Pending the consideration of any question before the Senate any Senator may call for the previous question, and if seconded by five Senators, the presiding officer shall submit the question: "Shall the main question be now put?" And if a majority vote is in favor of it, the main question shall be ordered, the effect of which shall be to cut off all further amendments and debate, and bring the Senate to a direct vote—first upon pending amendments and

motions, if there be any, then upon the main proposition. The previous question may be ordered on any pending amendment or motion before the Senate as a separate proposition, and be decided by a vote upon said amendment or motion.

*Debate may be had after the previous question has been ordered if permitted by unanimous consent.*

The previous question having been ordered on the amendment, Senator Lattimore asked unanimous consent that Senator Conner be allowed to discuss the amendment. There was no objection. (34th Reg.)

*The previous question may not be moved to include consideration of a bill at another stage.*

Senator Stevenson raised the point of order that the previous question had been ordered on the final passage of the bill.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order, holding that it was not in order prior to engrossment, for the previous question to be ordered on the passage of a bill further than engrossment. (42nd, 1st C. S.)

*Ordering of the previous question does not violate the "free discussion" section of the Constitution.*

Senator Fairchild made the Constitutional point of order that all bills shall have a "free discussion, etc." The Chair held that the Senate had ordered the previous question and that the Chair had no control of the matter. (38th Reg.)

*Not in order to speak on personal privilege after the previous question has been ordered.*

Senator Parrish rose on a point of personal privilege.

Senator Oneal raised the point of order that under the previous question Senator Parrish was not entitled to speak on personal privilege.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd, 1st C. S.)

*A member speaking cannot be displaced on a point of personal privilege.*

Senator Neal rose to speak on a point of personal privilege.

The Chair, Lieutenant Governor Edgar E. Witt, held that a member could not displace, on a point of personal privilege, a member speaking. Senator Woodward inquired if a parliamentary inquiry was of a privileged nature. The Chair, Lieutenant Governor Edgar E. Witt, held that it was privileged. (43rd Reg.)

*A motion for the previous question on the main question is not in order while the Senate is operating under the previous question on an incidental question.*

Senator Hornsby moved the previous question on the Small amendment. The motion prevailed.

Senator Greer moved the previous question on the further consideration of the bill.

Senator Pollard raised the point of order that this motion was out of order under the previous question ordered on the pending amendment.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order. (42nd Reg.)

[After the previous question has been ordered, no motion is in order until the question or questions on which it is ordered have been voted upon, except the motions to adjourn, for a call of the Senate and the motion to reconsider the vote by which the previous question was ordered; and this motion to reconsider can be made only once, and that must be before any vote under the previous question has been taken.

A call of the Senate may not be ordered after the previous question has been ordered if upon an actual count by the Lieutenant Governor, or presiding officer, a quorum is found to be present.]

**MOTION FOR THE PREVIOUS QUESTION.**—The motion may not include a provision that it shall take effect at a certain time (V, 5457). It may not be moved on more than one bill, except by the unanimous consent of the House (V, 5461-5464). It is often ordered on undebatable propositions to prevent amendment (V, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable; for example, the motion to table (IV, 3077). It applies to questions of privilege as to other questions (II, 1256; V, 5459, 5460).

The motion to lay on the table may not be applied to the previous question (V, 5410, 5411); nor may it be applied to the main question after the previous question has been ordered (V, 5415-5422), or after the yeas and nays have been ordered on the demand for the previous question (V, 5408, 5409).

The motion to postpone may not be applied to the main question after the previous question has been ordered (V, 5320, 5321).

*Not in order to speak on personal privilege after the previous question has been ordered.*

Senator DeBerry rose to a point of personal privilege.

Senator Woodruff raised the point of order that pending the final disposition of the matter on which the previous question was ordered no Senator may rise to speak on point of personal privilege.

The Chair, Lieutenant Governor Walter Woodul, sustained the point of order. (44th Reg.)

### DEMAND FOR IMMEDIATE RULING.

102. Pending the consideration or discussion of any point of order before the presiding officer and the Senate, or either, any Senator may demand that the point of order be immediately decided, and if seconded by ten Senators, the presiding officer shall submit the question: "Shall the point of order be now decided?" If a majority vote is in favor of it, the point of order shall immediately be decided by the presiding officer, and if an appeal from his decision is taken, the appeal shall be immediately decided by the Senate without debate.

*The Lieutenant Governor usually does not rule on Constitutional provisions unless they are incorporated in the Senate Rules.*

On the point of order that a pending amendment to S. B. No. 134 was unconstitutional, said point being raised by Senator Bailey, the Lieutenant Governor, T. W. Davidson, ruled that unless the Constitutional provision was carried into the Rules of the Senate that he would not pass upon the constitutionality of the amendment but would leave the matter to the Senate in passing upon the amendment. (38th Reg.)

[Lt. Gov. Edgar E. Witt frequently made same ruling.]

### RECORD OF COMMITTEE ATTENDANCE.

103. At all regular or stated meetings of the Senate Committees, the Chairman shall call the roll of the members and cause to be made a record of those present and the absentees, together with the excuses, if any, of such absentees.

## BULLETIN BOARD.

104. A bulletin board shall be prepared and placed in the hallway immediately to the rear of the Senate Chamber, upon which shall be posted the time for meetings of standing committees. Immediately after the time and place of any committee hearing have been fixed, this information shall be given to the Secretary of the Senate who shall cause the same to be posted forthwith on said bulletin board.

## MINUTES OF COMMITTEE MEETINGS.

105. The Chairman of each committee shall keep, or cause to be kept under his direction, an accurate record of the proceedings of his committee, and the same shall be open for inspection to any Member of the Legislature, and to the public.

## COMMITTEE HEARINGS.

106. Hearings on bills before any committee shall be open to the public and reasonable opportunity shall be afforded to interested parties to appear before the committee. The committee by a majority vote shall have the right to fix the order of appearance and the time to be allotted to any such interested party. Any member of the Senate, by making timely written request therefor upon the chairman of the committee (or vice-chairman in the absence of the chairman), shall be entitled to receive at least forty-eight hours advance notice in writing of the time and place of the hearing on any bill or bills specified in the demand, but the time and place of hearing on any bill having been fixed in response to said request, the chairman shall not be required to change or delay said

hearing upon subsequent request from other members of the Senate. After the receipt of such notice by the chairman of the committee (or vice-chairman in the absence of the chairman), no hearing shall be held by the committee or action taken on such bill or bills unless such notice has been previously given as required herein.

MOTION TO SUSPEND RULE 106.—Senator Pace moved that Senate Rule 106 be suspended to permit a hearing to be had on H. B. No. 688. Senator Nelson was recognized to speak on the question—Shall the motion to suspend prevail?

Senator Moffett raised the point of order that the motion is not debatable.

The President, Coke R. Stevenson, sustained the point of order. (46th Reg.—S. J. p. 1509)

### EXECUTIVE SESSION OF COMMITTEES.

107. After public hearing has been concluded on any bill, the committee by a majority vote may direct without debate that action by the committee on such bill be taken in executive session, provided, however, that a record of such proceedings had in such executive session shall be kept and that the same shall be open for public inspection.

### QUORUM OF COMMITTEE.

108. A majority of any committee shall constitute a quorum, and no action shall be taken upon any bill in the absence of a quorum. At any stated meeting of the committee, if a roll call discloses lack of a quorum, the members present may order the names of the unexcused absentees turned over to the Sergeant-at-Arms of the Senate whose duty it shall be to secure promptly the attendance of such absent members. The Sergeant-at-Arms shall have the same

authority conferred upon him under the Rules of the Senate as when the Senate is operating under a call.

#### FILING REPORTS OF COMMITTEES.

109. The chairman of the committee (or vice-chairman in the absence of the chairman) shall file with the Senate a written report showing the action of such committee on bills and resolutions pending before it. Such reports shall be signed officially by the chairman (or vice-chairman in the absence of the chairman).

#### MINORITY COMMITTEE REPORTS AND COMMITTEE SUBSTITUTES.

110. If a motion to report a bill or resolution favorably does not receive a majority vote, the bill or resolution shall be dead. Likewise, if a motion to report a bill or resolution unfavorably receives a majority vote, the same shall be dead. When a bill or resolution has been killed by a committee, a favorable minority report may be made, provided notice thereof is given by two members of the committee, if the committee is composed of ten or less and three members if composed of more than ten, present at the time the bill is killed and who voted on the minority side; this report must be in writing, and signed by the members giving notice, and must be filed with the Senate within two calendar days from the time such action was taken by the committee (Sundays and days the Senate is not in session excepted). Unless one of the members signing the minority report or the sponsor of the bill makes a motion in the Senate to have the same substituted for the majority report within ten calendar days (Sun-

days and days the Senate is not in session excepted) from the time said minority report was filed with the Senate, said bill or resolution shall be dead, and shall not be again considered during the session. It shall take the affirmative vote of a majority of the members of the Senate present, but in no event less than fifteen affirmative votes to substitute a minority report for the majority report, provided that any motion to substitute the minority for the majority report shall be privileged.

111. If a committee substitute is adopted by the committee for the pending bill or resolution, and such substitute receives a favorable report, the same shall be reported back to the Senate in lieu of the original bill or resolution. The original bill or resolution, for which the substitute was adopted, shall be dead unless reported to the Senate and handled under the same procedure as herein provided for minority reports. The substitute, when reported back to the Senate, shall take the same procedure as an original bill or resolution, and no action shall be required on the part of the Senate to confirm the substitution made by the committee.

CONSIDERATION OF COMMITTEE SUBSTITUTE.—Senator Roberts moved that the minority report on C.S.S.B. No. 2, be adopted in lieu of the majority report on the bill.

Senator Nelson raised a point of order on consideration of the motion, on the ground that the House has defeated a bill containing the same substance as C.S.S.B. No. 2.

The Chair, Lieutenant Governor Coke R. Stevenson, overruled the point of order with a written decision. (See Senate Journal of March 22, 1939, pages 666-671, 46th Reg.)

### CUSTODIAN OF BILLS AND RESOLUTIONS.

112. The Calendar Clerk shall be the official custodian of the bills and resolutions pending in the

Senate, and the same may not be withdrawn from the custody of such Clerk without the consent of the Senate.

RULES PURSUANT TO SECTION 5, ARTICLE III, OF  
STATE CONSTITUTION.

The following rules Numbers 113 to 117, inclusive, are adopted by the Senate in lieu of the procedure set forth in Section 5, Article III, of the Texas Constitution.

TIME LIMIT FOR INTRODUCTION AND  
CONSIDERATION OF BILLS.

113. It shall be in order to introduce bills during the first sixty calendar days of the session, and to have the same referred to a proper committee; provided, however, that at any time during the session, resolutions, emergency appropriations, emergency matters specifically submitted by the Governor in special messages to the Legislature, and local bills (as defined in Rule 115) may be introduced, referred to a committee, and disposed of under the General Rules of the Senate. The Senate may act upon the confirmation of appointments (recess or otherwise) at any time during the session.

SUSPENSION OF TIME LIMIT RULE.

114. Except as otherwise provided in Rule 113, no bills shall be introduced after the first sixty calendar days of the session; provided, however, this Rule may be suspended by the affirmative vote of four-fifths of the members of the Senate.

## INTRODUCTION AND CONSIDERATION OF LOCAL BILLS.

115. The constitutional procedure with reference to the introduction, reference to a committee, and the consideration of bills set forth in Article III, Section 5, of the Constitution, shall not apply to local bills hereinafter defined, and the same may be introduced, referred, reported, and acted upon at any time under the general rules and order of business of the Senate.

A local bill is defined for the purposes of this Rule as an Act the provisions of which relate to or affect directly a defined locality, district, or section of the State, and which do not include or require any appropriation out of state funds or which do not affect any state policies, and which do not affect directly the state at large, and the operation of which is confined solely to a particular locality, district or section of the state.

SUSPENSION OF RULE LIMITING CONSIDERATION  
OF BILLS.

116. Except as otherwise provided in Rule 113, bills shall not be taken up, considered, or acted upon by the Senate during the first sixty calendar days of the session, unless this Rule be suspended by the affirmative vote of four-fifths of the members of the Senate.

## CONSIDERATION OF BILLS IN COMMITTEES.

117. It shall be in order for committees to consider bills and resolutions at any time during the session, make reports thereon, and file the same with the Senate.