RULES OF

THE HOUSE OF REPRESENTATIVES

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67th Legislature

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CHAPTER 1. DUTIES AND RIGHTS OF THE SPEAKER

SUBCHAPTER A. DUTIES AS PRESIDING OFFICER

Sec. 1.01. ENFORCEMENT OF THE RULES

The speaker shall enforce, apply, and interpret the rules of the house in all deliberations of the house and shall enforce the legislative rules prescribed by the statutes and the Constitution of Texas.

Sec. 1.02. CALL TO ORDER

The speaker shall take the chair on each calendar day precisely at the hour to which the house adjourned or recessed at its last sitting and shall immediately call the members to order.

EXPLANATORY NOTES

See Sec. 4.051 concerning the daily order of business.

Sec. 1.03. LAYING BUSINESS BEFORE THE HOUSE

The speaker shall lay before the house its business in the order indicated by the rules and shall receive propositions made by members and put them to the house.

Sec. 1.04. PRESERVATION OF ORDER AND DECORUM

The speaker shall preserve order and decorum. In case of disturbance or disorderly conduct in the galleries or in the lobby, the speaker may order that these areas be cleared. No signs, placards, or other objects of similar nature shall be permitted in the rooms, lobby, gallery, and hall of the house. The speaker shall see that the members of the house conduct themselves in a civil manner in

accordance with accepted standards of parliamentary conduct and may, when necessary, order the sergeant-at-arms to clear the aisles and seat the members of the house so that business may be conducted in an orderly manner.

Sec. 1.05. STATING AND VOTING ON QUESTIONS

The speaker shall rise to put a question but may state it sitting. The question shall be put distinctly in this form: "As many as are in favor (here state the question or proposition under consideration), say 'Aye,'" and after the affirmative vote is expressed, "As many as are opposed say 'No.'" If the speaker is in doubt as to the result, or if a division is called for, the house shall divide: those voting in the affirmative on the question shall register "Aye" on the voting machine, and those voting in the negative on the question shall register "No." Such votes shall not be printed in the journal unless a record vote of yeas and nays is ordered in accordance with the rules.

EXPLANATORY NOTES

1. Technically, under the above section, a call for a division is eligible only after a viva voce vote, the basic voting form prescribed by the rules. Sometimes members will start calling for a division even before the question is put. Most of the time the chair acquiesces, and the division votes are taken directly on the voting machine. However, the above section is clear, and nothing could prevent the chair from listening first to a viva voce vote and announcing the result unless a division is called for before the result is announced, in which case it must be granted.

2. See Sec. 4.232 concerning voting on the machine.

Sec. 1.06. VOTING RIGHTS OF THE PRESIDING OFFICER

The speaker shall have the same right as other members to vote. If the speaker, or a member temporarily presiding, has not voted, he or she may cast the deciding vote at the time such opportunity becomes official, whether to make or break a tie. If a verification of the vote is called for and granted, the decision of the speaker, or a member temporarily presiding, to cast the deciding vote need not be made until the verification has been completed. In case of error in a vote, if the correction leaves decisive effect to the vote of the speaker, or a member temporarily presiding, the deciding vote may be cast even though the result has been announced.

EXPLANATORY NOTES

1. See Sec. 1.08 and precedents following concerning temporary presiding officers.
2. See Sec. 4.246 and notes following concerning verification.

Sec. 1.07. QUESTIONS OF ORDER

The speaker shall decide on all questions of order; however, such decisions are subject to an appeal to the house made by any 10 members. Pending an appeal, the speaker shall call a member to the chair, who shall not have the authority to entertain or decide any other matter or proposition until the appeal has first been determined by the house. The question on appeal is, "Shall the chair be sustained?"

No member shall speak more than once on an appeal unless given leave by a majority of the house. No motion shall be in order, pending an appeal, except a motion to adjourn, a motion to lay on the table, a motion for the previous question, or a motion for a call of the house. Parliamentary rulings and decisions of recognition made by the chair may not be appealed.

EXPLANATORY NOTES

1. Many points of order are raised concerning the constitutionality of bills, legislative procedures, and legislative powers. Through many sessions the speakers have followed the plan of refusing to rule on constitutional points not related to legislative procedure, of ruling on constitutional procedural points where no doubt exists, or, where doubt exists, either submitting the points to the house for determination or overruling the points directly then passing them on to the house for determination, in effect, on the vote involved. As a general rule the speaker does not submit points of order to the house on questions of procedure under the rules.

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

HOUSE PRECEDENTS

1. POINTS OF ORDER ON COMMITTEE PROCEDURE.--In the 51st Legislature, the speaker, Mr. Manford, held that a point of order in the house against the consideration of a bill because of some parliamentary

error in committee or an erroneous ruling of a committee chairman during its consideration, is not good provided the bill was eventually voted out favorably (or unfavorably) in conformity with the rules. Full protection against such errors or rulings in committee is provided under the rules of the house. Failure to take advantage of such protection in a committee is no reason to prejudice consideration of the bill or other measure on the floor of the house.

2. RAISING POINTS OF ORDER AT THE PROPER TIME.--The house was considering H.B. 136, the previous question having been ordered on a sequence of motions, including engrossment of the bill. Votes were taken on all motions short of engrossment. Then a motion was made to reconsider the vote by which the previous question was ordered. This motion prevailed. Mr. Morse then raised a point of order that such motion cannot be made after one or more votes have been taken under the previous question, short of the final vote.

The speaker, Mr. Daniel, overruled the point of order on the ground that it came too late. (48 H.J. Reg. 1024 (1943)).

The point of order would have been good before the vote on reconsideration.

3. INTERVENING BUSINESS NOT NECESSARILY PREJUDICIAL TO A POINT OF ORDER.--Mr. Hartsfield moved to reconsider the vote by which H.B. 79 passed to engrossment. Mr. Crosthwait moved to table, and the motion failed. Then Mr. Bell raised the point of order that Mr. Hartsfield had not voted on the prevailing side and that his motion was therefore out of order. Opponents argued that Mr. Bell's point of order came too late, that it should have been made as soon as the motion was made.

The speaker, Mr. Senterfitt, sustained Mr. Bell's point of order, pointing out that

since no action had been taken on the motion proper, the point of order had not come too late. (52 H.J. Reg. 1918 (1951)).

CONGRESSIONAL PRECEDENTS

DECISIONS OF THE SPEAKER.--The speaker may inquire for what purpose a member rises and then may deny recognition (C.P., 6, 289), and an inquiry to ascertain for what purpose a member rises does not constitute recognition (C.P., 6, 293). While circumscribed by the rules and practice of the house, the exercise of the power of recognition is not subject to a point of order (C.P., 6, 294). The speaker may require that a question of order be presented in writing (H.P., 5, 6865). He is not required to decide a question not directly presented by the proceedings (H.P., 2, 1314). Debate on a point of order, being for his information, is within his discretion (H.P., 5, 6919, 6920). In discussing questions of order the rule of relevancy is strictly construed and debate is confined to the point of order and does not admit reference to the merits of the pending proposition (C.P., 6, 3449). Preserving the authority and binding force of parliamentary law is as much the duty of each member of the house as it is the duty of the chair (Speaker Gillett, Jan. 3, 1923, 67th Cong., 4th Session, p. 1205). Points of order are recorded in the journal (H.P., 4, 2840, 2841), but responses to parliamentary inquiries are not so recorded (H.P., 4, 2842). He does not decide on the legislative effect of propositions (H.P., 2, 1274, 1323, 1324), or on the consistency of proposed action with other acts of the house (H.P., 2, 1327-1336), or on the constitutional powers of the house (H.P., 2, 1255, 1318-1320, 1490; H.P., 4, 3507), or on

the propriety or expediency of a proposed course of action (H.P., 2, 1275, 1325, 1326, 1337; H.P., 4, 3091-3093, 3127). It is not the duty of the chair to decide hypothetical points of order or to anticipate questions which may be suggested in advance of regular order (C.P., 6, 249); nor is it the duty of the chair to construe the constitution as affecting proposed legislation (C.P., 6, 250). The effect or purport of a proposition is not a question to be passed on by the chair, and a point of order as to the competency or meaning of an amendment does not constitute a parlimentary question (C.P., 6, 254). When precedents conflict, the chair is constrained to give greatest weight to the latest decisions (C.P., 6, 248).

APPEALS.--The right of appeal cannot be taken away from the house (H.P., 5, 6002). An appeal is not in order while another is pending (H.P., 5, 6939-6941). Neither a motion nor an appeal may intervene between the motion to adjourn and the taking of the vote thereon (H.P., 5, 5361). An appeal from the decision of the chair may be entertained during the proceedings to secure a quorum (H.P., 4, 3037). A member may not speak more than once on an appeal except by permission of the house (H.P., 2, 133; H.P., 5, 6938).

Sec. 1.08. APPOINTMENT OF SPEAKER PRO TEMPORE AND TEMPORARY CHAIR

The speaker shall have the right to name any member to perform the duties of the chair and may name a member to serve as speaker pro tempore for a period not to exceed one year by delivering a written order to the chief clerk and a copy to the journal clerk. A permanent speaker pro tempore shall, in the absence or inability of the speaker, call the house to

order and perform all other duties of the chair in presiding over the deliberations of the house and perform other duties and exercise other responsibilities as may be assigned by the speaker. If the house is not in session, and a permanent speaker pro tempore has not been named, or if the speaker pro tempore is not available or for any reason is not able to function, the speaker may deliver a written order to the chief clerk, with a copy to the journal clerk, naming the member who shall call the house to order and preside during the speaker's absence.

CONGRESSIONAL PRECEDENTS

SPEAKER PRO TEMPORE.--A call of the house may take place with a speaker pro tempore in the chair (H.P., 4, 2989), and he may issue his warrant for the arrest of absent members under a call of the house (63rd Cong., 1st Session, p. 5498). When the speaker is not present at the opening of a session he designates a speaker pro tempore in writing (H.P., 2, 1378, 1401), but he does not always name in open house the member whom he calls to the chair temporarily during the day's sitting (H.P., 2, 1379, 1400).

Sec. 1.09. EMERGENCY ADJOURNMENT

In the event of an emergency of such compelling nature that the speaker must adjourn the house without fixing a date and hour of reconvening, the speaker shall have authority to determine the date and hour of reconvening and to notify the members of the house by any means the speaker considers adequate. Should the speaker be disabled or otherwise unable to exercise these emergency powers, the permanent speaker pro tempore, if one has been named, shall have authority to act. If there is no permanent speaker pro

tempore, or if that officer is unable to act, authority shall be exercised by the chair of the Committee on State Affairs, who shall preside until the house can proceed to the selection of a temporary presiding officer to function until the speaker or the speaker pro tempore is again able to exercise the duties and responsibilities of the office.

Sec. 1.10. POSTPONEMENT OF RECONVENING

When the house is not in session, if the speaker determines that it would be a hazard to the safety of the members, officers, employees, and others attending the legislature to reconvene at the time determined by the house at its last sitting, the speaker may clear the area of the capitol under the control of the house and postpone the reconvening of the house for a period of not more than 12 hours. On making that determination, the speaker shall order the sergeant-at-arms to post an assistant at each first floor entrance to the capitol and other places and advise all persons entering of the determination and the time set for the house to reconvene. The speaker shall also notify the journal clerk and the news media of the action, and the action shall be entered in the house journal.

Sec. 1.11. SIGNING BILLS AND RESOLUTIONS

All bills, joint resolutions, and concurrent resolutions shall be signed by the speaker in the presence of the house, as required by the constitution; and all writs, warrants, and subpoenas issued by order of the house shall be signed by the speaker and attested by the chief clerk, or the person acting as chief clerk.

SUBCHAPTER B. ADMINISTRATIVE DUTIES

Sec. 1.21. CONTROL OVER HALL OF THE HOUSE

The speaker shall have general control, except as otherwise provided by law, of the hall of the house, its lobbies, galleries, corridors, and passages, and other rooms in those parts of the capitol assigned to the use of the house; except that the hall of the house shall not be used for any meeting other than legislative meetings during any regular or special session of the legislature unless specifically authorized by resolution.

Sec. 1.22. JURISDICTION OVER OFFICERS AND EMPLOYEES

The speaker shall select and appoint all officers and employees of the house except employees of individual members and committees and shall have the right to discharge any of them. This authority may be delegated to the Committee on House Administration to the extent and for the length of time the speaker determines. In the event of the absence, resignation, or death of any officer or employee of the house, the speaker may designate a person to take charge of and attend to all the duties of the office affected until the officer returns or until a successor is chosen. Officers and employees of the house shall receive the compensation that the speaker or Committee on House Administration determines.

Sec. 1.23. STANDING COMMITTEE APPOINTMENTS

(a) The speaker shall appoint the chair and vice-chair of each standing committee and shall also appoint one-half of the remaining membership of the committee.

(b) If members of equal seniority request

the same committee, the speaker shall decide which among them shall be assigned to that committee.

(c) In announcing the membership of the standing committees, the speaker shall designate which are appointees and which acquire membership by seniority.

(d) The chair of the Committee on House Administration shall serve at the pleasure of the speaker and shall be subject to removal by the speaker at any time.

Sec. 1.24. DESIGNATION OF CHAIR OF STANDING SUBCOMMITTEES

The speaker shall designate the chair of each standing subcommittee.

Sec. 1.25. DESIGNATION OF CHAIR FOR BUDGET AND OVERSIGHT

For each substantive committee to which portions of the general appropriations may be assigned, the speaker shall designate a member of that committee to serve as the chair for budget and oversight.

Sec. 1.26. APPOINTMENT OF SELECT AND CONFERENCE COMMITTEES

Except as otherwise provided by law or by the rules of the house or as otherwise specifically directed by the house, the speaker shall appoint all select committees and all conference committees. The speaker shall name the chair of each select committee and each conference committee, and may also name the vice-chair thereof.

Sec. 1.27. INTERIM STUDIES

When the legislature is not in session, the speaker shall have the authority to direct

standing and select committees to make interim studies for such purposes as the speaker may designate, and the standing and select committees shall meet as often as necessary to transact effectively the business assigned to them.

CHAPTER 2. EMPLOYEES

SUBCHAPTER A. DUTIES OF EMPLOYEES OF THE HOUSE

Sec. 2.01. CHIEF CLERK

(a) The chief clerk shall:

(1) be the custodian of all bills and resolutions;

(2) number in the order of their filing, with a separate sequence for each category, all bills, joint resolutions, concurrent resolutions, and house resolutions;

(3) provide for the keeping of a complete record of introduction and action on all bills and resolutions, including the number, author, brief description of the subject matter, committee reference, and the time sequence of action taken on all bills and resolutions to reflect at all times their status in the legislative process;

(4) on the day of numbering a bill relating to a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, send two copies of the bill, with two copies of the notice of intention to introduce the bill, to the governor and notify the journal clerk of the action;

(5) receive the recommendations of the Texas Water Commission on a bill forwarded to the commission under Article XVI, Section 59, of the Texas Constitution, attach them to the bill to which they apply, and notify the journal clerk that the recommendations have been filed;

(6) forward to the committee chair a certified copy of each legislative document referred to a committee along with certified copies of all official attachments to the document;

(7) have printed and distributed correct copies of all legislative documents,

as provided in the subchapter on printing, and keep an exact record of the date and hour of transmittal to the printer, return from the printer, and distribution of the document to members of the house with that information time-stamped on the originals of the document;

(8) certify the passage of bills and resolutions, noting on them the date of passage and the vote by which passed, if by record vote;

(9) be responsible for engrossing all house bills and resolutions that have passed second reading and those that have passed third reading, and for enrolling all house bills and resolutions that have passed both houses.

All engrossed and enrolled documents shall be prepared without erasures, interlineations, or additions in the margin.

House concurrent resolutions passed without amendment shall not be engrossed but shall be certified and forwarded directly to the senate.

Engrossed riders may be used in lieu of full engrossment on second reading passage;

(10) be authorized to amend the caption to conform to the body of each house bill and joint resolution ordered engrossed or finally passed, the amended caption to be approved in writing by the author or sponsor of the bill or resolution before becoming official;

(11) be responsible for noting on each house bill or joint resolution, for certification by the speaker of the house, the lieutenant governor, the chief clerk of the house, and the secretary of the senate, the following information:

(A) date of final passage, and the vote on final passage, if by record vote, or the notation "Nonrecord Vote," if not by record vote. If the bill was amended in the senate, this fact shall also be noted;

(B) date of concurrence by the house in senate amendments, and the vote on concurrence, if by record vote, or the notation "Nonrecord Vote," if not by record vote;

(C) date of adoption by each house of a conference committee report and the vote on adoption, if by record vote, or the notation "Nonrecord Vote," if not by record vote;

(D) date a bill is forwarded to the governor under Article XVI, Section 59, of the Texas Constitution, and the date the recommendations of the Texas Water Commission concerning the bill were filed with the chief clerk;

(E) that a bill containing an appropriation was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution; and

(F) that a concurrent resolution was adopted by both houses directing the correction of an enrolled bill, if applicable;

(12) transmit over signature all messages from the house to the senate, including typewritten copies of amendments to senate bills;

(13) prepare copies of senate amendments to house bills for the journal before the amendments and the bill or resolution to which they relate are sent to the printer or to the speaker;

(14) notify the speaker in writing that the senate did not concur in house amendments to a bill or resolution and requests a conference committee, and include in this notice the names of the senate conferees;

(15) provide a certified copy of a house bill or resolution which may be lost showing each parliamentary step taken on the bill; and

(16) conduct the drawing for and

designate preferred bills, as provided in Section 5.012.

EXPLANATORY NOTES

1. See Sec. 5.022 and note following concerning engrossment of bills.

2. See Sec. 4.329(a) and note following concerning amendments to captions.

3. Only essential endorsements should be placed on an engrossed or finally passed bill. These would include: the fact and date of first reading and reference to a particular standing committee; the fact and date of report by the committee, showing its recommendation (if reported unfavorably, the fact and date bill was ordered printed on minority report should also be shown); the fact and date of and vote on passage to engrossment; the fact, date, and vote showing suspension of the constitutional rule requiring bills to be read on three several days, if such applies; the fact and date of and vote on final passage; and the date bill was sent to the senate. See also annotation under Sec. 5.004 re: endorsements on bills passed under Art. 3, Sec. 49a, of the constitution.

4. Each house enrolls its own bills and resolutions; however, the joint rules may provide for a joint enrolling facility.

5. All concurrent resolutions, except those relating to matters of adjournment, are presented to the governor for his approval.

(b) The chief clerk shall also:

(1) attest all writs, warrants and subpoenas issued by order of the house;

(2) provide for issuance of an identification card to each member and employee of the house;

(3) receive reports of select

committees and forward copies to the speaker and journal clerk;

(4) not later than 30 days after the close of each session, acquire from each of the various clerks of the house, except the journal clerk, all reports, records, bills, papers, and other documents remaining in their possession and file them with the Legislative Reference Library, unless otherwise provided by law;

(5) receive and file all other documents required by law or by the rules of the house; and

(6) prepare a roster of members in order of seniority showing the number of years of service of each member, as provided in Section 3.052.

Sec. 2.02. JOURNAL CLERK

The journal clerk shall:

(1) keep a journal of the proceedings of the house, except when the house is acting as a committee of the whole, and enter the following:

(A) the number, author, and caption of every bill introduced;

(B) all house and concurrent resolutions, except congratulatory and memorial resolutions, on committee reports, motions, amendments, questions of order and decisions on them, messages from the governor, and messages from the senate;

(C) the summaries of congratulatory and memorial resolutions, as printed in the motions calendar;

(D) the number of each bill, joint resolution, and concurrent resolution signed in the presence of the house;

(E) a listing of reports made by standing committees;

(F) reports of select committees, when ordered by the house;

(G) every record vote or registration of the house with a concise statement of the action and the result;

(H) senate amendments to house bills or resolutions, when concurred in by the house;

(I) the date each bill is transmitted to the governor;

(J) the date recommendations of the Texas Water Commission on each bill subject to Article XVI, Section 59, of the Texas Constitution, are filed with the chief clerk;

(K) all pairs as a part of a record vote;

(L) reasons for a vote, when filed with the journal clerk within one hour of the time the vote was taken;

(M) the vote of a member on a record or nonrecord vote, when filed with the journal clerk within one hour of the time the result of the vote was announced by the chair; and

(N) official state documents, reports, and other matters, when ordered by the house;

(2) prepare a daily journal for each calendar day that the house is in session and distribute copies to the members of the house on the succeeding calendar day or the earliest possible date; and

(3) prepare and have printed a permanent house journal of regular and special sessions in accordance with the law and the following provisions:

(A) When completed, 315 copies shall be bound and distributed as follows:

(i) one copy to each member of the house of representatives;

(ii) one copy to each member of the senate;

(iii) sixty-five copies to the Legislative Reference Library; and

(iv) all remaining copies to the office of the Committee on House Administration, to be distributed as directed by the speaker on recommendation of the chair of the committee.

(B) The journal clerk shall be empowered to omit from the permanent house journal all bills which have been printed in the daily house journal. The journal clerk shall not receive or receipt for the permanent house journal until it has been correctly published.

EXPLANATORY NOTES

Majority and minority reports by committees are simply listed in the journal, not printed in full.

Sec. 2.03. READING CLERKS

The reading clerks, under the supervision of the journal clerk, shall:

(1) call the roll of the house in alphabetical order when ordered to do so by the speaker;

(2) open and close the voting machine on registrations and record votes as ordered by the speaker;

(3) record votes from the floor as directed by the speaker;

(4) read all bills, resolutions, motions, and other matters required by the rules or directed by the speaker;

(5) prepare official copies of all record votes for the journal;

(6) make no additions, subtractions, or other changes in any record vote or registration unless specifically granted permission by the house or directed by the speaker prior to the announcement of the final result; and

(7) lock the voting machine of each

member who is excused or who is otherwise known to be absent when the house is in session, until the member personally requests unlocking the machine.

Sec. 2.04. SERGEANT-AT-ARMS

The sergeant-at-arms shall:

(1) under the direction of the speaker, have charge of and maintain order in the hall of the house, its lobbies and galleries, and all other rooms in the capitol assigned for the use of the house of representatives;

(2) attend the house and the committee of the whole during all meetings and maintain order under the direction of the speaker or other presiding officer;

(3) execute the commands of the house and serve the writs and processes issued by the authority of the house and directed by the speaker;

(4) supervise assistants to the sergeant-at-arms who shall aid in the performance of prescribed duties and have the same authority, subject to the control of the speaker;

(5) clear the floor of the house of all persons not entitled to the privileges of the floor at least 30 minutes prior to the convening of each session of the house;

(6) bring in absent members when so directed under a call of the house;

(7) not allow the distribution of any printed matter in the hall of the house, other than newspapers that have been published at least once a week for a period of one year, unless it first has been authorized in writing by at least one member of the house and the name of the member appears on the printed matter. The sergeant-at-arms shall refuse to accept for distribution any printed matter which does not bear the name of the member or

members authorizing the distribution;

(8) keep a copy of written authorization and a record of the matter distributed in the permanent files of the house;

(9) enforce parking regulations applicable to areas of the capitol complex under the control of the house and supervise parking attendants; and

(10) supervise the doorkeeper.

Sec. 2.05. DOORKEEPER

The doorkeeper, under the supervision of the sergeant-at-arms, shall:

(1) enforce strictly the rules of the house relating to privileges of the floor and perform other duties as directed by the speaker;

(2) close the main entrance and permit no member to leave the house without written permission from the speaker when a call of the house or a call of the committee of the whole is ordered, take up permission cards as members leave the hall, and take up permission cards of those who are admitted to the floor of the house under the rules and practice of the house;

(3) obtain recognition from the speaker and announce a messenger from the governor or the senate on arrival at the bar of the house; and

(4) obtain recognition from the speaker and announce the arrival of the governor or the senate on arrival at the bar of the house for official proceedings in the house.

EXPLANATORY NOTES

1. In the 51st Legislature, the speaker, Mr. Manford, officially established the practice for the house, long in use by the senate, of placing a doorkeeper at the outer door of the house lobby, thereby making the lobby, the reception room and the sergeant-at-arms' office also within the "bar of the house." The doorkeeper of the house controls the main door to the house floor.

2. See Secs. 4.021 and 4.022 for the list of persons entitled to the privileges of the floor when the house is in session.

Sec. 2.06. CHAPLAIN

The chaplain shall open the first session on each calendar day with a prayer and shall perform such other duties as directed by the Committee on House Administration.

EXPLANATORY NOTES

See Sec. 4.051 concerning the daily order of business.

SUBCHAPTER B. CONDITIONS OF EMPLOYMENT

Sec. 2.21. EMPLOYEES OF THE HOUSE

Employees of the house shall:

(1) be on duty on the days and hours determined by the Committee on House Administration or the speaker;

(2) perform all duties directed by the Committee on House Administration or the speaker;

(3) be allowed to appear before a standing or select committee on a measure when granted permission by majority vote of the

committee;

(4) not enter the house chamber when the house is in session except when performing their official duties;

(5) not enter the area on the floor of the house enclosed by the railing when the house is in session except when specifically authorized by the Committee on House Administration;

(6) not cast a vote for a member on the voting machine or otherwise;

(7) not compile or release any information concerning the voting record of any member of the house for any session of the legislature except when a member requests information about that member's personal voting record, or when the information is for the journal or other official records;

(8) not campaign or assist in the campaign of any candidate for speaker;

(9) not attempt to, or aid anyone in an attempt to, influence any member of the house in favor of or against any measure pending before the legislature, either directly or indirectly, except when answering questions or giving information at the request of a member of the house;

(10) not be permitted to receive, directly or indirectly, any compensation, by gift or otherwise, from any other source, unless specifically authorized by the speaker or the Committee on House Administration; and

(11) be subject to immediate discharge by the Committee on House Administration or the speaker for violation of any provision of this rule or any other applicable rule.

Sec. 2.22. EMPLOYEES OF INDIVIDUAL MEMBERS

Employees of individual members shall be subject to the provisions of items (3), (9), and (10) of Section 2.21. The member employing any employee who violates any

applicable rule shall be advised of the violation by the speaker or the Committee on House Administration, and the employing member shall take appropriate action with regard to the employee in question. Any employee of an individual member who commits a second violation of the rules shall be subject to a hearing before the Committee on Rules to determine if a recommendation of dismissal of said employee should be made to the Committee on House Administration for appropriate action.

Sec. 2.23. EMPLOYEES OF COMMITTEES

Employees of committees shall be subject to the provisions of items (1), (2), (3), (7), (8), (9), (10), and (11) of Section 2.21.

Sec. 2.24. OFFICE HOURS

All offices of the house shall be open on days and hours determined by the Committee on House Administration or the speaker and other hours that the house or its committees are in session.

Sec. 2.25. PERIOD OF EMPLOYMENT

The period of employment of all employees shall be determined by the employing authority, except that all employees shall be terminated not later than the Monday preceding the convening of a regular session.

CHAPTER 3. CONDUCTING BUSINESS IN COMMITTEE

SUBCHAPTER A. STANDING COMMITTEES

Sec. 3.001. AGRICULTURE AND LIVESTOCK

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) agriculture, horticulture, and farm husbandry;

(2) livestock and stock raising, and the livestock industry;

(3) the Texas Department of Agriculture, including its organization, powers, functions, and responsibilities;

(4) the Animal Health Commission, including its organization, powers, functions, and responsibilities; and

(5) the Soil and Water Conservation Board, including its organization, powers, functions, and responsibilities.

Sec. 3.002. APPROPRIATIONS

The committee shall have 21 members, with jurisdiction over:

(1) all bills and resolutions appropriating money from the state treasury;

(2) all bills and resolutions containing provisions resulting in automatic allocation of funds from the state treasury;

(3) all bills and resolutions diverting funds from the state treasury or preventing funds from going in which otherwise would be placed in the state treasury; and

(4) all matters pertaining to claims and accounts filed with the legislature against the state unless jurisdiction over those bills and resolutions is specifically granted by these rules to some other standing committee.

The appropriations committee may comment upon any bill or resolution containing a

provision resulting in an automatic allocation of funds.

Sec. 3.003. BUSINESS AND INDUSTRY

The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) commerce, trade, and manufacturing;

(2) industry and industrial development;

(3) the office of the Texas Industrial Commission, including its organization, powers, functions, and responsibilities;

(4) the office of the Texas Tourist Development Agency, including its organization, powers, functions, and responsibilities;

(5) the office of the State Securities Board, including its organization, powers, functions, and responsibilities; and

(6) the protection of consumers, governmental regulations incident thereto, the agencies of government authorized to regulate such activities, and the role of the government in consumer protection.

Sec. 3.004. CALENDARS (PROCEDURAL)

The committee shall have nine members, with jurisdiction over:

(1) the assignment of bills and resolutions to appropriate calendars, except those within the jurisdiction of the Committee on Local and Consent Calendars; and

(2) the determination of priorities and granting of rules for floor consideration of such bills and resolutions; and

(3) all other matters concerning the calendar system and the expediting of the business of the house as may be assigned by the speaker.

Sec. 3.005. CONSTITUTIONAL AMENDMENTS

The committee shall have nine members, with jurisdiction over all measures proposing:

(1) amendments to the Texas Constitution;

(2) to revise the Texas Constitution, in whole or part;

(3) to ratify pending amendments to the Constitution of the United States; and

(4) to establish the organization, structure, and procedures of a convention for the revision of the Texas Constitution.

Sec. 3.006. CRIMINAL JURISPRUDENCE

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) criminal law, prohibitions, standards, and penalties;

(2) criminal procedure in the courts of Texas;

(3) revision or amendment of the Penal Code, unless jurisdiction thereof is assigned to some other standing committee by these rules; and

(4) the Court of Criminal Appeals, including its organization, powers, functions, and responsibilities.

Sec. 3.007. ELECTIONS

The committee shall have 11 members, with jurisdiction over:

(1) all matters relating to the right of suffrage in Texas;

(2) all proposals affecting primary, special, and general elections;

(3) all proposals to revise, modify, amend, or change the Election Code;

(4) all contested elections to the house of representatives; and

(5) all matters pertaining to the

secretary of state in relation to elections.

Sec. 3.008. EMPLOYMENT PRACTICES

(a) The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) hours, wages, working conditions, and welfare of labor and wage earners;

(2) collective bargaining and the relationship between labor and management;

(3) industrial safety and adequate and safe working conditions, and the regulation and control of those conditions;

(4) employment and unemployment, with jurisdiction over the Texas Employment Commission, including its organization, powers, functions, and responsibilities;

(5) the Bureau of Labor Statistics, including its organization, powers, functions, and responsibilities; and

(6) workers' compensation and the Industrial Accident Board of the State of Texas, including its organization, powers, duties, and responsibilities; and

(7) the State Pension Review Board.

(b) The Subcommittee on Pensions shall have five members with jurisdiction over:

(1) all bills and joint resolutions that propose to change benefits or participation in benefits of a public retirement system or that otherwise would change the financial obligations of a public retirement system; and

(2) the State Pension Review Board.

Sec. 3.009. ENERGY RESOURCES

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) the conservation of the energy resources of Texas;

(2) the production, regulation,

transportation, and development of oil, gas, and other energy resources;

(3) mining and the development of mineral deposits within the state;

(4) the Texas Railroad Commission, including its organization, powers, functions, and responsibilities in the regulation and control of oil, gas, and mineral resources;

(5) the Governor's Energy Advisory Council; and

(6) the Southern Interstate Nuclear Board.

Sec. 3.010. ENVIRONMENTAL AFFAIRS

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) air pollution, with jurisdiction over the Texas Air Control Board, including its organization, powers, functions, and responsibilities;

(2) the creation, operation, and control of state parks;

(3) the regulation and control of the propagation and preservation of wildlife and fish in the state;

(4) hunting and fishing in the state, and the regulation and control thereof;

(5) the development and regulation of the fish and oyster industries of the state;

(6) the Parks and Wildlife Commission, including its organization, powers, functions, and responsibilities;

(7) the General Land Office, including its organization, powers, functions, and responsibilities; and

(8) water pollution.

Sec. 3.011. FINANCIAL INSTITUTIONS

The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) banking, the state banking system,

and the Banking Department of Texas;

(2) savings and loan associations and the Savings and Loan Department of Texas;

(3) credit unions and the Credit Union Commission;

(4) the lending of money and the Consumer Credit Commissioner of the State of Texas;

(5) the Finance Commission of Texas, including its organization, powers, functions, and responsibilities;

(6) the Treasury Department; and

(7) the State Depository Board, including its organization, powers, functions, and responsibilities.

Sec. 3.012. GOVERNMENT ORGANIZATION

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) the extension of state departments and agencies under the provisions of the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes);

(2) the organization, powers, regulations, and management of those state departments, agencies, and advisory committees being considered by the legislature under the provisions of the Texas Sunset Act; and

(3) the Sunset Advisory Commission, including its organization, powers, functions, and responsibilities.

Sec. 3.013. HEALTH SERVICES

The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the protection of public health, including supervision and control of the practice of medicine, pharmacy, dentistry, and other healing arts;

(2) the Texas Department of Health, including its organization, powers, functions,

and responsibilities;

(3) mental health and mental retardation and the development of programs incident thereto;

(4) the Texas Department of Mental Health and Mental Retardation, including its organization, powers, functions, and responsibilities;

(5) the prevention and treatment of mental illness and mental retardation;

(6) the Texas Health Facilities Commission, including its organization, powers, functions, and responsibilities;

(7) nursing homes and their regulation; and

(8) the Texas Commission on Alcoholism, including its organization, powers, functions, and responsibilities.

Sec. 3.014. HIGHER EDUCATION

The committee shall have 13 members, with jurisdiction over all matters pertaining to:

(1) education beyond the high school;

(2) the colleges and universities of the State of Texas; and

(3) the Coordinating Board, Texas College and University System, and the boards of regents of the several colleges and universities of the state.

Sec. 3.015. HOUSE ADMINISTRATION (PROCEDURAL)

The committee shall have seven members, with jurisdiction over:

(1) administrative operation of the house and its employees;

(2) the general house fund, with full control over all expenditures from the fund;

(3) all property, equipment, and supplies obtained by the house for its use and the use of its members;

(4) all office space available for the

use of the house and its members;

(5) the assignment of vacant office space, vacant parking spaces, and vacant desks on the house floor to members with seniority based on cumulative years of service in the house, except that the committee may make these assignments based on physical disability of a member where it deems proper;

(6) all admissions to the floor during sessions of the house;

(7) all radio broadcasting and televising, live or recorded, of sessions of the house;

(8) the electronic recording of the proceedings of the house of representatives and the custody of the recordings of testimony before house committees, with authority to promulgate reasonable rules, regulations, and conditions concerning the safekeeping, reproducing, transcribing, and the defraying of costs for transcribing the recordings, subject to other provisions of these rules; and

(9) all witnesses appearing before the house or any committee thereof in support of or in opposition to any pending legislative proposal.

Sec. 3.016. HUMAN SERVICES

(a) The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) welfare programs and their development, administration, and control;

(2) the Texas Department of Human Resources, including its organization, powers, functions, and responsibilities;

(3) the office of the Veterans Affairs Commission, including its organization, powers, functions, and responsibilities;

(4) aging and the development of programs affecting senior citizens of the

state;

(5) the office of the Texas Rehabilitation Commission, including its organization, powers, functions, and responsibilities;

(6) the State Commission for the Blind, including its organization, powers, functions, and responsibilities;

(7) the State Commission for the Deaf, including its organization, powers, functions, and responsibilities; and

(8) the Texas Department of Community Affairs, including its organization, powers, functions, and responsibilities.

(b) The Subcommittee on Aging shall have five members with jurisdiction over all matters pertaining to:

(1) aging and the development of programs affecting senior citizens of the state;

(2) the Governor's Committee on Aging; and

(3) nursing homes and their regulation.

Sec. 3.017. INSURANCE

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) insurance and the insurance industry, including fire, life, casualty and other types of insurance;

(2) all insurance companies and other organizations of any type writing or issuing policies of insurance in the State of Texas, including their organization, incorporation, management, powers, and limitations; and

(3) the State Board of Insurance, including its organization, powers, functions, and responsibilities.

Sec. 3.018. INTERGOVERNMENTAL AFFAIRS

Sec. 3.019

The committee shall have 13 members, with jurisdiction over all matters pertaining to:

(1) cities, municipalities, and town corporations, including their creation, organization, powers, government, and finance, and the compensation and duties of their officers and employees;

(2) home-rule cities, their relationship to the state, and their powers, authority, and limitations;

(3) the creation or change of metropolitan areas and the form of government under which those areas operate;

(4) counties, including their organization, creation, boundaries, government, and finance and the compensation and duties of their officers and employees; and

(5) other units of local government not otherwise assigned by these rules to other standing committees.

Sec. 3.019. JUDICIARY

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) civil law, including rights, duties, remedies and procedures thereunder;

(2) civil procedure in the courts of Texas;

(3) uniform state laws;

(4) the State Bar of Texas;

(5) the Texas Judicial Council;

(6) the State Commission on Judicial Conduct;

(7) the organization, incorporation, management, and regulation of private corporations;

(8) the secretary of state in relation to private corporations, the Uniform Commercial Code and the Limited Partnership Act;

(9) the office of the attorney

general, including its organization, powers, functions, and responsibilities;

(10) administrative law and the adjudication of rights by administrative agencies;

(11) requesting permission to sue the state; and

(12) courts and court procedures except where jurisdiction is specifically granted to some other standing committee.

Sec. 3.020. JUDICIAL AFFAIRS

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) civil law, including rights, duties, remedies, and procedures thereunder;

(2) civil procedure in the courts of Texas;

(3) uniform state laws;

(4) creating, changing, or otherwise affecting courts of judicial districts of the state;

(5) the State Bar of Texas;

(6) the Texas Judicial Council;

(7) the State Commission on Judicial Conduct;

(8) the organization, incorporation, management, and regulation of private corporations;

(9) the secretary of state in relation to private corporations, the Uniform Commercial Code and the Limited Partnership Act;

(10) the office of the attorney general, including its organization, powers, functions, and responsibilities;

(11) administrative law and the adjudication of rights by administrative agencies;

(12) permission to sue the state; and

(13) courts and court procedures except where jurisdiction is specifically

granted to some other standing committee.

Sec. 3.021. LIQUOR REGULATION

The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) regulation of the sale of intoxicating beverages and local option control;

(2) proposals to revise, modify, amend, or change the Alcoholic Beverage Code; and

(3) the Texas Alcoholic Beverage Commission, including its organization, powers, functions, and responsibilities.

Sec. 3.022. LOCAL AND CONSENT CALENDARS (PROCEDURAL)

The committee shall have nine members, with jurisdiction over:

(1) the assignment to appropriate calendars of bills which, in the opinion of the committee, are in fact local or will be uncontested, and have been recommended as such by the standing committee of original jurisdiction; and

(2) the determination of priorities for floor consideration of bills except those within the jurisdiction of the Committee on Calendars.

Sec. 3.023. NATURAL RESOURCES

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) the conservation of the natural resources of Texas;

(2) the control and development of land and water and land and water resources, including the taking, storing, control, and use of all water in the state, and its appropriation and allocation;

(3) irrigation, irrigation companies, and irrigation districts, and their incorporation, management, and powers;

(4) the development and preservation of forests, and the regulation, control, and promotion of the lumber industry;

(5) the creation, modification, and regulation of water supply districts, water control and improvement districts, conservation and reclamation districts, and all similar organs of local government dealing with water and water supply; and

(6) the Texas Department of Water Resources, including its organization, powers, functions, and responsibilities, except where jurisdiction is specifically granted herein to some other standing committee.

Sec. 3.024. PUBLIC EDUCATION

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) the public schools and the public school system of Texas;

(2) the Texas Education Agency, including its organization, powers, functions, and responsibilities;

(3) the state programming of elementary and secondary education for the public school system of Texas; and

(4) proposals to create, change, or otherwise alter school districts of the state.

Sec. 3.025. REGIONS, COMPACTS, AND DISTRICTS

The committee shall have 19 members, with jurisdiction over all matters pertaining to:

(1) legislative districts, both house and senate, and any changes or amendments;

(2) congressional districts, their creation, and any changes or amendments;

(3) establishing districts for the election of governing bodies of counties,

cities, and school districts;

(4) other units of local government not otherwise assigned by these rules to other standing committees;

(5) the relations between the State of Texas and the federal government;

(6) interstate compacts and the relations between the State of Texas and other sovereign states of the United States;

(7) the Council of State Governments and the participation of Texas in the council;

(8) regional councils of governments in this state and their organization, powers, functions, and responsibilities; and

(9) the office of the Good Neighbor Commission, including its organization, powers, functions, and responsibilities.

Sec. 3.026. RULES (PROCEDURAL)

The committee shall have nine members, with jurisdiction over:

(1) Rules of Procedure of the House of Representatives, and all proposed amendments;

(2) Joint Rules of the House and Senate, and all proposed amendments;

(3) all procedures for expediting the business of the house in an orderly and efficient manner;

(4) all proposals to invite nonmembers to appear before or address the house or a joint session;

(5) all resolutions to congratulate, memorialize, and name mascots of the house; and

(6) other matters concerning rules, procedures, and operation of the house assigned by the speaker.

Sec. 3.027. SECURITY AND SANCTIONS

The committee shall have nine members, with jurisdiction over all matters pertaining to:

(1) the office of the Texas Youth Council, including its organization, powers, functions, and responsibilities;

(2) the office of the Texas Department of Corrections, including its organization, powers, functions, and responsibilities;

(3) the Board of Pardons and Paroles, including its organization, powers, functions, and responsibilities;

(4) the Texas Adult Probation Commission, including its organization, powers, functions, and responsibilities;

(5) the Texas Department of Public Safety, including its organization, powers, functions, and responsibilities with respect to law enforcement other than traffic laws; and

(6) the Texas Commission on Jail Standards, including its organization, powers, functions, and responsibilities.

Sec. 3.028. STATE AFFAIRS

The committee shall have 15 members, with jurisdiction over all matters pertaining to:

(1) questions and matters of state policy;

(2) the administration of state government;

(3) the organization, powers, regulation, and management of state departments and agencies;

(4) the operation and regulation of public lands and state buildings;

(5) the State Purchasing and General Services Commission, including its organization, powers, functions, and responsibilities;

(6) the organization, regulation, operation, and management of state institutions;

(7) the compensation and duties of officers and employees of the state

government;

(8) the various branches of the military service of the United States;

(9) the defense of the state and nation;

(10) veterans of military and related services;

(11) the Adjutant General's Department and the various military units under its jurisdiction and supervision;

(12) the Public Utilities Commission, including its organization, powers, functions, and responsibilities; and

(13) the operation of state government and its agencies and departments; all of above except where jurisdiction is specifically granted to some other standing committee.

Sec. 3.029. TRANSPORTATION

The committee shall have 11 members, with jurisdiction over all matters pertaining to:

(1) commercial motor vehicles, both bus and truck, their control, regulation, licensing, and operation;

(2) the Texas highway system, including all roads, bridges, and ferries constituting a part of the system;

(3) the State Department of Highways and Public Transportation, including its organization, powers, functions, and responsibilities;

(4) the licensing of private passenger vehicles to operate on the roads and highways of the state;

(5) the regulation and control of traffic on the public highways of the State of Texas;

(6) the office of the Texas Department of Public Safety and its organization, powers, functions, and responsibilities with respect to enforcement of the traffic laws of the state;

(7) the Texas Railroad Commission, including its organization, powers, functions, and responsibilities with respect to its regulation of transportation of all types in the State of Texas;

(8) railroads, street railway lines, interurban railway lines, steamship companies, and express companies;

(9) pipelines, pipeline companies, and all others operating as common carriers in the state;

(10) airports, air traffic, airlines, and other organizations engaged in transportation by means of aerial flight;

(11) the Texas Aeronautics Commission, its organization, powers, functions, and responsibilities; and

(12) water transportation in the State of Texas, and the rivers, harbors, and related facilities used in water transportation and the agencies of government exercising supervision and control thereover.

Sec. 3.030. WAYS AND MEANS

The committee shall have 13 members, with jurisdiction over:

(1) all bills and resolutions proposing to raise revenue;

(2) all bills or resolutions proposing to levy taxes or other fees;

(3) all proposals to modify, amend, or change any existing tax or revenue statute;

(4) all proposals to regulate the manner of collection of state revenues and taxes;

(5) all matters pertaining to the office of the State Comptroller of Public Accounts, including its organization, powers, functions, and responsibilities;

(6) all bills and resolutions containing provisions resulting in automatic allocation of funds from the state treasury;

(7) all bills and resolutions diverting funds from the state treasury or preventing funds from going in which otherwise would be placed in the state treasury.

SUBCHAPTER B. ORGANIZATION

Sec. 3.051. COMMITTEES, MEMBERSHIP, AND JURISDICTION

Standing committees of the house, and the number of members and general jurisdiction of each, shall be as enumerated in Subchapter A of this chapter.

Sec. 3.052. DETERMINATION OF MEMBERSHIP

Membership on the standing committees shall be determined at the beginning of each regular session in the following manner:

(1) A maximum of one-half of the membership on each standing committee, exclusive of the chair and vice-chair, shall be determined by seniority. The remaining membership of the committee, including the chair and vice-chair, shall be appointed by the speaker.

(2) Each member of the house, in order of seniority, shall select one committee on which the member desires to serve and shall acquire membership on that committee, provided that the committee does not already have as many as one-half of its membership filled by seniority selections.

(3) If members of equal seniority request the same committee, the speaker shall appoint the member from among those requesting that committee. Seniority, as the term is used in this subsection, shall mean years of cumulative service as a member of the house of representatives.

(4) After each member of the house has

selected one committee on the basis of seniority, the remaining membership on each standing committee, including the chair and vice-chair, shall be filled by appointment of the speaker, subject to the limitations imposed in this subchapter.

(5) Seniority shall not apply to the Committee on Calendars, the Committee on Local and Consent Calendars, the Committee on Rules, and the Committee on House Administration. The entire membership of these four committees shall be appointed by the speaker.

(6) In announcing the membership of committees, the speaker shall designate those appointed by the speaker and those acquiring membership by seniority.

Sec. 3.053. RANKING OF COMMITTEE MEMBERS

Except for the chair and the vice-chair, members of a standing committee shall rank according to their seniority.

Sec. 3.054. MEMBERSHIP RESTRICTIONS

Membership on committees is subject to the following restrictions:

(1) No member shall serve concurrently on more than two standing substantive committees.

(2) No member shall serve concurrently on more than one of the following committees: Appropriations, Ways and Means, and State Affairs.

(3) No member shall serve concurrently on more than one procedural committee.

Sec. 3.055. VACANCIES ON STANDING COMMITTEES

Should a vacancy occur on a standing committee subsequent to its organization, the speaker shall appoint an eligible member to fill the vacancy.

Sec. 3.056. DUTIES OF THE CHAIR

The chair of each committee shall:

(1) be responsible for the effective conduct of the business of the committee;

(2) appoint all subcommittees and, except as provided in Subchapter B of Chapter 5, determine the number of members to serve on each subcommittee;

(3) schedule the work of the committee and determine the order in which the committee shall consider and act on bills, resolutions, and other matters referred to the committee;

(4) have authority to employ and discharge the staff and employees authorized for the committee and have supervision and control over all the staff and employees;

(5) direct the preparation of all committee reports. No committee report shall be official until signed by the chair of the committee, or by the person acting as chair, or by a majority of the membership of the committee;

(6) determine the necessity for public hearings, schedule hearings, and be responsible for posting notice of hearings as required by the rules;

(7) preside at all meetings of the committee and control its deliberations and activities in accordance with acceptable parliamentary procedure; and

(8) have authority to direct the sergeant-at-arms to assist, where necessary, in enforcing the will of the committee.

Sec. 3.057. COMMITTEE STAFF

Each committee shall be provided committee staff, clerical assistance, and other personnel as approved by the Committee on House Administration. Interim staff and other personnel may be provided to committees by the same procedure, and provision therefor may be

included in the resolution passed each session governing interim operations of the house.

Sec. 3.058. BILL ANALYSES

In addition to other duties that may be assigned by the chair, and when considered necessary by the chair, the staff of each standing committee shall be responsible for the preparation of an analysis of each bill referred to the committee and for distribution of copies of the analysis to each member of the committee, in advance of any committee hearing scheduled thereon. The analyses shall be prepared under the direction of the chair and shall be approved by the chair as to form and content before distribution to other members of the committee.

SUBCHAPTER C. PROCEDURE

Sec. 3.081. MEETINGS

(a) As soon as practicable after standing committees are constituted and organized, the Committee on House Administration shall promulgate a schedule for regular meetings of all standing committees. This schedule shall be published in the house journal and posted in a convenient and conspicuous place near the entrance to the house.

To the extent practicable during each regular session, standing committees shall conduct regular committee meetings in accordance with the schedule of meetings promulgated by the Committee on House Administration.

(b) Standing committees shall meet at other times as may be determined by the committee, or as may be called by the chair. Subcommittees of standing committees shall likewise meet at other times as may be determined by the committee, or as may be

called by the chair of the committee or subcommittee.

Committees shall also meet in such places and at such times as the speaker may designate.

Sec. 3.082. MEETING WHILE HOUSE IN SESSION

No standing committee or subcommittee shall meet during the time the house is in session without permission being given by a majority vote of the house, except that the Committee on Rules, the Committee on Calendars, and the Committee on House Administration are authorized to meet at any time. No standing committee or subcommittee shall conduct its meeting on the floor of the house or in the house chamber while the house is in session, but shall, if given permission to meet while the house is in session, retire to a designated committee room for the conduct of its meeting.

HOUSE PRECEDENTS

In the 56th Legislature the speaker, Mr. Carr, ruled that a motion to grant such permission was debatable and subject to the three minute pro and con debate rule.

Sec. 3.083. PURPOSES FOR MEETING

A committee or a subcommittee may be assembled for:

(1) a public hearing where testimony is to be heard, and where official action may be taken, on bills, resolutions, or other matters;

(2) a formal meeting where the committee may discuss and take official action on bills, resolutions, or other matters without testimony; and

(3) a work session where the committee

may discuss bills, resolutions, or other matters but take no formal action.

Sec. 3.084. POSTING NOTICE

(a) No committee or subcommittee shall assemble for the purpose of a public hearing unless notice of the hearing has been posted by the chair of the committee at least five calendar days in advance of the hearing. The committee minutes shall reflect the date of each posting of notice. Notice shall not be required for a public hearing on a senate bill which is substantially the same as a house bill that has previously been the subject of a duly posted public hearing by the committee.

(b) No committee or subcommittee shall assemble for the purpose of a formal meeting or work session unless written notice has been posted and transmitted to each member of the committee two hours in advance of the meeting or an announcement has been filed with the journal clerk and read by the reading clerk while the house is in session.

(c) All committees meeting during the interim for the purpose of a formal meeting, work session, or public hearing shall post notice and notify members of the committee at least five days in advance of the meeting.

EXPLANATORY NOTES

1. Notices of public hearings are usually posted by the committee clerks on a bulletin board, provided by the sergeant-at-arms for that purpose, either in the rear hall of the house chamber, at the front entrance to the house chamber, or in the reception room.

2. See Sec. 3.056(6) concerning the chair's responsibility for posting notice.

Sec. 3.085. MEETINGS OPEN TO THE PUBLIC

All meetings of a committee or subcommittee shall be open to the public unless specifically provided otherwise by resolution adopted by the house. However, the general investigating committee or a committee considering an impeachment, an address, the punishment of a member of the house, or any other matter of a quasi-judicial nature may meet in executive session for the limited purpose of examining a witness or deliberating, considering, or debating a decision, but no decision may be made or voted on except in a meeting that is open to the public and otherwise in compliance with the rules of the house.

HOUSE PRECEDENTS

PUBLIC HEARING NOT A PREREQUISITE TO REPORTING BY A COMMITTEE OR CONSIDERATION BY THE HOUSE.--The speaker laid before the house on second reading H.B. 40, and the caption was read. Mr. Cato raised a point of order on further consideration of the bill on the ground that a "public hearing" had not been held before the bill was reported by the committee. The speaker, Mr. Gilmer, overruled the point of order (49 H.J. Reg. 277 (1945)).

This point of order is raised frequently and arises through a misunderstanding of Secs. 3.083-3.085. Sec. 3.085 provides that every committee meeting shall be open to the public. Anyone may attend committee hearings. Committees, however, have control of their business, and there is nothing in the rules which requires committees to hold "public hearings" in the accepted meaning of the term, i.e., where numbers of persons appear to argue both sides of a question. Public hearings should be and almost always

are held on bills of outstanding importance. If a committee elects to hold a "public hearing," then it must set the bill and post the proper notice. It is these two steps which characterize the "public hearing" as differentiated from the ordinary committee meeting.

Sec. 3.086. RULES GOVERNING OPERATIONS

(a) The Rules of Procedure of the House of Representatives, and to the extent applicable, the rules of evidence and procedure in the civil courts of Texas, shall govern the hearings and operations of each committee. Subject to the foregoing, and to the extent necessary for orderly transaction of business, each committee may promulgate and adopt additional rules and procedures by which it will function.

(b) No standing committee, or any subcommittee, shall adopt any rule of procedure, including but not limited to an automatic subcommittee rule, which will have the effect of thwarting the will of the majority of the committee or subcommittee or denying the committee or subcommittee the right to ultimately dispose of any pending matter by action of a majority of the committee or subcommittee.

Sec. 3.087. APPEALS FROM RULINGS OF THE CHAIR

Appeals from rulings of the chair of a committee shall be in order if seconded by three members of the committee, which may include the member making the appeal. Procedure in committee following an appeal which has been seconded shall be the same as the procedure followed in the house in a similar situation.

HOUSE PRECEDENTS

ERRONEOUS RULINGS BY COMMITTEE CHAIRS ARE INSUFFICIENT GROUNDS FOR SENDING BILLS BACK TO COMMITTEES ON POINTS OF ORDER, PROVIDED REPORTS ARE MADE IN ACCORDANCE WITH THE RULES.--H.B. 236 was laid before the house. Mr. Pearson raised a point of order on further consideration because the bill was not "properly and legally" voted out of the committee. He contended that the chairman of the committee had made certain erroneous rulings, but agreed that the bill had finally received a majority vote for favorable report and that a quorum was present. The speaker, Mr. Reed, in overruling the point of order, held that the stated grounds were insufficient to send the bill back to committee, particularly in view of the fact that committee members have recourse to appeals from the rulings of committee chairmen, and that the committee minutes failed to show any protest or appeal (50 H.J. Reg. 1750 (1947)).

Sec. 3.088. PREVIOUS QUESTION

Before the previous question can be ordered in a committee, the motion therefor must be seconded by not less than 4 members of a committee consisting of 21 or more members, 3 members of a committee consisting of less than 21 members and more than 10 members, or 2 members of a committee consisting of 10 members or less. If the motion is properly seconded and ordered by a majority vote of the committee, further debate on the proposition under consideration shall be terminated, and the proposition shall be immediately put to a vote of the committee for its action.

Sec. 3.089. QUORUM

A majority of a committee shall constitute a quorum. No action or recommendation of a committee shall be valid unless taken at a meeting of the committee with a quorum actually present, and the committee minutes shall reflect the names of those members of the committee who were actually present. No committee report shall be made to the house unless ordered by a majority of the membership of the committee, except as otherwise provided in the rules, and a quorum of the committee must be present when the vote is taken on reporting a bill or resolution or on taking any other formal action within the authority of the committee. No committee report shall be made except by record vote of the members of the committee, with the yeas and nays to be recorded in the minutes of the committee. Proxies cannot be used in committees.

HOUSE PRECEDENTS

1. NOT IN ORDER TO CIRCUMVENT COMMITTEE ACTION BY SUSPENSION OF THE RULES.--The speaker laid S.B. No. 235 before the house, and Mr. Mangum raised a point of order that the bill had not been reported properly from the committee, the minutes showing that a quorum was not present at the time. The speaker, Mr. Reed, called for and examined the minutes and then sustained the point of order. Mr. Miller moved to suspend all rules for the purpose of considering the bill at this time. A point of order by Mr. Mangum against such procedure was sustained by the speaker, who held that to allow it would set a precedent whereby the constitutional requirement for committee consideration would be abrogated (50 H.J. Reg. 2732 (1947)).

2. VALID COMMITTEE REPORT NECESSARY UNDER THE CONSTITUTION.--During the consideration of H.B. 33, a point of order

was raised that the minutes of the committee reporting the bill showed that in fact a quorum was not present at the time the bill was reported. Mr. McAllister then moved to suspend the house rule requiring the presence of a quorum of a committee at the time of reporting a bill, resolution or other measure. Mr. Bell of DeWitt raised the point of order against such a motion on the ground that Sec. 37 of Art. 3 of the constitution requires a valid committee report. The speaker, Mr. Gilmer, sustained the point of order and ordered the bill returned to the committee for further consideration, pointing out that to do otherwise would render meaningless the constitutional requirement of committee consideration and report (49 H.J. Reg. 1714 (1945)).

CONGRESSIONAL PRECEDENTS

QUORUM REQUIRED FOR COMMITTEE ACTION.--Action of a committee is valid only when taken at a formal meeting of the committee actually assembled (C.P., 8, 2209). Action of a committee is recognized by the house only when taken with a quorum actually assembled and meeting (C.P., 8, 2211). Action taken by a committee in the absence of a quorum was held to be invalid when reported to the house (C.P., 8, 2212).

Sec. 3.090. MOVING A CALL OF A COMMITTEE

(a) It shall be in order to move a call of a committee at any time to secure and maintain a quorum for any one or more of the following purposes:

(1) for the consideration of a specific bill, resolution, or other matter;

(2) for a definite period of time; or

(3) for the consideration of any designated class of bills or other matters.

(b) When a call of a committee is moved for one or more of the foregoing purposes and seconded by two members, one of whom may be the chair, and is ordered by a majority of the members present, no member shall thereafter be permitted to leave the committee meeting without written permission from the chair. After the call is ordered, and in the absence of a quorum, the chair shall have the authority to authorize the sergeant-at-arms to locate absent members of the committee and to compel their attendance for the duration of the call.

Sec. 3.091. MINUTES OF PROCEEDINGS

(a) The chair, or the member acting as chair, shall keep complete minutes of the proceedings in committee, which shall include:

(1) the time and place of each meeting of the committee;

(2) a roll call to determine the members present at each meeting of the committee, whether that meeting follows an adjournment or a recess from a previous committee meeting;

(3) an accurate record of all votes taken, including a listing of the yeas and nays cast on a record vote;

(4) the date of posting of notice of the meeting; and

(5) other information that the chair shall determine.

(b) Committee minutes shall be corrected only at the direction of the chair as authorized by a majority vote of the committee. Duplicate originals of committee minutes shall be maintained, one to remain with the committee chair and the other to be filed within five days with the office of the house committee coordinator, where it shall be

available at all reasonable business hours for inspection by members or the public.

(c) The committee coordinator shall maintain the minutes and records safe from loss, destruction, and alteration at all times, and may, at any time, turn them, or any portion, over to the Committee on House Administration.

Sec. 3.092. RECORDING OF TESTIMONY

(a) All testimony before a committee or a subcommittee in public hearing shall be electronically recorded. All recorded testimony shall be delivered to the Committee on House Administration.

(b) A transcript of the testimony will be furnished by the Committee on House Administration to any member requesting it, with the expense of the transcript to be charged to the contingent expense account of the member.

(c) Copies of the electronic recordings shall not be released to anyone by the Committee on House Administration, except that a member of the house may get a copy of the electronic recording of the member's own remarks, with any expense for the copy to be charged to the contingent expense account of the member.

Sec. 3.093. SWORN STATEMENT OF WITNESSES

(a) The Committee on House Administration shall prescribe the form of a sworn statement to be executed by all persons other than members appearing before committees. The statement shall provide for showing:

(1) the committee or subcommittee;

(2) the name, home address, business address, and telephone number of the person appearing;

(3) the person, firm, corporation,

class, or group represented;

(4) the type of business, profession, or occupation of the person or entity represented;

(5) the business address of the person or entity represented; and

(6) the matter before the committee on which the person is appearing and whether for or against the matter.

(b) No person shall appear in favor of or opposition to a matter before a committee until the sworn statement has been filed with the chair of the committee.

(c) Sworn statements shall be attached to the copy of the minutes of the meeting filed with the house committee coordinator.

(d) All persons, other than members, appearing before committees shall give their testimony under oath, and each committee may avail itself of additional powers and prerogatives authorized by law.

EXPLANATORY NOTES

1. See Chapter 303, Acts of the 57th Legislature, Regular Session, 1961.

2. For matters relating to additional powers of committees, see Article 5429f, Vernon's Texas Civil Statutes.

Sec. 3.094. POWER TO ISSUE PROCESS

By a record vote of not less than two-thirds of those present and voting, a quorum being present, each standing committee shall have the power and authority to issue process to witnesses at any place in the State of Texas, to compel their attendance, and to compel the production of all books, records, and instruments. If necessary to obtain compliance with subpoenas or other process, the committee shall have the power to issue writs of attachment. All process issued by

the committee may be addressed to and served by either a sergeant-at-arms appointed by the committee or by any peace officer of the State of Texas. The committee shall also have the power to cite and have prosecuted for contempt, in the manner provided by law, anyone disobeying the subpoenas or other process lawfully issued by the committee. The chair of the committee shall issue, in the name of the committee, the subpoenas and other process as the committee may direct.

Sec. 3.095. MILEAGE AND PER DIEM FOR WITNESSES

Subject to prior approval by the Committee on House Administration, witnesses attending proceedings of any committee under process of the committee shall be allowed the same mileage and per diem as are allowed members of the committee when in a travel status, to be paid out of the contingent expense fund of the house of representatives on vouchers approved by the chair of the committee, the chair of the Committee on House Administration, and the speaker of the house.

Sec. 3.096. POWER TO REQUEST ASSISTANCE OF STATE AGENCIES

Each committee is authorized to request the assistance, when needed, of all state departments, agencies, and offices, and it shall be the duty of the departments, agencies, and offices to assist the committee when requested to do so. Each committee shall have the power and authority to inspect the records, documents, and files of every state department, agency, and office, to the extent necessary to the discharge of its duties within the area of its jurisdiction.

SUBCHAPTER D. COMMITTEE FUNCTIONS

Sec. 3.111. INTERIM STUDIES

Standing committees, en banc or by subcommittees, are hereby authorized to conduct interim studies that are authorized by resolution adopted by the house or designated by the speaker pursuant to Section 1.27. For this purpose, the chair of the standing committee shall have authority to name the subcommittees necessary and desirable for the conduct of the interim studies. Use of select committees to conduct the interim work of the house when the legislature is not in session is hereby prohibited, unless authorized by the house through passage of a resolution creating a select committee for a specific interim task, or authorized by the speaker.

Sec. 3.112. REFERRAL OF PROPOSED LEGISLATION TO COMMITTEE

All proposed legislation shall be referred by the speaker to an appropriate standing committee with jurisdiction, subject to correction by a majority vote of the house.

EXPLANATORY NOTES

It has been the practice for speakers to correct the reference when a bill has been referred in error to an improper committee. Such correction is done very shortly after the original reference, however, usually long before any committee action is possible.

Sec. 3.113. MOTION PREVENTING REPORTING

No motion is in order in a committee considering a bill, resolution, or other matter that would prevent the committee from

reporting it back to the house in accordance with the Rules of the House.

EXPLANATORY NOTES

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

Sec. 3.114. FINAL ACTION IN FORM OF REPORT

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

Sec. 3.115. VOTE ON MOTION TO REPORT

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

(1) leave the bill in the committee for further consideration;

(2) refer the bill to some other committee; or

(3) order the bill printed, in which case the bill shall go to the Committee on Calendars for assignment to a calendar and for application of an appropriate rule for house consideration.

CONGRESSIONAL PRECEDENTS

COMMITTEE UNABLE TO AGREE.--A committee being unable to agree on a recommendation for action may submit a statement of this fact as its report (H.P., 4, 4665, 4666). Instance wherein a committee being equally divided, reported its inability to present a proposition for action (H.P., 1, 347).

Sec. 3.116. MOTION TO REQUIRE COMMITTEE TO REPORT

(a) During the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 6 calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move that the committee be required to report the same within 7 calendar days. This motion shall require a two-thirds vote for passage.

(b) After the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 6 calendar days, exclusive of the calendar day on which it was referred, it shall be in order for a member to move that the committee be required to report the same within 7 calendar days. This motion shall require a majority vote for passage.

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

(d) The house shall have no authority to instruct a subcommittee directly; however, instructions recognized under the rules may be given to a committee and shall be binding on all subcommittees.

EXPLANATORY NOTES

The house may not instruct a committee to do that which it is not permitted to do under the rules, or to require of it actions not covered by the rules.

HOUSE PRECEDENTS

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

Sec. 3.117. MOTION TO REREFER TO ANOTHER COMMITTEE

(a) During the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 7 calendar days after the committee was instructed by the house to report that measure by a motion made under Section 3.116, it shall be in order for a member to move to rerefer the bill, resolution, or other paper to a different committee. This motion shall require a two-thirds vote for passage.

(b) After the first 76 calendar days of a regular session, when any bill, resolution, or other paper has been in committee for 7 calendar days after the committee has been instructed to report that measure by a motion made under Section 3.116, it shall be in order for a member to move to rerefer the bill, resolution, or other paper to a different committee. This motion shall require a majority vote for passage.

(c) A motion to rerefer a bill,

resolution, or other paper from one committee to another committee is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

Sec. 3.118. FORM OF REPORTS

(a) Reports of standing committees on bills and resolutions shall be made in duplicate, with one copy to be filed with the journal clerk for printing in the journal and the other to accompany the original bill.

(b) All committee reports must be in writing, be endorsed by the committee coordinator, and shall:

(1) be signed by the chair, or the member acting as chair, or a majority of the membership of the committee;

(2) be addressed to the speaker;

(3) contain a statement of the recommendations of the committee with reference to the matter which is the subject of the report;

(4) include the fact that a copy of a bill or resolution was forwarded to the Legislative Budget Board for preparation of a fiscal note;

(5) contain the record vote by which the report was adopted, including the vote of each member of the committee;

(6) contain the recommendation of assignment to a local or consent calendar if applicable;

(7) state the name of the house sponsor of all senate bills and resolutions; and

(8) state whether the bill or resolution proposes new law or amends existing law.

(c) Except for the general appropriations bill, each committee report on a bill or joint resolution, including a complete committee

substitute, and, to the extent considered necessary by the committee, a committee report on any other resolution, must include in summary form a detailed analysis of the subject matter of the bill or resolution, specifically including:

(1) background information on the proposal;

(2) what the bill or resolution proposes to do and whether it proposes new law or amends existing law;

(3) either a section-by-section analysis of the content of the bill or resolution or a synopsis of the bill or resolution, as determined by the chair;

(4) a statement generally describing the scope of and the reasons for any rulemaking authority delegated to a state officer, department, agency, or institution, and, if the chair determines that cost and economic impact can reasonably be estimated, a statement of the cost of implementation for state and local governments and the economic impact on persons to whom the rules would apply for the first five years that the rulemaking authority is in effect;

(5) a statement of substantial differences between a complete committee substitute and the original bill; and

(6) a summary of the committee hearing on the bill or resolution.

(d) It shall be the duty of the committee chair, on all matters reported by the committee, to see that all provisions of Subchapter E of Chapter 5 are satisfied; except that insertions and underlining shall not be required on appropriations bills, redistricting bills, local bills, game bills, recodification bills, and bills not purporting to amend existing statutes. If the proposal to amend an existing portion of the constitution or a statute involves a complete redraft of the entire text, to the extent that

it would confuse rather than clarify to show additions and deletions, the requirement for insertion and underlining shall not apply. The chair shall strictly construe this provision to achieve the desired purposes.

Sec. 3.119. FISCAL NOTES

(a) It shall be the duty of the chair of each standing committee, immediately after the bill or resolution has been referred to the standing committee, to determine whether or not a fiscal note is required, and if so, to send a copy of the bill or resolution to the Legislative Budget Board for the preparation of the fiscal note. The chair shall advise the Legislative Budget Board of the standing committee to which the bill or resolution has been referred and request that the fiscal note be returned to the committee. The Legislative Budget Board shall forward a copy of each fiscal note to the author or sponsor of the affected bill or resolution. The fiscal note shall be attached to the affected bill or resolution before a committee hearing can be conducted.

(b) Any bill or joint resolution which authorizes or requires the expenditure or diversion of any state funds for any purpose, except the general appropriations bill, shall have a fiscal note signed by the director of the Legislative Budget Board attached to the bill or resolution on first printing, outlining the fiscal implications and probable cost of the measure each year for the first five years after its passage and a statement as to whether or not there will be a cost involved thereafter. The fiscal note shall include the number of additional employees considered in arriving at the probable cost.

(c) Any bill or joint resolution that has statewide impact on units of local government of the same type or class and that authorizes

or requires, presently or in the future, the expenditure or diversion of local funds, or that proposes any new local tax, fee, license charge, or penalty, or any increased or decreased local tax, fee, license charge, or penalty, shall have a fiscal note signed by the director of the Legislative Budget Board attached to the bill or resolution on first printing, outlining the fiscal implications and probable cost of the measure to the affected unit or units of local government each year for the first five years after its passage and a statement as to whether or not there will be a cost involved thereafter.

If the Legislative Budget Board is unable to acquire or develop sufficient information to prepare the fiscal note required by this subsection within 15 days of receiving a bill or resolution, the director of the Legislative Budget Board shall so state in the fiscal note, in which case the fiscal note shall be in full compliance with the rules.

(d) Before any bill or joint resolution that has impact on any particular unit or units of local government and that mandates, presently or in the future, the expenditure or diversion of local funds, or that mandates any new local tax, fee, license charge, or penalty can be heard in committee, it shall have attached to it a statement prepared by the author giving the author's best estimate of the fiscal implications and probable cost of the measure each year for five years after its passage and a statement as to whether or not there will be a cost involved thereafter.

(e) In Sections 3.119(c) and 3.119(d), "unit of local government" means county, city, town, school district, conservation district, hospital district, or any other political subdivision or special district.

(f) In preparing a fiscal note, the director of the Legislative Budget Board may utilize information or data supplied by any

person, agency, organization, or governmental unit that the director deems reliable and shall state the source or sources of the information or data used and may state the extent to which the director relied on the information or data in preparing the fiscal note. If the director determines that the fiscal implications of the bill or resolution cannot be ascertained or that the bill or resolution authorizes an unlimited expenditure or diversion of funds for any period to which the fiscal note applies, the director shall so state in the fiscal note, in which case the fiscal note shall be in full compliance with the rules.

(g) In the event that a bill or resolution is amended by the committee so as to alter its fiscal implications, either an updated fiscal note or author's statement, whichever is applicable, shall be obtained by the chair and attached to the bill or resolution as a part of the committee report.

(h) All fiscal notes or author's statements, original and updated, shall remain with the bill or resolution throughout the entire legislative process, including submission to the governor.

Sec. 3.120. ACTUARIAL ANALYSES

(a) Except as otherwise provided by this section, a bill or joint resolution that proposes to change benefits or participation in benefits of a public retirement system or that otherwise would change the financial obligations of a public retirement system must have an actuarial analysis prepared in compliance with this section, together with a statement reviewing the actuarial analysis prepared by the Legislative Budget Board and, if available, a statement of review and comment prepared by the Pension Review Board, attached to the bill or resolution before a

committee hearing may be held on it and attached to the bill or resolution on first printing.

(b) An actuarial analysis is not required for the general appropriations bill, a bill or resolution that would change the financial obligations of a retirement system only by modifying the compensation of members of the system, or modifying the administrative duties of the system, or a bill or resolution that would change the financial obligations of a retirement system only by imposing an expense on the system in the same manner that the expense is imposed on other agencies or units of government.

(c) In this section, "public retirement system" means a continuing, organized program of service retirement, disability retirement, or death benefits for officers or employees of the state or a political subdivision, but does not include a program for which benefits are administered by a life insurance company, a program providing only workers' compensation benefits, or a program administered by the federal government.

(d) An actuarial analysis must show the economic effect of the proposed bill or resolution on the public retirement system, including a projection of the annual actuarial cost or liability imposed by the proposal on the system, the effect of the legislation on the amortization schedule for liabilities of the system assuming various levels of payroll increases, and the estimated dollar change in the unfunded liability of the system. If the bill or resolution applies to more than one public retirement system, the projections in the analysis may be limited to each affected statewide public retirement system and each affected system in a city having a population of 200,000 or more, according to the results of the 1970 federal census.

(e) An actuarial analysis must state the

actuarial assumptions and methods of computation used in the analysis and, using an advanced funding actuarial cost method, must state whether or not the bill or resolution, if it becomes law, will make the affected public retirement system actuarially unsound or, in the case of a system already actuarially unsound, more unsound. The actuarial information in an actuarial analysis must be prepared by an actuary who has at least five years of experience working with one or more public retirement systems and who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employees Retirement Income Security Act of 1974. An actuarial analysis must contain a certification by the actuary that the contents of the analysis fulfill the requirements of this section. The actuary may include an explanation or description of the actuarial information contained in the analysis.

(f) As soon as practicable after a bill or joint resolution is referred to a standing committee, the committee chair shall determine whether or not an actuarial analysis is required. If the chair determines that an actuarial analysis is required, the chair shall send a copy of the bill or resolution, with actuarial analysis attached, to the Legislative Budget Board with a request that a review of the actuarial analysis be prepared and sent to the committee, and a copy to the Pension Review Board with a request that its review and comment be prepared and sent to the committee. The director of the Legislative Budget Board shall return a copy of the actuarial analysis, together with his statement of review, to the committee that requested it, to the author or sponsor of the affected bill or resolution, and to the State Pension Review Board; and the executive director of the Pension Review Board shall

send a copy of its review and comment to the committee and to the author or sponsor.

(g) If the actuarial analysis and the review of the Legislative Budget Board are attached, a committee hearing may be held on the bill or resolution without the review and comment of the Pension Review Board.

(h) If a bill or resolution for which an actuarial analysis is required is amended by a committee in a way that alters its economic implications, the chair of the committee shall request the Legislative Budget Board to prepare an updated actuarial analysis and shall request the Pension Review Board to prepare an updated review and comment. An updated actuarial analysis must be attached to the affected bill or resolution as a part of the committee report and, if timely received, the updated review and comment of the Pension Review Board must also be attached. All actuarial analyses, review statements of the Legislative Budget Board, and any statements of review and comment timely received from the Pension Review Board must remain with the bill or resolution throughout the legislative process, including the process of submission to the governor.

Sec. 3.121. REPORTS OF SELECT COMMITTEES

Reports of select committees made during a session shall be filed with the chief clerk and printed in the journal, unless otherwise determined by the house.

EXPLANATORY NOTES

Reports of investigating committees and certain other select committees often do not make any recommendations for action on the particular subject for which the committee was appointed, and, in such case, a motion to accept the report may be made as a means

of discharging the committee. When a report carries recommendations for legislative action, the report is accepted and the committee discharged without action on the report itself. If legislative action is desired, action or expression must be taken through introduction of a bill or concurrent resolution.

Sec. 3.122. REPORTS ON HOUSE AND CONCURRENT RESOLUTIONS

Committee reports on house and concurrent resolutions shall be made in the same manner and shall follow the same procedure as provided for bills, subject to any differences otherwise authorized or directed by the rules.

Sec. 3.123. MINORITY REPORTS

The report of a minority of a committee shall be made in the same general form as a majority report. No minority report shall be recognized by the house unless it has been signed by not less than 4 members of a committee consisting of 21 or more members, 3 members of a committee consisting of less than 21 members and more than 10 members, or 2 members of a committee consisting of 10 or less members. Only members who were present when the vote was taken on the bill, resolution, or other matter being reported, and who voted on the losing side, may sign a minority report. Notice of intention to file a minority report shall be given to the assembled committee after the vote on the bill, resolution, or other matter, and before the recess or adjournment of the committee, provided ample opportunity is afforded for the giving of notice; otherwise, notice may be given in writing to the chief clerk within 24 hours after the recess or adjournment of the committee.

EXPLANATORY NOTES

To be official, a minority report must be signed by the chair, vice-chair, or first named member, whichever presided, and the required minority, as described above. The reports are attached to the bill or resolution to which they relate.

Sec. 3.124. ACTION BY HOUSE ON REPORTS NOT REQUIRED

No action by the house is necessary on the report of a standing committee. The bill, resolution, or proposition recommended or reported by the committee shall automatically be before the house for its consideration after the bill or resolution has been referred to the appropriate calendars committee for assignment to a calendar and for determination of an appropriate rule for house consideration.

Sec. 3.125. REFERRAL OF REPORTS TO COMMITTEE COORDINATOR

All committee reports on bills or resolutions shall be immediately referred to the house committee coordinator for compliance with Section 3.126. The chair of the committee shall be responsible for delivery of the report to the committee coordinator.

Sec. 3.126. VERIFICATION OF COMPLIANCE WITH RULES

In addition to the requirements of Section 3.056, no committee report shall be eligible for consideration unless first signed by the house committee coordinator to verify compliance with all appropriate sections of the rules. In the event of noncompliance, the committee coordinator shall return the

committee report to the committee for correction. In the event of disagreement between a committee chair and the house committee coordinator concerning compliance with all appropriate sections of the rules, the opinion of the committee chair shall prevail.

Sec. 3.127. DELIVERY OF REPORTS TO CALENDARS COMMITTEES

After printing, the chief clerk shall be responsible for delivery of a certified copy of the committee report to the appropriate calendars committee for assignment of the bill or resolution to a calendar and for the application of an appropriate rule for house consideration.

Sec. 3.128. ACTION ON BILLS REPORTED UNFAVORABLY

If the majority report on a bill is unfavorable, and a favorable minority report is not signed in accordance with Section 3.123 and filed with the chief clerk within two calendar days, exclusive of Sunday and the date of committee action, the chief clerk shall file the bill away as dead; except during the last 15 calendar days of a regular session, or the last 7 calendar days of a special session, when the chief clerk shall hold a bill only one calendar day, exclusive of Sunday and the date of committee action, awaiting the filing of a minority report before the bill is filed away as dead. If the favorable minority report is properly signed and filed, the chief clerk shall hold the bill for five legislative days, exclusive of the legislative day in which the minority report was filed, awaiting adoption by the house of a motion to print the bill on minority report. If the motion to print is carried, the bill

shall be printed as if it had been reported favorably, and shall immediately be referred to the house committee coordinator for compliance with Section 3.126, and then to the Committee on Calendars for assignment to a calendar and for determination of an appropriate rule for house consideration. If a motion to print a bill on minority report is not made within the five legislative days authorized above, the chief clerk shall file the bill away as dead. It shall not be in order to move to recommit a bill adversely reported with no minority report, except as provided in Section 3.129. A two-thirds vote of the house shall be required to print on minority report a joint resolution proposing an amendment to the Constitution of Texas.

EXPLANATORY NOTES

The chief clerk transmits one copy of a minority report to the journal clerk when received.

HOUSE PRECEDENTS

1. PRINTING ON MINORITY REPORT.--In the regular session of the 45th legislature the house ordered a bill printed on minority report. The minority report contained amendments which constituted a new bill, and, upon the suggestion of the speaker, Mr. Calvert, the house ordered the amendments printed along with the original bill.

2. MOTION TO RECOMMIT AS SUBSTITUTE FOR MOTION TO PRINT ON MINORITY REPORT.--In the 55th legislature, regular session, speaker Waggoner Carr ruled that a motion to recommit a bill was an acceptable substitute for a motion to print a bill on minority report, which motion had been made at a routine motion period. He held further that the substitute motion was undebatable under

the general rule that at routine motion periods three-minute pro and con debate is allowed only on an original motion (55 H.J. Reg. 761 (1957)).

Sec. 3.129. MAKING ADVERSE REPORTS WITHOUT HEARING THE AUTHOR

No adverse report shall be made on any bill or resolution by any committee without first giving the author or sponsor of the bill an opportunity to be heard. If it becomes evident to the house that a bill has been reported adversely without the author or sponsor having had an opportunity to be heard as provided in this section, the house may, by a majority vote, order the bill recommitted even though no minority report was filed in the manner prescribed by the rules. This provision shall have precedence over Section 4.170.

Sec. 3.130. ADVERSE REPORTS ON LOCAL BILLS

If a local bill is reported adversely, it shall be subject to the same rules that govern other bills reported adversely.

Sec. 3.131. COMMITTEE AMENDMENTS

No committee shall have the power to amend, delete, or change in any way the nature, purpose, or content of any bill or resolution referred to it, but may draft and recommend amendments to it, which shall become effective only if adopted by a majority vote of the house.

Sec. 3.132. SUBSTITUTES

The committee may adopt and report a complete germane committee substitute containing the title, enacting clause, and

text of the bill in lieu of an original bill, in which event the complete substitute bill on committee report shall be laid before the house and shall be the matter then before the house for its consideration, instead of the original bill. If the substitute bill is defeated at any legislative stage, the bill is considered not passed.

Sec. 3.133. GERMANENESS OF SUBSTITUTE

If a point of order is raised that a complete committee substitute is not germane, in whole or in part, and the point of order is sustained, the committee substitute shall be returned to the Committee on Calendars, which may have the original bill printed and distributed and assigned to a calendar in lieu of the substitute or may return the original bill to the committee from which it was reported for further action.

HOUSE PRECEDENTS

POINTS OF ORDER RELATIVE TO COMPLETE COMMITTEE SUBSTITUTE BEING NOT GERMANE.--Mr. Davis raised a point of order against further consideration of the complete committee substitute to H.B. 750, in that it violated Sec. 4.322, the germaneness rule of the house, by the inclusion of items not found in the original bill.

The Speaker, Mr. Clayton, sustained the point of order and stated that C.S.H.B. 750 comes under the provisions of Sec. 3.133 and would be returned to the Committee on Calendars. The Committee on Calendars then returned H.B. 750, as filed with the Chief Clerk, to the Committee on Public Education for further consideration. (65 Daily House Journal Reg. 1661 (4-14-77))

Mr. Davis raised a point of order against further consideration of the complete

committee substitute to S.B. 1275 in that it violated Sec. 4.322, the germaneness rule of the house, by the inclusion of items not found in the original bill.

The Speaker, Mr. Clayton, sustained the point of order stating that in so sustaining the point of order, C.S.S.B. 1275 comes under the provisions of Sec. 3.133 and would be returned to the Committee on Calendars. The Committee on Calendars then ordered S.B. 1275 as received from the Senate, printed, distributed, and placed on the calendar for future consideration. (65 Daily House Journal Reg. 4093 (5-25-77))

Sec. 3.134. AUTHOR'S RIGHT TO OFFER AMENDMENTS TO REPORT

Should the author or sponsor of the bill, resolution, or other proposal not be satisfied with the final recommendation or form of the committee report, the member shall have the privilege of offering on the floor of the house such amendments or changes as he or she considers necessary and desirable, and those amendments or changes shall be given priority during the periods of time when original amendments are in order under the provisions of Section 4.327.

EXPLANATORY NOTES

1. If amendments are proposed by a committee they should be numbered for printing, but they should be numbered only after they are finally approved by the committee. That is, the order of offering and adoption in committee has no significance. Thus, a series of committee amendments should appear in the printed bill numbered in an uninterrupted series beginning at No. 1. Some committee chairmen and clerks have adopted the

excellent scheme of stamping "Adopted," signing, and numbering, amendments proposed by their committees. Rubber stamps can be secured reading "Adopted."

2. Whenever a complete committee substitute is agreed to, and in the process of committee consideration amendments thereto have been adopted, the committee clerk should incorporate these amendments into the complete substitute before filing the bill with the house committee coordinator. Thus only a single and complete substitute, representing the new bill body should be printed. The printing of committee amendments to a committee substitute results in much confusion.

SUBCHAPTER E. SUBCOMMITTEES

Sec. 3.151. JURISDICTION

Each committee is authorized to conduct its activities and perform its work through the use of subcommittees as shall be determined by the chair of the committee. Subcommittees shall be created, organized, and operated in such a way that the subject matter and work area of each subcommittee shall be homogeneous and shall pertain to related governmental activities. The size and jurisdiction of each subcommittee shall be determined by the chair of the committee, except as provided in Subchapter B of Chapter 5.

Sec. 3.152. MEMBERSHIP

The chair of each standing committee shall appoint from the membership of the committee the members who are to serve on each subcommittee. Any vacancy on a subcommittee, except the chair for budget and oversight, shall be filled by appointment of the chair of the standing committee. The chair and

vice-chair of each subcommittee shall be named by the chair of the committee, except as provided in Section 1.24 and Subchapter B of Chapter 5.

Sec. 3.153. RULES GOVERNING OPERATIONS

The Rules of Procedure of the House of Representatives, to the extent applicable, shall govern the hearings and operations of each subcommittee. Subject to the foregoing, and to the extent necessary for orderly transaction of business, each subcommittee may promulgate and adopt additional rules and procedures by which it will function.

Sec. 3.154. QUORUM

A majority of a subcommittee shall constitute a quorum, and no action or recommendation of a subcommittee shall be valid unless taken at a meeting with a quorum actually present. All reports of a subcommittee must be approved by record vote by a majority of the membership of the subcommittee. Minutes of the subcommittee shall be maintained in a manner similar to that required by the rules for standing committees. Proxies cannot be used in subcommittees.

Sec. 3.155. POWER AND AUTHORITY

Each subcommittee, within the area of its jurisdiction, shall have all of the power, authority, and rights granted by the Rules of Procedure of the House of Representatives to the standing committee, except subpoena power, to the extent necessary to discharge the duties and responsibilities of the subcommittee.

Sec. 3.156. REFERRAL OF PROPOSED LEGISLATION TO SUBCOMMITTEE

All bills and resolutions referred to a standing committee shall be reviewed by the chair to determine appropriate disposition of the bills and resolutions. All bills and resolutions shall be considered by the entire standing committee unless the chair of that standing committee determines to refer the bills and resolutions to subcommittee. If a bill or resolution is referred by the chair of the standing committee to a subcommittee, the subcommittee shall be charged with the duty and responsibility of conducting the hearing, doing research, and performing such other functions as the subcommittee or its parent standing committee may determine. All meetings of the subcommittee shall be scheduled by the subcommittee chair, with appropriate public notice and notification of each member of the subcommittee under the same rules of procedure as govern the conduct of the standing committee.

Sec. 3.157. REPORT BY SUBCOMMITTEE

At the conclusion of its deliberations on a bill, resolution, or other matter referred to it, the subcommittee shall prepare a written report, comprehensive in nature, for submission to the full committee. The report shall include background material as well as recommended action and shall be accompanied by a complete draft of the bill, resolution, or other proposal in such form as the subcommittee shall determine.

Sec. 3.158. ACTION ON SUBCOMMITTEE REPORTS

Subcommittee reports shall be directed to the chair of the committee, who shall schedule formal meetings of the standing committee from

time to time as necessary and appropriate for the reception of subcommittee reports and for action on reports by the standing committee. No subcommittee report shall be scheduled for action by the standing committee until at least 48 hours after a copy of the subcommittee report is provided to each member of the standing committee.

SUBCHAPTER F. COMMITTEES OF THE WHOLE HOUSE

Sec. 3.181. RESOLUTION INTO A COMMITTEE OF THE WHOLE HOUSE

The house may resolve itself into a committee of the whole house to consider any matter referred to it by the house. In forming a committee of the whole house, the speaker shall vacate the chair and shall appoint a chair to preside in committee.

EXPLANATORY NOTES

When the house goes into the committee of the whole house, the minutes of the committee (except testimony, etc., reported by stenographers) are kept by the journal clerk just as though the house were in session. These minutes form the body of the report which the chair of the committee of the whole makes to the house when the committee rises. Testimony taken before the committee may be printed as an appendix to the journal or may be embodied in the minutes of the committee and reported to the house by the chair. During investigations, the chair sometimes instructs the stenographers to furnish the journal clerk with a complete transcript of the proceedings from the time the committee begins work until it completes its labors and rises.

Sec. 3.182. RULES GOVERNING OPERATIONS

The rules governing the proceedings of the house and those governing committees shall be observed in committees of the whole, to the extent that they are applicable.

Sec. 3.183. MOTION FOR A CALL OF THE COMMITTEE OF THE WHOLE

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

(1) for the consideration of a certain or specific matter; or

(2) for a definite period of time; or

(3) for the consideration of any designated class of bills.

(b) When a call of the committee of the whole is moved and seconded by 10 members, of whom the chair may be one, and is ordered by majority vote, the main entrance of the hall and all other doors leading out of the hall shall be locked, and no member shall be permitted to leave the hall without written permission. Other proceedings under a call of the committee shall be the same as under a call of the house.

Sec. 3.184. HANDLING OF A BILL

A bill committed to a committee of the whole house shall be handled in the same manner as in any other committee. The body of the bill shall not be defaced or interlined, but all amendments shall be duly endorsed by the chief clerk as they are adopted by the committee, and so reported to the house. When a bill is reported by the committee of the whole house, it shall be referred immediately to the Committee on Calendars for assignment to the appropriate calendar and shall follow

the same procedure as any other bill on committee report.

EXPLANATORY NOTES

Consideration of a bill in a committee of the whole house must be in accordance with house rules relating to consideration of types of bills through the week. For example, in the 50th Legislature Speaker W. O. Reed ruled that a senate bill could be considered only on Wednesdays or Thursdays.

Sec. 3.185. FAILURE TO COMPLETE WORK AT ANY SITTING

In the event that the committee of the whole, at any sitting, fails to complete its work on any bill or resolution under consideration for lack of time, or desires to take any action on that measure that is permitted under the rules for other committees, it may, on a motion made and adopted by majority vote, rise, report progress, and ask leave of the house to sit again generally, or at a time certain.

SUBCHAPTER G. SPECIAL AND SELECT COMMITTEES

Sec. 3.201. GENERAL INVESTIGATING COMMITTEE

(a) The general investigating committee consists of five members of the house appointed by the speaker. The speaker shall appoint the chair and the vice-chair of the committee.

(b) The general investigating committee has all the powers and duties and shall operate according to the procedures prescribed by the Legislative Reorganization Act of 1961, as amended (Article 5429f, Vernon's Texas Civil Statutes), and the rules of the house, as applicable.

CHAPTER 4. CONDUCTING BUSINESS ON THE FLOOR OF THE HOUSE

SUBCHAPTER A. ATTENDANCE

Sec. 4.001. ROLL CALLS

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

Sec. 4.002. LEAVE OF ABSENCE

(a) No member shall be absent from the sessions of the house without leave, and no member shall be excused on his or her own motion.

(b) A leave of absence may be granted by a majority vote of the house and may be revoked at any time by a similar vote.

Sec. 4.003. RECORDING NAMES OF ABSENTEES

The names of all absentees, both excused and not excused, shall be printed in the journal.

Sec. 4.004. FAILURE TO ANSWER ROLL CALL

Any member who is present and fails or refuses to record on a roll call after being requested to do so by the speaker shall be recorded as present by the speaker and shall be counted for the purpose of making a quorum.

Sec. 4.005. POINT OF ORDER OF "NO QUORUM"

(a) The point of order of "No Quorum" shall not be accepted by the chair if the last roll call showed the presence of a quorum.

(b) Once a point of order has been made that a quorum is not present, it may not be withdrawn after the absence of a quorum has been ascertained and announced.

Sec. 4.006. MOTIONS IN ORDER WHEN QUORUM NOT PRESENT

If a registration or record vote reveals that a quorum is not present, only a motion to adjourn or a motion for a call of the house and the motions incidental thereto shall be in order.

Sec. 4.007. MOTION FOR CALL OF THE HOUSE

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

(1) for the consideration of a specific bill, resolution, motion, or other measure;

(2) for the consideration of any designated class of bills; or

(3) for a definite period of time.

Motions for, and incidental to, a call of the house are not debatable.

HOUSE PRECEDENTS

1. BILL CONSIDERED UNDER CALL OF THE HOUSE MADE A SPECIAL ORDER.--In the 51st Legislature, the speaker, Mr. Manford, held that when a bill was being considered under a call of the house, pursuant to (1) above, a motion to set the bill as a special order for another time was in order.

2. ILLUSTRATION OF A "CLASS OF BILLS".--The house was considering H.B. 231. Mr. Pool moved a call of the house until House Bills 231, 232, 233, and 288 were disposed of. Mr. Hale raised a point of order that such was not a valid motion in

that it encompassed four separate bills which did not constitute a "class" under Sec. 4.007.

The speaker, Mr. Carr, in overruling the point of order, called attention to the fact that all four bills dealt with the same general subject matter, i.e., segregation in the public schools, that their provisions were complementary, and that, in his opinion, they constituted a "class of bills" as contemplated in Sec. 4.007. (55th Reg.)

Sec. 4.008. SECURING A QUORUM

When a call of the house is moved for one of the above purposes and seconded by 15 members (of whom the speaker may be one) and ordered by a majority vote, the main entrance to the hall and all other doors leading out of the hall shall be locked and no member permitted to leave the house without the written permission of the speaker. The names of members present shall be recorded. All absentees for whom no sufficient excuse is made may, by order of a majority of those present, be sent for and arrested, wherever they may be found, by the sergeant-at-arms or an officer appointed by the sergeant-at-arms for that purpose, and their attendance shall be secured and retained. The house shall determine on what conditions they shall be discharged. Members who voluntarily appear shall, unless the house otherwise directs, be immediately admitted to the hall of the house and shall report their names to the clerk to be entered in the journal as present.

Until a quorum appears, should the roll call fail to show one present, no business shall be transacted, except to compel the attendance of absent members or to adjourn. It shall not be in order to recess under a call of the house.

EXPLANATORY NOTES

The procedure outlined in Sec. 4.008 is mandatory after a call of the house is "moved," a motion to recess not being acceptable between the "seconding" and the "ordering" vote on the call. However, due to its high priority, a motion to adjourn could come between, or even ahead of the "seconding" procedure.

HOUSE PRECEDENTS

1. NO SUBSTITUTE FOR A CALL OF THE HOUSE.--In the 51st Legislature, the speaker, Mr. Manford, held that there is no substitute for a call of the house, i.e., a different time or purpose cannot be substituted.

2. CALL OF THE HOUSE IN EFFECT PENDING VERIFICATION.--In the 51st Legislature, the speaker, Mr. Manford, as the result of a 65 to 64 vote for a call of the house, ordered the doors of the house closed immediately despite a request for a verification which he accepted and allowed. The verification sustained the announced vote.

CONGRESSIONAL PRECEDENTS

CALL OF THE HOUSE.--A member who appears and answers is not subject to arrest (H.P., 4, 3019). During a call less than a quorum may revoke leaves of absence (H.P., 4, 3003), and excuse a member from attendance (H.P., 5, 3000, 3001). During a call incidental motions may be agreed to by less than a quorum (H.P., 4, 2994, 3029).

Motions incidental to a call of the house are not debatable (C.P., 6, 688). The point of no quorum may not be withdrawn after the absence of a quorum has been ascertained and announced (C.P., 6, 657), and in the absence

of a quorum no business may be transacted, even by unanimous consent (C.P., 6, 660). When the Committee of the Whole finds itself without a quorum the motion to rise is privileged (C.P., 6, 671).

Sec. 4.009. FOLLOWING ACHIEVEMENT OF A QUORUM

When a quorum is shown to be present, the house may proceed with the matters on which the call was ordered, or may enforce the call and await the attendance of as many of the absentees as it desires. When the house proceeds to the business on which the call was ordered, it may, by a majority vote, direct the sergeant-at-arms to cease bringing in absent members.

Sec. 4.010 REPEATING A RECORD VOTE

When a record vote reveals the lack of a quorum, and a call is ordered to secure one, a record vote shall again be taken when the house resumes business with a quorum present.

SUBCHAPTER B. ADMITTANCE TO HOUSE CHAMBER

Sec. 4.021. PRIVILEGES OF THE HOUSE FLOOR

Only the following persons shall be entitled to the privileges of the floor of the house when the house is in session: members of the house; employees of the house when performing their official duties as determined by the Committee on House Administration; members of the senate; employees of the senate when performing their official duties; the Governor of Texas and the governor's executive and administrative assistant; the lieutenant governor; the secretary of state; duly accredited reporters, photographers, correspondents, and commentators of press, radio, and television who have complied with

Sections 4.032(a), (b), (c), and (d); contestants in election cases pending before the house; and immediate families of the members of the legislature on such special occasions as may be determined by the Committee on House Administration.

Sec. 4.022. ADMITTANCE WITHIN THE RAILING

Only the following persons shall be admitted to the area on the floor of the house enclosed by the railing when the house is in session: members of the house; members of the senate; the governor; the lieutenant governor; officers and employees of the senate and house when those officers and employees are actually engaged in performing their official duties as determined by the Committee on House Administration; spouses of members of the house on such occasions as may be determined by the Committee on House Administration; and duly accredited reporters, photographers, correspondents, and commentators of press, radio, and television who have complied with Sections 4.032(a), (b), (c), and (d).

Sec. 4.023. SOLICITORS AND COLLECTORS PROHIBITED

Solicitors and collectors shall not be admitted to the floor of the house while the house is in session.

Sec. 4.024. INVITATION TO ADDRESS THE HOUSE

A motion to invite a person to address the house while it is in session shall be in order only if the person invited is entitled to the privileges of the floor as defined by Section 4.021 and if no business is pending before the house.

EXPLANATORY NOTES

Invitations to persons to address the house are usually extended by house resolution, adopted by majority vote. If the invitation is for an address to a joint session, a concurrent resolution is required.

Sec. 4.025. LOBBYING ON FLOOR

No one, except the governor or a member of the legislature, who is lobbying or working for or against any pending or prospective legislative measure shall be permitted on the floor of the house or in the adjacent rooms while the house is in session.

Sec. 4.026. SUSPENSION OF FLOOR PRIVILEGES

If any person admitted to the floor of the house under this subchapter, except the governor or a member of the legislature, lobbies or works for or against any pending or prospective legislation or violates any of the other rules of the house, the privileges extended to that person under this subchapter shall be suspended by a majority vote of the Committee on House Administration. The action of the committee shall be reviewable by the house only if two members of the committee request an appeal from the decision of the committee. The request 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 or herself and comes within the rules, or until the house, by majority vote, reverses the action of the committee.

Sec. 4.027. MEMBERS LOUNGE PRIVILEGES

Sec. 4.028

Only the following persons shall be admitted to the members lounge at any time: members of the house; members of the senate; and former members of the house and senate who are not engaged in any form of employment requiring them to lobby or work for or against any pending or prospective legislative measures.

Sec. 4.028. FLOOR DUTIES OF HOUSE OFFICERS AND EMPLOYEES

It shall be the duty of the Committee on House Administration to determine what duties are to be discharged by officers and employees of the house on the floor of the house, specifically in the area enclosed by the railing, when the house is in session. It shall be the duty of the speaker to see that the officers and employees do not violate the regulations promulgated by the Committee on House Administration.

Sec. 4.029. PROPER ATTIRE

No gentleman shall be admitted to, or allowed to remain in, the house chamber while the house is in session unless he is wearing a coat and a tie.

Sec. 4.030. FOOD OR BEVERAGE PROHIBITED

Food or beverage shall not be permitted in the house chamber at any time, and no person carrying food or beverage shall be admitted to the chamber, whether the house is in session or in recess.

Sec. 4.031. READING NEWSPAPERS PROHIBITED

Reading newspapers shall not be permitted in the house chamber while the house is in session.

Sec. 4.032. MEDIA ACCESS TO HOUSE CHAMBER

(a) When the house is in session, no media representative shall be admitted to the floor of the house or allowed its privileges unless the person is a salaried staff correspondent, reporter, or photographer regularly employed by a newspaper, a press association or news service serving newspapers, a publication requiring telegraphic coverage, or a duly licensed radio or television station or network.

(b) Any media representative seeking admission to the floor of the house under the provisions of Section 4.032(a) must present to the Committee on House Administration fully accredited credentials from his or her employer certifying that the media representative is engaged primarily in reporting the sessions of the legislature. Regularly accredited media representatives who have duly qualified under the provisions of this section may, when requested to do so, make recommendations through their professional committees to the Committee on House Administration as to the sufficiency or insufficiency of the credentials of any person seeking admission to the floor of the house under this section.

Every media representative, before being admitted to the floor of the house during its sessions, shall file with the Committee on House Administration a written statement showing the paper or papers, press association, news service, publication requiring telegraphic coverage, or radio or television station or network which he or she represents and certifying that no part of his or her salary for legislative coverage is paid by any person, firm, corporation, or association except the listed news media which he or she represents.

(c) If the Committee on House

Administration determines that a person's media credentials meet the requirements of this section, the committee shall so notify the speaker of the house in writing, and the speaker shall issue a pass card to the person. This pass card must be presented to the doorkeeper each time the person seeks admission to the floor of the house while the house is in session. Pass cards issued under this section shall not be transferable. Persons admitted to the floor of the house pursuant to the provisions of this section shall work in appropriate convenient seats or work stations in the house, which shall be designated for that purpose by the Committee on House Administration.

(d) Media representatives who are admitted to the floor of the house when the house is in session shall confine their activities within the railing to very brief inquiries, brief, nonilluminated photographic contacts, and brief contacts to arrange interviews and press conferences with members of the house. Members of the house shall not engage in interviews and press conferences on the house floor while the house is in session. The Committee on House Administration is authorized to enforce this provision and to prescribe such other regulations as may be necessary and desirable to achieve these purposes. Persons governed by this subsection shall be subject to the provisions of Section 4.025.

(e) Permission to make live or recorded television or radio broadcasts in or from the house chamber while the house is in session may be granted only by the Committee on House Administration. The committee shall promulgate regulations governing television or radio broadcasts, and such regulations shall be printed as an addendum to the rules of the house. When television or radio broadcasts from the floor of the house are recommended by

the Committee on House Administration, the recommendation shall identify those persons in the technical crews to whom pass cards to the floor of the house and galleries are to be issued by the speaker. Passes granted under this authority shall be subject to revocation on the recommendation of the Committee on House Administration. Each committee of the house shall have authority to determine whether or not to permit television or radio broadcasts of any of its proceedings.

Sec. 4.033. PUBLIC ADMISSION TO AND NONLEGISLATIVE USE OF THE HOUSE CHAMBER

When the house is not in session, the floor of the house shall remain open on days and hours determined by the Committee on House Administration. By resolution, the house may open the floor of the house during its sessions for the inauguration of the governor and lieutenant governor and for such other public ceremonies as may be deemed warranted.

SUBCHAPTER C. ORDER OF BUSINESS

Sec. 4.051. DAILY ORDER OF BUSINESS

(a) When the house convenes on a new legislative day, the daily order of business shall be as follows:

(1) Call to order by speaker.

(2) Registration of members.

(3) Prayer by chaplain, unless the invocation has been given previously on the particular calendar day.

(4) Excuses for absence of members and officers.

(5) First reading and reference to committee of bills filed with the chief clerk; and motions to introduce bills, when such motions are required.

(6) Requests to print bills and other

papers; requests of committees for further time to consider papers referred to them; and all other routine motions and business not otherwise provided for, all of which shall be undebatable except that the mover and one opponent of the motion shall be allowed three minutes each.

The mover of a routine motion shall be allowed his or her choice of making the opening or the closing speech under this rule. If the house, under a suspension of the rules, extends the time of a member under this rule, such extensions shall be for three minutes. Subsidiary motions that are applicable to routine motions shall be in order, but the makers of such subsidiary motions shall not be entitled to speak thereon in the routine motion period, nor shall the authors of the original routine motions be allowed any additional time because of subsidiary motions.

(7) Unfinished business.

(8) Postponed matters to be laid before the house in accordance with Section 4.165.

(9) Calendars of the house in their order of priority in accordance with Subchapter D, unless a different order is determined under other provisions of these rules.

EXPLANATORY NOTES

1. "Daily order of business" means all the items set out in Sec. 4.051(a), while the regular order or "order of the day," as used in the reconsideration rule, means the several calendars under the ninth main item above.

2. Due to the heavy increase of routine motions during the latter part of a session, the chair will frequently receive non-controversial routine motions at various times during the day other than at the

regular routine motion period, e.g., just before or after a recess or before an adjournment.

3. The author or member in charge of a bill or proposition reached on the calendar in regular order, or by any other route, has no right to yield for himself or for some other member to call up another bill or proposition unless the house permits it by a suspension of the rules.

4. Postponed resolutions have preference over bills postponed to the same time.

5. The terms "unfinished business" and "pending business" both apply to a partially completed item of business. The question arises as to just where each fits into the daily order of business. The "seventh" item in Sec. 4.051 is set aside for the consideration of "unfinished business," but there is no definite mention of where "pending business" is to be considered.

The test as to whether an incomplete item of business is to be classified as "unfinished" or "pending" is as follows:

a. If an item (bill or joint resolution) is incomplete at the time of an adjournment (terminating that legislative day) it then becomes the "unfinished business" for the next legislative day upon which it can be considered under the rules, and as such must be considered as the "seventh" item in the daily order of business for a legislative day.

b. If an item (bill or joint resolution) is incomplete at the time of a recess, it then becomes the "pending business" when and if the house reconvenes on the same calendar day, or, if the recess occurs at the end of a calendar day, then on the next calendar day it can be considered under the rules, provided, of course, an adjournment does not occur before it is reached on the calendar.

HOUSE PRECEDENTS

1. MOTION TO RECONSIDER VOTE ON RE-REFERRAL OUT OF ORDER UNLESS MADE DURING THE ROUTINE MOTION PERIOD.--During the routine motion period, on the motion of Mr. Celaya, the house re-referred Senate Bill No. 143 from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Later in the day Mr. Leonard moved to reconsider the vote by which Senate Bill No. 143 was re-referred from the Committee on Privileges, Suffrage and Elections to the Committee on Highways and Motor Traffic.

Mr. Greathouse raised a point of order on further consideration of the motion to reconsider the vote to re-refer, on the ground that since a motion to re-refer a bill is in order only in the routine motion period, then a motion to reconsider a vote to re-refer is not in order at this time.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 2368 (1933)).

2. MOTION TO PRINT A BILL ON A MINORITY REPORT IS OUT OF ORDER UNLESS MADE DURING THE ROUTINE MOTION PERIOD.--Mr. Greathouse moved that Senate Bill No. 246, reported adversely, with a minority favorable report, be printed.

Mrs. Hughes raised a point of order on further consideration of the motion at this time on the ground that, under the rules of the house, the motion is out of order at this time.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 2366 (1933)).

3. IN ORDER IN ROUTINE MOTION PERIOD TO RECOMMIT A BILL ALREADY PASSED TO A THIRD READING.--The house had previously passed S.B. 21 to a third reading. At a routine motion period, Mr. Young moved to recommit the bill to the Committee on Highways and

Roads. Mr. Sparks raised the point of order that such a motion was out of order.

The chair, Mr. Pierce Johnson, overruled the point of order. (51 H.J. Reg. 3055 (1949)).

(b) When the house reconvenes for the first time on a new calendar day following a recess, the daily order of business shall be:

(1) Call to order by the speaker.

(2) Registration of members.

(3) Prayer by the chaplain.

(4) Excuses for absence of members and officers.

(5) Pending business.

(6) Calendars of the house in their order of priority in accordance with Subchapter D, unless a different order is determined under other provisions of these rules.

EXPLANATORY NOTES

When the house reconvenes after a recess on the same calendar day, consideration of the business pending at recess is resumed.

Sec. 4.052. SPECIAL ORDERS

(a) Any bill, resolution, or other measure may on any day be made a special order for the same day or for a future day of the session by an affirmative vote of two-thirds of the members present. A motion to set a special order shall be subject to the three-minute pro and con debate rule. When once established as a special order, a bill, resolution, or other measure shall be considered from day to day until disposed of; and until it has been disposed of, no further special orders shall be made.

A three-fourths vote of the members present

shall be required to suspend the portion of this rule which specifies that only one special order may be made and pending at a time.

(b) After the first six items under the daily order of business for a legislative day have been passed, a special order shall have precedence when the hour for its consideration has arrived, except as provided in Section 5.015.

EXPLANATORY NOTES

1. The only exceptions to the above rule are: (1) senate bills have right of way on Wednesdays and Thursdays over house bills set as special orders on those days; and (2) the general appropriation bill has priority over special orders.

2. If a special order is not taken up for consideration at the time set, the special order character of the bill or resolution is not changed. It remains eligible for consideration at the time for which it has been set or thereafter, provided that other rules covering consideration of classes of business do not become operative so as to defer consideration of the special order further.

3. Privileged matters as described in Sec. 6.02(b) take precedence over special orders.

4. Under the rules house bills set as special orders cannot be considered on senate bill days. Joint rules generally provide that house bills cannot be considered by the house on senate bill days without the consent of the senate. For this reason a house bill may be set as a special order on a senate bill day but it cannot be considered on that day as long as there are any senate bills remaining on the daily calendar.

HOUSE PRECEDENTS

1. WHEN SPECIAL ORDER MOTION IN ORDER.--In the 50th Legislature Speaker W. O. Reed ruled that a motion to set a special order is in order at any time when other business is not pending. Frequently, when one special order is disposed of, some member will move immediately to set another, and such practice was formally recognized and approved by this ruling.

2. SUSPENSION OF RULES TO CONSIDER OTHER MATTER AHEAD OF A SPECIAL ORDER.--A motion to suspend the rules for the purpose of considering a certain bill ahead of a special order when the time for considering it had arrived, was accepted in the 52nd Legislature by the speaker, Mr. Senterfitt, and the house adopted the motion by the necessary two-thirds vote.

3. TAKING UP A SPECIAL ORDER AFTER THE TIME FOR CONSIDERATION OF IT HAS ARRIVED.--The house had been considering H.B. 49 for some time after the hour set for the consideration of H.B. 662 as a special order.

Mr. McDonald raised the point of order that even though the time set for the consideration of H.B. 662 as a special order had passed it was still the special order and therefore had right of way at that time.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 1587 (1937)).

4. In the 51st Legislature, the speaker, Mr. Manford, held that when a bill was being considered under a call of the house, a motion to set the bill as a special order for another time was in order.

Sec. 4.053. POSTPONEMENT OF A SPECIAL ORDER

A special order may be postponed to a day certain by a two-thirds vote of the house, and

when so postponed, shall be considered as disposed of so far as its place as a special order is concerned.

Sec. 4.054. TABLED MEASURES AS SPECIAL ORDERS

A bill or resolution laid on the table subject to call may be made a special order.

Sec. 4.055. SUBSTITUTION IN MOTION FOR A SPECIAL ORDER

When a motion is pending to set a particular bill or resolution as a special order, it shall not be in order to move as a substitute to set another bill or resolution as a special order. It shall be in order, however, to substitute, by majority vote, a different time for the special order consideration than that given in the original motion.

Sec. 4.056. MEMBER'S SUSPENSION AND SPECIAL ORDER PRIVILEGES

If a member moves to set a bill as a special order, or moves to suspend the rules to take up a bill out of its regular order, and the motion prevails, the member shall not have the right to make either of these motions again until every other member has had an opportunity, via either of these motions, to have some bill considered out of its regular order during that session of the legislature. A member shall not lose the suspension privilege if the motion to suspend or set for special order does not prevail.

EXPLANATORY NOTES

1. When a bill is under consideration it may be set as a special order, as elsewhere provided in these rules. Such special order setting is not chargeable to the member making the motion, as might be interpreted from Sec. 4.056.

2. Since the above rule can be suspended by a two-thirds vote, that portion limiting a member to one suspension of the rules to take up a bill out of regular order is meaningless. However, the speaker tries to spread recognitions to make such motions throughout the membership.

HOUSE PRECEDENTS

In the 53rd Legislature the speaker, Mr. Senterfitt, held that a successful suspension of the rules to consider a resolution out of regular order did not come under the terms of the above section, i.e., was not chargeable to the member.

SUBCHAPTER D. CALENDARS

Sec. 4.071. SYSTEM OF CALENDARS

Legislative business of the house shall be controlled by a system of calendars, consisting of the following:

(1) EMERGENCY CALENDAR, to which shall be assigned all bills considered to be of such pressing and imperative import as to demand immediate action, all bills to raise revenue and levy taxes, and the general appropriations bill. A bill submitted as an emergency matter by the governor may also be assigned to this calendar.

(2) MAJOR STATE CALENDAR, to which shall be assigned all bills of statewide effect, not emergency in nature, which

establish or change state policy in a major field of governmental activity and which will have a major impact in application throughout the state without regard to class, area, or other limiting factors.

(3) CONSTITUTIONAL AMENDMENTS CALENDAR, to which shall be assigned all joint resolutions proposing amendments to the Texas Constitution and all joint resolutions proposing the ratification of amendments to the Constitution of the United States.

(4) GENERAL STATE CALENDAR, to which shall be assigned all bills of statewide effect, not emergency in nature, which establish or change state law and which have application to all areas but are limited in legal effect by classification or other factors which minimize the impact to something less than major state policy, and all bills, not emergency in nature, which are not on a local or consent calendar.

(5) LOCAL CALENDAR, to which shall be assigned all local bills, not emergency in nature, as defined by Section 5.010(c), and which have been recommended for the local calendar by the appropriate standing committee.

(6) CONSENT CALENDAR, to which shall be assigned all bills, not emergency in nature, regardless of extent and scope, on which there is such general agreement as to render improbable any opposition to the consideration and passage thereof, and which have been recommended for the consent calendar by the appropriate standing committee.

(7) RESOLUTIONS CALENDAR, to which shall be assigned all house resolutions and concurrent resolutions, not emergency in nature and not privileged, except those resolutions whose sole intent is to congratulate, memorialize, or otherwise express concern or commendation.

(8) MOTIONS CALENDAR, to which shall

be assigned all congratulatory and memorial resolutions whose sole intent is to congratulate, memorialize, or otherwise express concern or commendation.

Sec. 4.072. SENATE BILL CALENDARS

(a) Senate bills and resolutions pending in the house shall follow the same procedure with regard to calendars as house bills and resolutions, but separate calendars shall be maintained for senate bills and resolutions, and consideration of them on senate bill days shall have priority in the manner and order specified in this subchapter.

(b) No other business shall be considered on days devoted to the consideration of senate bills when there remain any bills on any of the senate calendars, except with the consent of the senate. When all senate calendars are clear, the house may proceed to a consideration of house calendars on senate bill days.

Sec. 4.073. PERIODS FOR CONSIDERATION OF MOTIONS CALENDAR

As the volume of legislation shall warrant, the Committee on Rules shall move to designate periods for the consideration of the motions calendar. Each such motion shall require a two-thirds vote for its adoption. In each instance, the Committee on Rules shall prepare and distribute to each member a printed calendar at least 48 hours in advance of the hour set for consideration. No memorial or congratulatory resolution will be heard by the full house without having first been approved, at least 48 hours in advance, through the committee process by the Committee on Rules. The calendar will contain the resolution number, the author's name, and a brief description of the intent of the resolution.

Once a printed calendar is distributed, no additional resolutions will be added to it, and the requirements of this section shall not be subject to suspension.

Sec. 4.074. PROCEDURE FOR CONSIDERATION OF MOTIONS CALENDAR

During the consideration of the motions calendar, such resolutions shall not be read in full unless they pertain to members or former members of the legislature, and all other such resolutions shall be read only by number, type of resolution, and name of the person or persons designated in the resolutions. In addition, the following procedures shall be observed:

(1) The chair shall allow the sponsor of each resolution three minutes to explain the measure, and the time shall not be extended except by unanimous consent of the house. This rule shall have precedence over all other rules limiting time for debate.

(2) If it develops that any resolution on the motions calendar does not belong on that calendar, the chair shall withdraw the resolution from further consideration, remove it from the calendar, and refer it to the appropriate calendars committee for assignment to the proper calendar.

Sec. 4.075. ORDER OF CONSIDERATION OF CALENDARS

Except for local calendars, consent calendars, resolutions calendars, and motions calendars, consideration of calendars shall be in the order named in Section 4.071, subject to any exceptions ordered by the Committee on Calendars.

Sec. 4.076. PERIODS FOR CONSIDERATION OF LOCAL, CONSENT, AND RESOLUTIONS CALENDARS

As the volume of legislation shall warrant, the chair of the Committee on Local and Consent Calendars shall move to designate periods for the consideration of local calendars, consent calendars, and resolutions calendars. Each such motion shall require a two-thirds vote for its adoption. In each instance, the Committee on Local and Consent Calendars shall prepare and distribute to each member a printed calendar at least 48 hours in advance of the hour set for consideration. Once a printed calendar is distributed, no additional bills or resolutions will be added to it. This requirement can be suspended only by unanimous consent.

Sec. 4.077. PROCEDURE FOR CONSIDERATION OF LOCAL OR CONSENT CALENDAR

During the consideration of a local calendar or a consent calendar, the following procedures shall be observed:

(1) The chair shall allow the sponsor of each bill or resolution three minutes to explain the measure, and the time shall not be extended except by unanimous consent of the house. This rule shall have precedence over all other rules limiting time for debate.

(2) If it develops that any bill on a local calendar is not in fact local, as defined by the rules, the chair shall withdraw the bill from further consideration and remove it from the calendar.

(3) If it develops that any bill on a local or a consent calendar is to be contested on the floor of the house, the chair shall withdraw the bill from further consideration and remove it from the calendar.

(4) Any bill on a local or a consent calendar shall be considered contested if notice is given by five or more members that they intend to oppose the bill or resolution, either by a raising of hands or the delivery

of written notice to the chair.

(5) Any bill on a local or a consent calendar shall be considered contested if debate exceeds 10 minutes. The chair shall strictly enforce this time limit and automatically withdraw the bill from further consideration if the time limit herein imposed is exceeded.

Sec. 4.078. DAILY CALENDARS AND SUPPLEMENTARY CALENDARS

Calendars shall be printed daily when the house is in session and distribution made to members no later than 24 hours preceding the time the calendars shall be considered by the house, except as otherwise provided in these rules. Deviations from the calendars as printed and distributed shall not be permitted except that the Committee on Calendars shall be authorized to print and distribute, not later than two hours before the house convenes, a supplementary Daily House Calendar, on which shall appear only:

(1) bills or resolutions which were passed to third reading on the previous legislative day; and

(2) bills or resolutions which appeared on the Daily House Calendar for a previous calendar day which were not reached for floor consideration.

Sec. 4.079. POSITION ON A CALENDAR

Once a bill or resolution is assigned to its appropriate calendar under these rules, and has appeared on a house calendar, as printed and distributed to all members, the bill shall retain its relative position on the calendar until reached for floor consideration, and the Calendars Committee with jurisdiction over the bill or resolution shall have no authority to place other bills

on the calendar ahead of that bill, but all additions to the calendar shall appear subsequent to the bill except as provided in Section 5.012.

Sec. 4.080. REQUIREMENTS FOR ASSIGNMENT TO A CALENDAR

No bill or resolution shall be assigned to a calendar until:

(1) it has been referred to and reported from its appropriate standing committee by favorable committee action; or

(2) it is ordered printed on minority report.

Sec. 4.081. REFERRAL TO CALENDARS COMMITTEES

All bills and resolutions, on being reported from committee, shall be referred immediately to the committee coordinator and then to the appropriate calendars committee for assignment to the appropriate calendar.

Sec. 4.082. TIME LIMIT FOR ASSIGNMENT TO A CALENDAR

Each calendars committee shall act promptly in assigning each bill and resolution to its appropriate calendar. Such assignment, if not made sooner, must be made within 7 calendar days after such bill or resolution was referred to the committee, except during the last 10 calendar days of a session, when such assignment must be made within 72 hours after referral to the Calendars Committee with jurisdiction over the bill or resolution.

Sec. 4.083. MOTION TO ASSIGN TO A CALENDAR

(a) When a bill or resolution has been in the appropriate calendars committee for 7 calendar days, exclusive of the calendar day

on which it was referred, awaiting assignment to its appropriate calendar, it shall be in order for a member to move that the bill or resolution be assigned to a specific calendar without action by the committee. This motion shall require a majority vote for adoption.

(b) A motion to assign a bill or resolution to a specific calendar is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

Sec. 4.084. REQUEST FOR ASSIGNMENT TO LOCAL OR CONSENT CALENDAR

No bill shall be considered for assignment to the local or consent calendar unless a request for that assignment has been made to the chair of the standing committee from which the bill was reported and unless the committee report of the standing committee recommends the assignment of the bill to the local or consent calendar. The recommendation of the standing committee shall be advisory only, and the Committee on Local and Consent Calendars shall have final authority to determine whether or not a bill shall be assigned to the local or consent calendar. If the Committee on Local and Consent Calendars determines that the bill or resolution is not eligible for assignment to the local, consent, or resolutions calendar, the measure shall be sent to the Committee on Calendars for further action.

Sec. 4.085. QUALIFICATIONS FOR ASSIGNMENT TO LOCAL CALENDAR

No bill shall be assigned to the local calendar unless:

(1) it is a local bill as defined by Section 5.010(c);

(2) evidence of publication of notice

in compliance with the Texas Constitution and these rules is filed with the Committee on Local and Consent Calendars; and

(3) it has been recommended for assignment to a local calendar by the committee from which it was reported.

No bill which limits its application by means of population brackets shall be assigned to the local calendar.

Sec. 4.086. REASSIGNMENT OF CONTESTED BILLS

A bill once removed from a local calendar or a consent calendar shall be returned to the Committee on Local and Consent Calendars for further action. The Committee on Local and Consent Calendars, if it feels such action is warranted, may again assign the bill to a local calendar or a consent calendar. If the bill is then removed from the calendar a second time by being contested on the floor of the house, the bill shall not again be assigned to a local calendar or a consent calendar during that session of the legislature but shall be returned to the Committee on Calendars for further action.

EXPLANATORY NOTES

1. The portion of Sec. 4.086 referring to a bill removed from a local or consent calendar is not enforced strictly because frequently a bill is not fully understood. Sometimes a simple amendment may cure all objections. In either case, a good bill may be saved by allowing it to be placed on a local or consent calendar again. The Committee on Local and Consent Calendars can easily control its calendar so that truly controversial bills do not appear twice.

2. Occasionally, opposition to a bill develops after it has passed to engrossment and before final passage. It has become the

custom for a presiding officer to withdraw such a bill from further consideration at such time if it is objected to by five or more members.

3. Occasionally, a local and consent calendar is set for a time to which the house later adjourns. When convening time arises, it is currently the practice to have the usual registration of members, prayer by the chaplain, and excuses for absences of members. Then the local and consent calendar is taken up. When it is completed, the remaining items in the daily order of business are covered in order.

HOUSE PRECEDENTS

PRIVILEGED MATTERS HAVE PRIORITY OVER LOCAL AND CONSENT CALENDARS.--In the 56th Legislature, Regular Session, the speaker, Mr. Carr, ruled that a pending privileged matter (concurring in senate amendments) had precedence for consideration over a local and consent calendar which had been set for that particular time.

Sec. 4.087. DISCRETION IN ASSIGNMENT TO CALENDARS

Subject to the limitations contained in this subchapter, the Committee on Calendars shall have full authority to make assignments to calendars in whatever order is necessary and desirable under the circumstances then existing, except that bills on third reading on a particular calendar shall have precedence over bills on second reading on the same calendar. It is the intent of the calendar system to give the Committee on Calendars wide discretion to insure adequate consideration by the house of important legislation.

Sec. 4.088. MOTION TO REASSIGN

(a) During the first 76 calendar days of a regular session, after a bill or resolution has been assigned to its appropriate calendar, it shall be in order for a member to move that the bill or resolution be reassigned to a different calendar, which shall require a two-thirds vote for adoption.

(b) After the first 76 calendar days of a regular session, when a bill or resolution has been assigned to its appropriate calendar, it shall be in order for a member to move that the bill or resolution be reassigned to a different calendar, which shall require a majority vote for adoption.

(c) A motion to reassign a bill from one calendar to another is not a privileged motion and must be made during the routine motion period unless made under a suspension of the rules.

SUBCHAPTER E. SPEAKING AND DEBATE

Sec. 4.101. ADDRESSING THE HOUSE

When a member desires to speak or deliver any matter to the house, the member shall rise and respectfully address the speaker as "Mr. (or Madam) Speaker" and, on being recognized, may address the house from the microphone at the reading clerk's desk, and shall confine all remarks to the question under debate, avoiding personalities.

Sec. 4.102. WHEN TWO MEMBERS RISE AT ONCE

When two or more members rise at once, the speaker shall name the one who is to speak first. This decision shall be final and not open to debate or appeal.

Sec. 4.103. RECOGNITION

There shall be no appeal from the speaker's

recognition, but the speaker shall be governed by rules and usage in priority of entertaining motions from the floor. When a member seeks recognition, the speaker may ask, "For what purpose does the member rise?" or "For what purpose does the member seek recognition?" and may then decide if recognition is to be granted.

EXPLANATORY NOTES

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

Sec. 4.104. INTERRUPTION OF A MEMBER WHO HAS THE FLOOR

A member who has the floor shall not be interrupted by another member for any purpose, unless he or she consents to yield to the other member. A member desiring to interrupt another in debate should first address the speaker for the permission of the member speaking. The speaker shall then ask the member who has the floor if he or she wishes to yield, and then announce the decision of that member. The member who has the floor may exercise personal discretion as to whether or not to yield, and it is entirely within the member's discretion to determine who shall interrupt and when.

EXPLANATORY NOTES

Under no condition does a member having the floor have the right to yield to another member for a specific purpose determined by himself or through agreement with the member to whom he yields, unless the second member first secures recognition from the speaker to make the motion. For example, he cannot yield directly to another member for a

motion to adjourn without the second member having been recognized by the chair for the purpose. Further, if a member yields the floor, he does so completely, and cannot in any way bind the chair to a subsequent recognition.

CONGRESSIONAL PRECEDENTS

GENERAL RULES--DECORUM AND DEBATE.--It is a general rule that a motion must be made before a member may proceed in debate (H.P., 5, 4984, 4985). A motion must also be stated by the speaker or read by the clerk before debate may begin (H.P., 5, 4982, 4983, 5304). In addressing the house, the member should also address the chair (H.P., 5, 4980). It is a breach of order for members from their seats to interject remarks into the speech of a member having the floor (C.P., 8, 2463). It has always been held, and generally quite strictly, that in the house a member must confine himself to the subject under debate (H.P., 5, 5043, 5048). In general, on a motion to amend, the debate is confined to the amendment and may not include the general merits of the bill (H.P., 5, 5049, 5051). While the senate may be referred to properly in debate, it is not in order to discuss its functions or criticize its acts (H.P., 5, 5114, 5140). It is not in order in debate to refer to a senator in terms of personal criticism (H.P., 5, 5121, 5122). It is not in order in debate for a member to impugn the motives or criticize the actions of members of the senate (C.P., 8, 2520). It is not in order in debate to cast reflection on either the house or its membership or its decisions, whether past or present (H.P., 5, 5132-5138).

Sec. 4.105. YIELDING THE FLOOR

Sec. 4.106

A member who obtains the floor on recognition of the speaker may not be taken off the floor by a motion, even the highly privileged motion to adjourn, but if the member yields to another to make a motion or to offer an amendment, he or she thereby loses the floor.

Sec. 4.106. RIGHT TO OPEN AND CLOSE DEBATE

The mover of any proposition, or the member reporting any measure from a committee, or, in the absence of either of them, any other member designated by such absentee, shall have the right to open and close the debate, and for this purpose may speak each time not more than 20 minutes.

EXPLANATORY NOTES

1. The "mover of a proposition" is the mover of the original proposition before the house for consideration. In the case of a bill being considered, the member having the bill in charge is the mover of the proposition.

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

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

CONGRESSIONAL PRECEDENTS

LOSS OF RIGHT TO PRIOR RECOGNITION.--When an essential motion made by the member in charge of the bill is decided adversely, the right to prior recognition passes to the member leading the opposition (H.P., 2, 1465-1468), but the mere defeat of an amendment proposed by the member in charge does not cause prior right of recognition to pass to the opponents (H.P., 2, 1478-1479).

Sec. 4.107. TIME LIMITS ON SPEECHES

All speeches shall be limited to 10 minutes in duration, except as provided in Section 4.106, and the speaker shall call the members to order at the expiration of their time. If the house by a majority vote extends the time of any member, the extension shall be for 10 minutes only. A second extension of time shall be granted only by unanimous consent. During the last 10 calendar days of the regular session, and the last 5 calendar days of a special session, Sundays excepted, all speeches shall be limited to 10 minutes and shall not be extended. The time limits established by this rule shall include time consumed in yielding to questions from the floor.

EXPLANATORY NOTES

1. See Sec. 4.152 for a list of motions on which three-minute pro and con debate is allowed.

2. When a motion to suspend the rules to extend a member's time in debate carries, the extension, under prevailing practice, is for ten minutes in ordinary debate and three minutes in three-minute pro and con debate, unless a specific time is mentioned in the motion.

Sec. 4.108. LIMIT ON NUMBER OF TIMES TO SPEAK

No member shall speak more than twice on the same question without leave of the house, nor more than once until every member choosing to speak has spoken, nor shall any member be permitted to consume the time of another member without leave of the house being given by a majority vote.

CONGRESSIONAL PRECEDENTS

MEMBER SPEAKING MORE THAN ONCE.--A member who has spoken once on a main question may speak again on an amendment (H.P., 5, 4993, 4994). It is too late to make the point that a member has spoken already if no one claims the floor until he has made some progress in his speech (H.P., 5, 4992).

Sec. 4.109. EFFECT OF ADJOURNMENT ON SPEAKING LIMIT

If a pending question is not disposed of because of an adjournment of the house, a member who has spoken twice on the subject shall not be allowed to speak again without leave of the house.

Sec. 4.110. OBJECTION TO READING A PAPER

When the reading of a paper is called for, and objection is made, the matter shall be determined by a majority vote of the house, without debate.

Sec. 4.111. PASSING BETWEEN MICROPHONES DURING DEBATE

No person shall pass between the front and back microphones during debate or when a

member has the floor and is addressing the house.

Sec. 4.112. TRANSGRESSION OF RULES WHILE SPEAKING

If any member, in speaking or otherwise, transgresses the rules of the house, the speaker shall, or any member may, call the member to order, in which case the member so called to order shall immediately be seated; however, that member may move for an appeal to the house, and if appeal is duly seconded by 10 members, the matter shall be submitted to the house for decision by majority vote. In such cases, the speaker shall not be required to relinquish the chair, as is required in cases of appeals from the speaker's decisions. The house shall, if appealed to, decide the matter without debate. If the decision is in favor of the member called to order, the member shall be at liberty to proceed; but if the decision is against the member, he or she shall not be allowed to proceed, and, if the case requires it, shall be liable to the censure of the house, or such other punishment as the house may consider proper.

Sec. 4.113. ELECTRONIC RECORDING OF ALL HOUSE PROCEEDINGS

All proceedings of the house of representatives shall be electronically recorded under the direction of the Committee on House Administration. A transcript of the testimony shall be furnished by the Committee on House Administration to any member requesting it, with the expense of the transcript to be charged to the contingent expense account of the member. Copies of the electronic recordings shall not be released to anyone by the Committee on House Administration, except that a member of the

house may get a copy of the electronic recording of the member's own remarks, with any expense for the copy to be charged to his or her contingent expense account.

SUBCHAPTER F. SPEAKING ON QUESTIONS OF PRIVILEGE

Sec. 4.131. QUESTIONS OF PRIVILEGE DEFINED

Questions of privilege shall be:

(1) those affecting the rights of the house collectively, its safety and dignity, and the integrity of its proceedings; and

(2) those affecting the rights, reputation, and conduct of members individually in their representative capacity only.

Sec. 4.132. PRECEDENCE OF QUESTIONS OF PRIVILEGE

Questions of privilege shall have precedence over all other questions except motions to adjourn. When in order, a member may address the house on a question of privilege, or may at any time print it in the journal, provided it contains no reflection on any member of the house.

Sec. 4.133. WHEN QUESTIONS OF PRIVILEGE NOT IN ORDER

It shall not be in order for a member to address the house on a question of privilege:

(1) between the time an undebatable motion is offered and the vote is taken on the motion;

(2) between the time the previous question is ordered and the vote is taken on the last proposition included under the previous question; or

(3) between the time a motion to table

is offered and the vote is taken on the motion.

Sec. 4.134. CONFINING REMARKS TO QUESTION OF PRIVILEGE

When speaking on privilege, members must confine their remarks within the limits of Section 4.131, which will be strictly construed to achieve the purposes hereof.

Sec. 4.135. DISCUSSION OF MERITS OF MOTION FORBIDDEN

Merits of a main or subsidiary motion shall not be discussed or debated under the guise of speaking to a question of privilege.

CONGRESSIONAL PRECEDENTS

PRIVILEGE OF THE HOUSE.--The privilege of the house, as distinguished from that of the individual member, includes questions relating to its constitutional prerogatives, in respect to revenue legislation, etc. (H.P., 2, 1480-1501); its power to punish for contempt, whether of its own members (H.P., 2, 1641-1665), of witnesses who are summoned to give information (H.P., 2, 1608, 1612; H.P., 3, 1666-1724), or of other persons (H.P., 2, 1597-1640); questions relating to its organization (H.P., 1, 22-24, 189, 212, 290), and the title of its members to their seats (H.P., 3, 2579-2587); the conduct of officers and employees (H.P., 1, 284-285; H.P., 3, 2628, 2645-2647); comfort and convenience of members and employees (H.P., 3, 2629-2636); admission to the floor of the house (H.P., 3, 2624-2626); the accuracy and propriety of reports in the Congressional Record (H.P., 5, 7005-7023); the conduct of representatives of the press (H.P., 2, 1630, 1631; H.P., 3, 2627); the

integrity of its journal (H.P., 2, 1363; H.P., 3, 2620); the protection of its records (H.P., 3, 2659); the accuracy of its documents (H.P., 5, 7329) and messages (H.P., 3, 2613); and the integrity of the processes by which bills are considered (H.P., 3, 2597-2601, 2614; H.P., 4, 3383, 3388, 3478).

PRIVILEGE OF THE MEMBER.--The privilege of the member rests primarily on the constitution, which gives him a conditional immunity from arrest, etc. (H.P., 3, 2670). A menace to the personal safety of members from an insecure ceiling in the hall was held to involve a question of the highest privilege (H.P., 3, 2685). Charges against the conduct of a member are held to involve privilege when they relate to his representative capacity (H.P., 3, 1828-1830, 2716). A distinction has been drawn between charges made by one member against another in a newspaper and the same when made on the floor (H.P., 3, 1827, 2691, 2717). Charges made in newspapers against members in their representative capacities involve privilege (H.P., 3, 1832, 2694, 2696-2699, 2703, 2704), even though the names of the individual members be not given (H.P., 3, 1831, 2705, 2709). But vague charges in newspaper articles (H.P., 3, 2711), criticisms (H.P., 3, 2712-2714), or even misrepresentations of the members' acts or speeches have not been entertained (H.P., 3, 2707, 2708). A member making a statement in a matter of personal privilege should confine his remarks to that which concerns himself personally (H.P., 5, 5078). While a member rising to a question of personal privilege may be allowed some latitude, yet the rule requiring a member to confine himself to the subject holds in this case (H.P., 5, 5075, 5076).

PRECEDENCE OF QUESTIONS OF PERSONAL

PRIVILEGE.--A member rising to a question of personal privilege may not interrupt a call of the yeas and nays (H.P., 5, 6051, 6052, 6058, 6059) or take from the floor another member who has been recognized for debate (H.P., 5, 5002).

SUBCHAPTER G. MOTIONS: GENERAL

Sec. 4.151. MOTIONS DECIDED WITHOUT DEBATE

The following motions, in addition to any elsewhere provided herein, shall be decided without debate, except as otherwise provided in these rules:

(1) to adjourn;

(2) to lay on the table;

(3) to lay on the table subject to call;

(4) to suspend the rule as to the time for introduction of bills;

(5) to order a call of the house, and all motions incidental thereto;

(6) an appeal by a member called to order;

(7) on questions relating to priority of business;

(8) to amend the caption of a bill or resolution;

(9) to extend the time of a member speaking under the previous question or to allow a member who has the right to speak after the previous question is ordered to yield the time, or a part of it, to another;

(10) to reconsider and table.

Sec. 4.152. MOTIONS SUBJECT TO DEBATE

The speaker shall permit the mover and one opponent of the motion three minutes each during which to debate the following motions without debating the merits of the bill, resolution, or other matter, and the mover of

the motion may elect to either open the debate or close the debate, but the mover's time may not be divided:

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

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

(3) to rerefer a bill or resolution from one committee to another;

(4) to assign a bill or resolution to a calendar without action by the Committee on Calendars;

(5) to reassign a bill or resolution from one calendar to another;

(6) to take up a bill or resolution laid on the table subject to call;

(7) to set a special order;

(8) to suspend the rules;

(9) to suspend the constitutional rule requiring bills to be read on three several days;

(10) to pass a resolution suspending the joint rules;

(11) to order the previous question;

(12) to order the limiting of amendments to a bill or resolution;

(13) to print documents, reports, or other material in the journal;

(14) to take any other action required or permitted during the routine motion period by Section 4.051(a).

EXPLANATORY NOTES

1. See Sec. 4.051(a) for three-minute debate rule as applied to routine motions in the daily order of business.

2. Recent practice has allowed a first extension of time (three minutes) of a member speaking under the three-minute debate rule by majority vote, and any further extension by unanimous consent.

Such practice has been dictated for general debate by Sec. 4.107. This is not the case, however, at the routine motion period.

3. See Sec. 4.107 concerning extension of debate under three-minute debate rule during the last ten calendar days of a regular session and the last five days of a special session.

HOUSE PRECEDENTS

DEBATE ON RECONSIDERED MATTERS.--In the 52nd Legislature, the speaker, Mr. Senterfitt, held that if the vote on a motion to which the three-minute debate rule is applicable had been reconsidered, the question was before the house anew, and the three-minute debate rule was again operative.

Sec. 4.153. MOTIONS ALLOWED DURING DEBATE

When a question is under debate, the following motions, and none other, shall be in order, and such motions shall have precedence in the following order:

(1) to adjourn;

(2) to take recess;

(3) to lay on the table;

(4) to lay on the table subject to call;

(5) for the previous question;

(6) to postpone to a day certain;

(7) to commit, recommit, refer, or rerefer;

(8) to amend by striking out the enacting or resolving clause, which, if carried, shall have the effect of defeating the bill or resolution;

(9) to amend;

(10) to postpone indefinitely.

EXPLANATORY NOTES

1. This rule gives the order of precedence of motions "when a question is under debate," which means, of course, that an original or main motion is pending, e.g., the passage of a resolution. Illustrating the significance of the above order of listing, if a motion "to amend" is made and pending, the motion "to commit" can be made, and, if no other motion is made, would be voted upon first because it has "precedence" according to the listing. However, the motion "to lay on the table," for example, could have been made to the motion to commit and the vote would have come first on that motion, it having higher precedence in the listing. To carry the pattern one step farther, while the motion to table the motion to commit is pending, motions "to recess" or "to adjourn" can be made and voted upon first because they are of still higher precedence.

2. See Sec. 4.327 relating to general classification and precedence of amendments.

3. For many years it has been the custom for the house to "stand at ease," i.e., the house remains technically in session but without continuing transaction of business. This state of inactivity is initiated and terminated by the chair without a motion from the floor. There are many times when the house must stand at ease for one reason or another. Such is also the case in joint sessions.

HOUSE PRECEDENTS

1. PRECEDENCE OF MOTIONS.--In the 52nd Legislature the speaker, Mr. Senterfitt, ruled that it is in order to have some two or more of the above listed motions made and pending at the same time, but that they must

be voted upon in the order of their precedence as established above, or as prescribed in other rules specifically covering the several motions. For example, a motion that a proposition lie on the table subject to call could be pending and a motion made to postpone to a day certain, but the vote must be taken first upon the former motion which is of higher rank in the order of precedence. There are obviously many other similar combinations of two or more motions possible under the rules.

2. NOT IN ORDER TO POSTPONE INDEFINITELY A MATTER NOT BEFORE THE HOUSE UNLESS UNDER A MOTION TO SUSPEND THE RULES.--The house was considering a resolution. Mr. Thornton raised the point of order that one of the resolving clauses sought, without a direct suspension of the rules, to postpone indefinitely consideration of a bill which was not before the house and was therefore out of order.

The speaker, Mr. Calvert, sustained the point of order and ruled out of order the resolving clause in question, which left, however, other substantive propositions. (45 H.J. Reg. 210 (1937)).

Sec. 4.154. STATEMENT OR READING OF A MOTION

When a motion has been made, the speaker shall state it, or if it is in writing, order it read by the clerk; and it shall then be in possession of the house.

Sec. 4.155. ENTRY OF MOTIONS IN JOURNAL

Every motion made to the house and entertained by the speaker shall be reduced to writing on the demand of any member, and shall be entered on the journal with the name of the member making it.

Sec. 4.156. WITHDRAWAL OF A MOTION

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

CONGRESSIONAL PRECEDENTS

WITHDRAWAL OF MOTIONS.--A motion may be withdrawn although an amendment may have been offered and be pending (H.P., 5, 5347). A "decision" which prevents withdrawal of a motion may consist of the ordering of the previous question, or the refusal to lay on the table (H.P., 5, 5351, 5352). A member having a right to withdraw a motion before a decision thereon has the resulting power to modify it (H.P., 5, 5358). A motion being withdrawn, all proceedings on an appeal arising from a point of order related to it fell thereby (H.P., 5, 5356).

Sec. 4.157. MOTIONS TO ADJOURN OR RECESS

A motion to adjourn or recess shall always be in order, except:

(1) when the house is voting on another motion;

(2) when the previous question has been ordered and before the final vote on the main question, unless a roll call shows the absence of a quorum;

(3) when a member entitled to the floor has not yielded for that purpose; or

(4) when no business has been transacted since a motion to adjourn or recess has been defeated.

EXPLANATORY NOTES

1. See also Sec. 4.201 and annotations following.

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

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

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

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

"Section 17, Article 3, of the Texas Constitution, prohibiting adjournment of either House for more than three days without consent of the other House. In calculating 'three days,' the day of adjournment or the day of reconvening must be counted. If a Sunday is within the period of adjournment, it should not be counted. Therefore, either House may adjourn from Thursday to Monday without the consent of the other, since the period is not for more than three days, excluding Sunday.

"A 'blanket' consent of both Houses for adjournment of more than three days at any time during the session would violate Section 17, Article 3, of the Texas Constitution, since it contemplates separate and specific consent of the other House each

time one House desires to adjourn for more than three days."

HOUSE PRECEDENTS

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

2. AN INTERPRETATION OF ITEM (4) ABOVE.--Mr. Isaacks moved to adjourn. On a record vote the house refused to adjourn but the absence of a quorum was evident.

Mr. Isaacks then renewed his motion to adjourn, whereupon Mr. Abington raised the point of order that no business had been transacted, as required by the rule, since a motion to adjourn had been defeated.

The speaker, Mr. Senterfitt, overruled the point of order, holding that the revelation of the absence of a quorum had in itself moved the proceedings to a new stage. (52 H.J. Reg. 227 (1951)).

3. HELD THAT SPEAKING IS "BUSINESS."--Mr. Jenkins resumed the floor, addressing the house on the amendments pending to House Bill No. 20.

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

Overruled. (30 H.J. Reg. 1163 (1907)).

4. THE HOUSE MAY ADJOURN FROM SATURDAY TO MONDAY WITHOUT A QUORUM.--The house met at 10 o'clock a.m., pursuant to adjournment, and was called to order by Mr. Sanders. The roll was called and the chair announced that

there was not a quorum present.

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

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

5. CHAIR IS REQUIRED TO ANNOUNCE VOTE AND DECLARE RESULT WHEN VOTE BECOMES KNOWN OFFICIALLY, AND FINALLY, REGARDLESS OF EFFECT. PRINCIPLE APPLIED TO MOTION TO ADJOURN.--Mr. McIlhany moved that the house adjourn until 12:10 p.m. today, April 1. The yeas and nays were demanded. When the speaker announced that the motion had carried by a vote of 67 to 65, a verification was requested and granted. The verification showed 66 to 65 for adjournment, and the speaker so informed the house; but, before he could declare the house adjourned, Mr. McDaniel raised the point of order that the time to which the house would have adjourned under the motion had passed and that the action was, therefore, null and void.

The speaker, Mr. Senterfitt, overruled the point of order, explaining that whenever the will of the house on a motion finally becomes known the chair then has no choice but to announce the vote and declare the result accordingly. He did so, and then immediately called the house to order on the new legislative day. (53 H.J. 1 C.S. 223 (1953)).

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

CONGRESSIONAL PRECEDENTS

THE MOTION TO ADJOURN.--While the motion to adjourn takes precedence of other motions, yet it may not be put while the house is voting on another motion or while a member has the floor in debate (H.P., 5, 5360). A motion to adjourn may not interrupt the call of the yeas and nays (H.P., 5, 6053). There must be intervening business before a motion to adjourn may be repeated (H.P., 5, 5373), and such "business" may be debated (H.P., 5, 5374), a decision of the chair on a question of order (H.P., 5, 5378), reception of a message (H.P., 5, 5375), (or the making of recognized motions). It is not in order to preface a motion to adjourn with preamble or argument touching reason or purpose of the proposed adjournment (C.P., 8, 2647).

After the motion to adjourn is made, neither another motion nor an appeal may intervene before the taking of the vote (H.P., 5, 5361)

A smaller number than a quorum may adjourn from day to day and compel the attendance of absent members (H.P., 4, 2980). A motion to reconsider a vote whereby the house has refused to adjourn is not in order (H.P., 5, 5620-5622).

A concurrent resolution providing for an adjournment of the two houses for more than three days is privileged (H.P., 5, 6680). The constitutional adjournment of "more than three days" must take into account either the day of adjourning or the day of meeting (H.P., 5, 6673, 6674).

Sec. 4.158. CONSIDERATION OF SEVERAL MOTIONS TO ADJOURN OR RECESS

When several motions to recess or adjourn are made at the same period, the motion to

adjourn carrying the shortest time shall be put first, then the next shortest time, and in that order until a motion to adjourn has been adopted or until all have been voted on and lost; and then the same procedure shall be followed for motions to recess.

Sec. 4.159. WITHDRAWAL OR ADDITION OF A MOTION TO ADJOURN OR RECESS

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

Sec. 4.160. RECONSIDERATION OF VOTE TO ADJOURN OR RECESS

The vote by which a motion to adjourn or recess is carried or lost shall not be subject to a motion to reconsider.

Sec. 4.161. ADJOURNING WITH LESS THAN A QUORUM

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

Sec. 4.162. MOTION TO TABLE

A motion to lay on the table, if carried, shall have the effect of killing the bill, resolution, amendment, or other immediate proposition to which it was applied. Such a motion shall not be debatable, but the mover of the proposition to be tabled, or the member reporting it from committee, shall be allowed to close the debate after the motion to table is made and before it is put to a vote. When a motion to table is made to a debatable main

motion, the main motion mover shall be allowed 20 minutes to close the debate, whereas the movers of other debatable motions sought to be tabled shall be allowed only 10 minutes to close. The vote by which a motion to table is carried or lost cannot be reconsidered. After the previous question has been ordered, a motion to table is not in order. The provisions of this section do not apply to motions to "lay on the table subject to call"; however, a motion to lay on the table subject to call cannot be made after the previous question has been ordered.

EXPLANATORY NOTES

1. See Sec. 4.277 and annotation following dealing with the double motion to reconsider and table.

2. With the exception of amendments offered to a bill on third reading, the motion to table is not usually applied to motions requiring a two-thirds or four-fifths vote for adoption. For example, in the 50th Legislature Speaker W. O. Reed ruled that this motion could not be applied to motions such as: "To suspend the constitutional rule requiring bills to be read on three several days," "To suspend the rule relating to the introduction of bills after the first sixty calendar days of a regular session," "To suspend the rules for a stated purpose," "To set a special order," etc.

3. Due to the precedence of motions set out in Sec. 4.153, the motion to table can be applied to the motion that a proposition lie on the table subject to call.

HOUSE PRECEDENTS

ONLY ONE MOTION TO TABLE MAY BE PENDING AT A TIME.--During the regular session of the 49th Legislature, an amendment had been offered to a bill, and a motion to table that amendment was pending.

A motion to table the bill was then made and insisted upon because such a motion has high precedence, as shown in Sec. 3 of Rule XII (now Sec. 4.153) and would ordinarily be received and considered even though an amendment is pending. The speaker, Mr. Gilmer, held that the motion to table the pending amendment must be considered first, and after that the motion to table the bill proper was accepted.

CONGRESSIONAL PRECEDENTS

THE MOTION TO LAY ON THE TABLE.--The motion to lay on the table is used in the house for a final, adverse disposition of a matter without debate (H.P., 5, 5389). It has the precedence given in the rule but may not be made after the previous question is ordered (H.P., 5, 5415, 5422). When a bill is laid on the table, pending motions connected therewith go to the table also (H.P., 5, 5426, 5427). The motion to table may not be amended (H.P., 5, 5754) or applied to motions for the previous question (H.P., 5, 5410-5411), or to suspend the rules (H.P., 5, 5405).

The motion to lay on the table may be repeated after intervening business (H.P., 5, 5398-5400); but the ordering of the previous question (H.P., 5, 5709), a call of the house (H.P., 5, 5401), or a decision of a question of order have been held not to be such intervening business, it being essential that the pending matter be carried to a new stage in order to permit a

repetition of the motion (H.P., 5, 5709).

Sec. 4.163. MATTERS TABLED SUBJECT TO CALL

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

EXPLANATORY NOTES

1. This motion is applicable to main motions only, e.g., the passage of a bill or resolution, or adoption of a report, and is not applicable to any of the motions listed in Sec. 4.153.

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

3. Since the motion to lay on the table

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

Sec. 4.164. MOTION TO POSTPONE

A motion to postpone to a day certain may be amended and is debatable within narrow limits, but the merits of the proposition sought to be postponed cannot be debated. A motion to postpone indefinitely opens to debate the entire proposition to which it applies.

Sec. 4.165. POSTPONED MATTERS

A bill or proposition postponed to a day certain shall be laid before the house at the time on the calendar day to which it was postponed, provided it is otherwise eligible under the rules and no other business is then pending. If business is pending, the postponed matter shall be deferred until the pending business is disposed of without prejudice otherwise to its right of priority. When a privileged matter is postponed to a particular time, and that time arrives, the matter, still retaining its privileged nature, shall be taken up even though another matter is pending.

EXPLANATORY NOTES

1. A resolution is interpreted as a "proposition" under the above.
2. One privileged motion cannot be taken up while another privileged motion is pending.
3. A motion to reconsider the vote on a privileged motion is likewise privileged.

CONGRESSIONAL PRECEDENTS

THE MOTIONS TO POSTPONE.--The motions to postpone must apply to the whole and not a part of the pending proposition (H.P., 5, 5306). It may not be applied to the motion to refer (H.P., 5, 5317), or to suspend the rules (H.P., 5, 5316). The motion to postpone to a day certain may be amended (H.P., 5, 5754). It is debatable within narrow limits only (H.P., 5, 5309, 5310), the merits of the proposition to which it is applied not being within those limits (H.P., 5, 5311-5315; C.P., 8, 2640).

Sec. 4.166. ORDER OF CONSIDERATION OF POSTPONED MATTERS

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

Sec. 4.167. MOTION TO REFER

When motions are made to refer a subject to a select or standing committee, the question on the subject's referral to a standing committee shall be put first.

EXPLANATORY NOTES

It has been held that a bill, resolution or other matter re-referred from committee A to committee B could, by a majority vote at the proper time, be re-referred to committee C, but a motion to re-refer from B back to A would have to follow the reconsideration rule, or receive a two-thirds vote for a suspension of the rules for the particular purpose.

MOTION TO RE-REFER A BILL UNDER CONSIDERATION BY A SUBCOMMITTEE.--Mr. Wood moved as a substitute motion that H.B. 126 be withdrawn from the Committee on Revenue and Taxation and re-referred to the Committee on Appropriations.

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

The speaker, Mr. Morse, overruled the point of order. (46 H.J. Reg. 956 (1939)).

Sec. 4.168. MOTION TO RECOMMIT

A motion to recommit a bill, after being defeated at the routine motion period, may again be made when the bill itself is under consideration; however, a motion to recommit a bill shall not be in order at the routine motion period if the bill is then before the house as either pending business or unfinished business.

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

Sec. 4.169. TERMS OF DEBATE ON MOTIONS TO REFER, REREFER, COMMIT, OR RECOMMIT

A motion to refer, rerefer, commit, or recommit is debatable within narrow limits, but the merits of the proposition may not be brought into the debate. A motion to refer, rerefer, commit, or recommit with instructions is fully debatable.

HOUSE PRECEDENTS

MOTION TO RECOMMIT TO COMMITTEE OF THE WHOLE HOUSE.--In the 51st Legislature, the speaker, Mr. Manford, ruled that debate on motions "to recommit to the committee of the whole house" is the same as allowed under the rules for other motions to recommit.

Sec. 4.170. RECOMMITTING TO COMMITTEE FOR A SECOND TIME

Except as provided in Section 3.128, when a bill has been recommitted once at any reading and has been reported adversely by the committee to which it was referred, it shall be in order to again recommit the bill only if a minority report has been filed in the time required by the rules of the house. A two-thirds vote of those present shall be required to recommit a second time.

HOUSE PRECEDENTS

ADVERSE COMMITTEE REPORT ON A BILL DOES NOT PREVENT CONSIDERATION OF A SIMILAR BILL.--The house was considering a bill similar to one adversely reported to the house, when Mr. Bailey raised the point of order that a bill having the same subject had been reported adversely by Judiciary Committee No. 2, which was in effect the defeat of the bill, and that it was not now in order to pass on this bill.

Overruled. (26 H.J. Reg. 1206 (1899)).

SUBCHAPTER H. MOTION FOR THE PREVIOUS QUESTION

Sec. 4.201. MOTION FOR THE PREVIOUS QUESTION

There shall be a motion for the previous

question, which shall be admitted only when seconded by 25 members. It shall be put by the chair in this manner: "The motion has been seconded. Three minutes pro and con debate will be allowed on the motion for ordering the previous question." As soon as the debate has ended, the chair shall continue: "As many as are in favor of ordering the previous question on (here state on which question or questions) will say 'Aye,'" and then, "As many as are opposed say 'Nay.'" As in all other propositions, a motion for the previous question may be taken by a record vote if demanded by three members. If ordered by a majority of the members voting, a quorum being present, it shall have the effect of cutting off all debate, except as provided in Section 4.203, and bringing the house to a direct vote on the immediate question or questions on which it has been asked and ordered.

Sec. 4.202. DEBATE ON MOTION FOR PREVIOUS QUESTION

On the motion for the previous question, there shall be no debate except as provided in Section 4.201 and in Section 4.152. All incidental questions of order made pending decision on such motion shall be decided, whether on appeal or otherwise, without debate.

Sec. 4.203. LIMITATION OF DEBATE AFTER PREVIOUS QUESTION ORDERED

After the previous question has been ordered, there shall be no debate upon the questions on which it has been ordered, or upon the incidental questions, except that the mover of the proposition or any of the pending amendments or any other motions, or the member making the report from the committee, or, in

the case of the absence of either of them, any other member designated by such absentee, shall have the right to close the debate on the particular proposition or amendment. Then a vote shall be taken immediately on the amendments or other motions, if any, and then on the main question.

Sec. 4.204. SPEAKING AND VOTING AFTER THE PREVIOUS QUESTION ORDERED

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

Sec. 4.205. SPEAKING ON AN AMENDMENT AS SUBSTITUTED

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

HOUSE PRECEDENTS

ORDER OF SPEECHES WHEN THE PREVIOUS QUESTION HAS BEEN ORDERED ON A SERIES OF PENDING MOTIONS.--A bill was pending on second reading and an amendment was adopted thereto. A motion to reconsider the vote on the adoption of the amendment was made. Then a motion for the previous question was made, seconded and voted on all pending

motions, i.e., the motion to reconsider, the adoption of the amendment (if the motion to reconsider prevailed), and, lastly, the engrossment of the bill. Since, under the rule, all speeches must be made before voting begins on a series of motions under the previous question, the speaker, Mr. Senterfitt, ruled that the mover of the motion to reconsider should speak first, next the author of the amendment, and, lastly, the author of the bill.

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

Sec. 4.206. SPEAKING ON A MOTION TO POSTPONE OR AMEND

When the previous question is ordered on a

motion to postpone indefinitely or to amend by striking out the enacting clause of a bill, the member moving to postpone or amend shall have the right to close the debate on that motion or amendment, after which the mover of the proposition or bill proposed to be so postponed or amended, or the member reporting it from the committee, or, in the absence of either of them, any other member designated by the absentee, shall be allowed to close the debate on the original proposition.

Sec. 4.207. APPLICATION OF THE PREVIOUS QUESTION

The previous question may be asked and ordered on any debatable single motion or series of motions, or any amendment or amendments pending, or it may be made to embrace all authorized debatable motions or amendments pending and include the bill, resolution, or proposition that is on second or third reading. The previous question cannot be ordered, however, on the main proposition without including other pending motions of lower rank as given in Section 4.153.

EXPLANATORY NOTES

See Sec. 5.021 concerning moving the previous question during section-by-section consideration.

HOUSE PRECEDENTS

THE HOUSE HAVING ORDERED THE CONSIDERATION OF THE APPROPRIATION BILL BY DEPARTMENTS, THE PREVIOUS QUESTION COULD NOT BE ORDERED ON THE ENGROSSMENT OF THE BILL WITHOUT RECONSIDERING THE ORDER OR COMPLETING THE CONSIDERATION OF THE SECTIONS OF THE BILL.--During the consideration of an

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

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

Sustained. (29 H.J. 1 C.S. 121 (1905)).

CONGRESSIONAL PRECEDENTS

THE PREVIOUS QUESTION.--The motion may not include a provision that it shall take effect at a certain time (H.P., 5, 5457). It is often ordered on undebatable propositions to prevent amendments (H.P., 5, 5473, 5490), but may not be moved on a motion that is both undebatable and unamendable (H.P., 4, 3077). It applies to questions of privilege as to other questions (H.P., 2, 1256; H.P., 5, 5459, 5460).

Sec. 4.208. LIMIT OF APPLICATION

The previous question shall not extend beyond the final vote on a motion or sequence of motions to which the previous question has been ordered.

Sec. 4.209. AMENDMENTS NOT YET LAID BEFORE THE HOUSE

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

EXPLANATORY NOTES

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

Sec. 4.210. MOVING THE PREVIOUS QUESTION AFTER A MOTION TO TABLE

If a motion to table is made directly to a main motion, the motion for the previous question is not in order. In a case where an amendment to a main motion is pending, and a motion to table the amendment is made, it is in order to move the previous question on the main motion, the pending amendment, and the motion to table the amendment.

Sec. 4.211. NO SUBSTITUTE FOR MOTION FOR THE PREVIOUS QUESTION

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

EXPLANATORY NOTES

An inspection of Sec. 4.153, in regard to the precedence of motions, will show that a motion to table takes precedence over a motion for the previous question when those motions are applied to the same motion. However, if a main motion is pending, e.g., the engrossment of a bill, and a motion of lower rank than the previous question, as given in Sec. 4.153, is pending, and a motion to table that motion is made, then the previous question may be applied to the whole series of motions pending, including the motion to table.

HOUSE PRECEDENTS

ACCEPTANCE OF A MOTION FOR THE PREVIOUS QUESTION, PROVIDED THERE HAS BEEN SOME DISCUSSION ON THE BILL.--Mr. Jones of Atascosa moved the previous question on House Bill No. 365 and the pending committee amendment.

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

The speaker, Mr. Stevenson, overruled the point of order, holding that since there had been some discussion on the bill and amendment, the motion was in order, but if there had been no discussion whatsoever on the bill or amendment the motion would be clearly out of order. (44 H.J. Reg. 1317 (1935)).

Sec. 4.212. MOTION FOR THE PREVIOUS QUESTION NOT SUBJECT TO TABLING

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

Sec. 4.213. MOTION TO ADJOURN AFTER MOTION FOR PREVIOUS QUESTION ACCEPTED

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

Sec. 4.214. MOTIONS IN ORDER AFTER PREVIOUS QUESTION ORDERED

After the previous question has been ordered, no motion shall be in order until the question or questions on which it was ordered have been voted on, without debate, except:

(1) a motion for a call of the house, and motions incidental thereto;

(2) a motion to extend the time of a member closing on a proposition;

(3) a motion to permit a member who has the right to speak to yield the time or a part thereof to another member;

(4) a request for and a verification of a vote;

(5) a motion to reconsider the vote by which the previous question was ordered. A motion to reconsider may be made only once and that must be before any vote under the previous question has been taken;

(6) a motion to table a motion to reconsider the vote by which the previous question has been ordered;

(7) a double motion to reconsider and table the vote by which the previous question was ordered.

EXPLANATORY NOTES

No debate is allowed on the above motions, and they are decided by majority vote.

See Sec. 4.273 concerning debate on motion to reconsider.

Sec. 4.215. MOTION TO ADJOURN OR RECESS AFTER PREVIOUS QUESTION ORDERED

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

EXPLANATORY NOTES

If the house adjourns, the whole matter under consideration is picked up just where it was left off, the previous question still being in effect, as provided in Sec. 4.216.

HOUSE PRECEDENTS

MOTION TO SUSPEND THE RULES IS IN ORDER ANY TIME, EVEN WHEN THE HOUSE IS OPERATING UNDER THE PREVIOUS QUESTION.--(44 H.J. Reg. 479 (1935)).

Sec. 4.216. ADJOURNING WITHOUT A QUORUM

When the house adjourns without a quorum under the previous question, the previous question shall remain in force and effect when the bill, resolution, or other proposition is again laid before the house.

SUBCHAPTER I. VOTING

Sec. 4.231. RECORDING ALL VOTES ON VOTING MACHINE

On all votes, except viva voce votes, members shall record their votes on the voting machine and shall not be recognized by the chair to cast their votes from the floor. If a member attempts to vote from the floor, the speaker shall sustain a point of order directed against the member's so doing. This

rule shall not be applicable to the mover or the principal opponent of the proposition being voted on nor to a member whose voting machine is out of order.

EXPLANATORY NOTES

It is the practice of the chair, on close votes and on demand for a "strict enforcement of the rules," to accept only one "Yea" and one "Nay" vote from the floor, refusing to accept others. Actually, under the above section he could refuse any floor votes but these two, but allows violations frequently as an accommodation to members who are temporarily away from their seats.

Sec. 4.232. REGISTRATION EQUIVALENT TO ROLL CALL VOTE

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

Sec. 4.233. DISCLOSURE OF PERSONAL OR PRIVATE INTEREST

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

EXPLANATORY NOTES

This is a constitutional provision embodied in the rules of the house, with which each member is left to comply according to his own judgment as to what constitutes a personal or private interest. Texas Const., Art. 3, Sec. 22.

CONGRESSIONAL PRECEDENTS

PERSONAL INTEREST.--In one or two instances the speaker has decided that because of personal interest, a member should not vote (H.P., 5, 5955, 5958); but usually the speaker has held that the member himself should determine this question (H.P., 5, 5950, 5951), and one speaker denied his own power to deprive a member of the constitutional right to vote (H.P., 5, 5966). It has been held that the disqualifying interest must be such as affects the member directly (H.P., 5, 5954, 5955, 5963), and not as one of a class (H.P., 5, 5952; C.P., 8, 3072).

Sec. 4.234. DIVIDING THE QUESTION

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

CONGRESSIONAL PRECEDENTS

DIVISION OF THE QUESTION.--After the question has been put it may not be divided (H.P., 5, 6162), nor after the yeas and nays have been ordered (H.P., 5, 6160, 6161), but it may be demanded after the previous question has been ordered (H.P., 5, 5468, 6149). The principle that there must be at least two substantive propositions in order to satisfy a division is insisted on rigidly (H.P., 5, 6108-6113). In passing on a

demand for a division, the chair considers only substantive propositions and not the merits of the questions presented (H.P., 5, 6122). It seems to be most proper, also, that the division should depend upon grammatical structure rather than on legislative propositions involved (H.P., 1, 394; H.P., 5, 6119). Although a question presents two propositions grammatically it is not divisible if either does not constitute a substantive proposition when considered alone (C.P., 8, 3165). Decisions have been made that a resolution affecting two individuals may be divided, although such division may involve a reconstruction of the text (H.P., 1, 623; H.P., 5, 6119-6121). The better practice seems to be, however, that this reconstruction of the text should be made by the adoption of a substitute of two branches, rather than by interpretation of the chair (H.P., 2, 1621). When a motion is made to lay several connected propositions on the table, a division is not in order (H.P., 5, 6138-6140). On a decision of the speaker involving two distinct questions, there may be a division on appeal (H.P., 5, 6157).

Sec. 4.235. FAILURE OR REFUSAL TO VOTE

Any member who is present and fails or refuses to vote after being requested to do so by the speaker shall be recorded as present but not voting, and shall be counted for the purpose of making a quorum.

EXPLANATORY NOTES

Neither the journal clerk nor the reading clerk has the authority to show a member as "Absent--Excused," when in fact he has not been excused by a formal vote of the house. Occasionally the house, by formal vote,

excuses a member temporarily, i.e., for a short period of time during a working day.

Sec. 4.236. PRESENCE IN HOUSE REQUIRED IN ORDER TO VOTE

A member must be on the floor of the house or in an adjacent room or hallway on the same level as the house floor, in order to vote; but members who are out of the house when a record vote is taken and who wish to be recorded shall be permitted to do so provided:

(1) they were out of the house temporarily, having been recorded earlier as present;

(2) the vote is submitted to the journal clerk within one hour of the time the vote was actually registered on the house voting machine and the results announced by the chair but not after adjournment or recess to another calendar day; and

(3) the recording of their votes does not change the result as announced by the chair.

HOUSE PRECEDENTS

1. UNANIMOUS CONSENT FOR LATE VOTE OR CHANGE OF VOTE.--In the 56th Legislature, Regular Session, the speaker, Mr. Carr, ruled that, although the rules are silent on the matter, the weight of precedents and usage requires the giving of unanimous consent for (a) a member temporarily absent from the house to be shown voting on a record vote and (b) for a member, having voted, to change his vote after the result has been declared. In either case, he pointed out, the granting of a member's request would necessarily be contingent upon its not changing the result of the record vote involved.

2. MEMBER CANNOT VOTE FROM THE GALLERY.--The house was considering H.B. 42. On the record vote on engrossment, a member sought to vote from the gallery. Mr. Norton raised the point of order that such a vote was not in order since members must be "in the house." The speaker, Mr. Manford, sustained the point of order. (51 H.J. Reg. 3020 (1949)).

CONGRESSIONAL PRECEDENTS

RIGHT OF MEMBERS TO VOTE.--It has been found impracticable to enforce the provisions requiring every member to vote (H.P., 5, 5942-5948), and the weight of authority also favors the idea that there is no authority in the house to deprive a member of his right to vote (H.P., 5, 5937, 5952, 5959, 5966, 5967).

Sec. 4.237. LOCKING VOTING MACHINES OF ABSENT MEMBERS

During each calendar day in which the house is in session, it shall be the duty of the reading clerk to lock the voting machine of each member who is excused or who is otherwise known to be absent. Each such machine shall remain locked until the member in person contacts the journal clerk and personally requests the unlocking of the machine. Unless otherwise directed by the speaker, the reading clerk shall not unlock any machine except at the personal request of the member to whom the machine is assigned. Any violation, or any attempt by a member or employee to circumvent the letter or spirit of this section, shall be reported immediately to the speaker for such disciplinary action by the speaker, or by the house, as may be warranted under the circumstances.

Sec. 4.238. VOTING FOR ANOTHER MEMBER

Any member found guilty by the house of knowingly voting for another member on the voting machine shall be subject to discipline deemed appropriate by the house.

EXPLANATORY NOTES

A possible serious consequence of permitting this practice would be a vote recorded for or against some important question contrary to the intent of the absent member. Such a vote might not be detected until after the permanent journal is published, when it would be too late to make correction.

Sec. 4.239. INTERRUPTION OF A ROLL CALL

Once a roll call has begun, it may not be interrupted for any reason. While a yea and nay vote is being taken, or the vote is being counted, no member shall visit the reading clerk's desk.

CONGRESSIONAL PRECEDENTS

INTERRUPTION OF THE ROLL CALL.--When once begun the roll call may not be interrupted by a motion to adjourn (H.P., 5, 6053), a parliamentary inquiry, a question of personal privilege (H.P., 5, 6058, 6059), the arrival of the time fixed for another order of business (H.P., 5, 6056), or for a recess (H.P., 5, 6054, 6055), or the presentation of a conference report (H.P., 5, 6443).

Sec. 4.240. EXPLANATION OF VOTE

(a) No member shall be allowed to interrupt the vote or to make any explanation

of a vote that the member is about to give after the voting machine has been opened, but may record in the journal the reasons for giving such a vote.

(b) A "Reason for Vote" must be in writing and filed with the journal clerk within one hour of the time the vote was taken but not after adjournment or recess to another calendar day. Such "Reason for Vote" shall not deal in personalities or contain any personal reflection on any member of the legislature, the speaker, the lieutenant governor, or the governor, and shall not in any other manner transgress the rules of the house relating to decorum and debate.

(c) A member absent when a vote was taken may file with the journal clerk while the house is in session a statement of how the member would have voted if present. The statement shall be printed in the journal on the date filed.

EXPLANATORY NOTES

Speaker Tunnell during the 58th Legislature made it a practice to review the reasons for vote submitted to the journal clerk so as to assure compliance with Rule XI (now Sec. 4.240(b)). Those reasons for vote which would be subject to objection according to the rules of decorum and debate were denied printing in the journal.

Sec. 4.241. PAIRS

All pairs must be announced before the vote is declared by the speaker, and a written statement sent to the journal clerk. The statement must be signed by the absent member to the pair, or the member's signature must have been authorized in writing, by telegraph, or by telephone, and satisfactory evidence presented to the speaker if deemed necessary.

If authorized by telephone, the call must be to and confirmed by the chief clerk in advance of the vote to which it applies. Pairs shall be entered in the journal, and the member present shall be counted to make a quorum.

EXPLANATORY NOTES

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

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

CONGRESSIONAL PRECEDENTS

PAIRS.--Pairs may not be announced at a time other than that prescribed by the rule (H.P., 5, 6046). The house does not consider questions arising out of the breaking of a pair (H.P., 5, 5982, 5983, 6095), or permit a member to vote after the call on a plea that he had refrained because of a misunderstanding as to a pair (H.P., 5, 6080, 6081). (See Congressional Record, Aug. 27, 1918, p. 9583, for Speaker Clark's interpretation of the rule and practice of the house of representatives as to pairs.)

Sec. 4.242. ENTRY OF YEA AND NAY VOTE IN JOURNAL

At the desire of any three members present, the yeas and nays of the members of the house on any question shall be taken and entered in the journal. No member or members shall be allowed to call for a yea and nay vote after a vote has been declared by the speaker. A motion to expunge a yea and nay vote from the journal shall not be in order.

EXPLANATORY NOTES

Motions to expunge yea and nay votes from the journal have uniformly been held out of order because of the constitutional provision that a record vote shall be taken upon the demand of three members. See annotation following Sec. 4.235.

Sec. 4.243. JOURNAL RECORDING OF NONRECORD VOTES

On nonrecord votes members may have their votes recorded in the journal as "yea" or "nay" by filing such information with the journal clerk within one hour of the time the results are announced by the chair but not after adjournment or recess to another calendar day.

Sec. 4.244. CHANGING A VOTE

Before the result of a vote has been finally and conclusively pronounced by the chair, but not thereafter, a member may change his or her vote; however, if a member's vote is erroneous, the member shall be allowed to change that vote at a later time provided:

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

(2) the request is made known to the

house by the chair and permission for the change is granted by unanimous consent; and

(3) a notation is made in the journal that the member's vote was changed.

Sec. 4.245. TIE VOTE

All matters on which a vote may be taken by the house shall require for adoption a favorable affirmative vote as required by these rules, and in the case of a tie vote, the matter shall be considered lost.

Sec. 4.246. VERIFICATION OF A YEA AND NAY VOTE

When the result of a yea and nay vote is close, the speaker may on the request of any member order a verification vote, or the speaker may order a verification on his or her own initiative. During verification, no member shall change a vote unless it was erroneously recorded, nor may any member not having voted cast a vote; however, when the clerk errs in reporting the yeas and nays, and correction thereof leaves decisive effect to the speaker's vote, the speaker may exercise the right to vote, even though the result has been announced. A verification shall be called for immediately after the vote is announced. The speaker shall not entertain a request for verification after the house has proceeded to the next question, or after a recess or an adjournment. A vote to recess or adjourn, like any other proposition, may be verified. Only one vote verification can be pending at a time. A verification may be dispensed with by a two-thirds vote.

EXPLANATORY NOTES

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

Since the voting machine, which is sometimes subject to error, is used in lieu of roll call with voice response, in order to protect the members' right to obtain an accurate record vote, minimum use should be made of the practice of dispensing with the verification.

See also Sec. 1.06 concerning the speaker's right to vote after a verification is completed.

HOUSE PRECEDENTS

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

2. VERIFICATION OF VOTE TO ADJOURN.--In the 52nd Legislature the speaker, Mr. Senterfitt, allowed the verification of a record vote to adjourn, the request for same having come before he could declare the result of the vote, i.e., that "the house

stands adjourned." The machine vote showed an adjournment by a close vote, but the verification reversed the result. The speaker held that the verification of a vote to adjourn should be allowed just as any other, particularly because often so much may depend upon an adjournment vote. He also held similarly in regard to a motion for a recess.

Sec. 4.247. VERIFICATION OF A REGISTRATION

The speaker may allow the verification of a registration (as differentiated from a record vote) if in the speaker's opinion there is serious doubt as to the presence of a quorum.

Sec. 4.248. MOTION FOR A CALL OF THE HOUSE PENDING VERIFICATION

A motion for a call of the house, and all incidental motions relating to it, shall be in order pending the verification of a vote. These motions must be made before the roll call on verification begins, and it shall not be in order to break into the roll call to make them.

Sec. 4.249. ERRONEOUS ANNOUNCEMENT OF THE RESULT OF A VOTE

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

EXPLANATORY NOTES

Error of the clerk as used in Secs. 4.246 and 4.249 covers any error in the process of recording a vote and reporting. The most frequent error, aside from the voting machine itself, comes from duplication of members' votes--on the voting machine and from the floor. All record votes are double-checked for errors by the reading clerk and any significant error is reported to the speaker.

See Sec. 4.239 regarding visiting the clerk's desk during voting.

SUBCHAPTER J. RECONSIDERATION

Sec. 4.271. MOTION TO RECONSIDER A RECORD VOTE

When a question has been decided by the house, any member voting with the prevailing side may, on the same legislative day, or on the next legislative day, move a reconsideration; however, if a reconsideration is moved on the next legislative day, it must be done before the order of the day, as designated in the ninth item of Subsection 4.051(a), is taken up. If the house refuses to reconsider, or on reconsideration, affirms its decision, no further action to reconsider shall be in order.

HOUSE PRECEDENTS

1. RECONSIDERATION OF ROUTINE MOTIONS.--In the 54th Legislature, the speaker, Mr. Lindsey, ruled that, in view of the provisions of the above section, a proper motion to reconsider the vote taken on a motion during a routine motion period could be made at any time permitted under this section, but that voting on

reconsideration must go over to a routine motion period in the daily order of business on a subsequent legislative day, in accordance with Sec. 4.278.

2. MOTION TO RECONSIDER THE PASSAGE OR DEFEAT OF A BILL AT A ROUTINE MOTION PERIOD.--The house was in a routine motion period on a house bill day. Mr. Lock of Angelina moved to reconsider the vote by which S.B. 4 failed to pass. Mr. Cato raised the point of order that such a motion would be out of order on a house bill day. The speaker, Mr. Gilmer, overruled the point of order, pointing out that it might be necessary to make such a motion in order to be within the time allowed under the reconsideration rule, but at the same time he ruled that the actual consideration of the senate bill, if the motion to reconsider prevailed, must go over as unfinished or pending business to the next senate bill day, depending upon whether or not the house adjourns in the meantime. (See annotation on distinction between "unfinished business" and "pending business.") (49 H.J. Reg. 1688 (1945)).

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

Sec. 4.272. MOTION TO RECONSIDER A NONRECORD VOTE

Where the yeas and nays have not been called for and recorded, any member, regardless of whether he or she voted on the prevailing side or not, may make the motion to reconsider; however, even when the yeas and nays have not been recorded, the following shall not be eligible to make a motion to reconsider:

(1) a member who was absent;

(2) a member who was paired and, therefore, did not vote; and

(3) a member who was recorded in the journal as having voted on the losing side.

Sec. 4.273. DEBATE ON MOTION TO RECONSIDER

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

Sec. 4.274. MAJORITY VOTE REQUIRED

Every motion to reconsider shall be decided by a majority vote, even though the vote on the original question requires a two-thirds vote for affirmative action. If the motion to reconsider prevails, the question then immediately recurs on the question reconsidered.

CONGRESSIONAL PRECEDENTS

THE MOTION TO RECONSIDER.--The provision of the rule that the motion may be made "by any member of the majority" is construed to mean any member of the prevailing side, be the vote a tie vote or one requiring two-thirds (H.P., 5, 5615, 5616, 5617, 5618; H.P., 1, 1656.)

While the motion has high privilege for entry, it may not be considered while another question is before the house (H.P., 5, 5673-5676). The motion may not be applied to negative votes on motions to adjourn or recess (H.P., 5, 5620-5622, 5625). It is in order to reconsider a vote postponing a bill to a day certain (H.P., 5, 5643); but not to reconsider a negative decision on a vote to suspend the rules (H.P., 5, 5645, 5646).

When the motion to reconsider is decided in the affirmative the question immediately recurs on the question reconsidered (H.P., 5, 5703). After passage of a bill, reconsideration of the vote on any amendment thereto may be secured only by a motion to reconsider the vote by which the bill was passed (C.P., 8, 2789).

The motion to reconsider may not be applied to the vote whereby the house has laid another motion to reconsider on the table (H.P., 5, 5632, 5640). A motion to reconsider is not debatable if the motion proposed to be reconsidered was not debatable (H.P., 5, 5694-5699). A request for unanimous consent is in effect a motion and action predicated thereon is subject to reconsideration (H.P., 8, 2794).

Sec. 4.275. WITHDRAWAL OF MOTION TO RECONSIDER

A motion to reconsider cannot be withdrawn

unless permission is given by a majority vote of the house, and the motion may be called up by any member.

Sec. 4.276. TABLING MOTION TO RECONSIDER

A motion to reconsider shall be subject to a motion to table, which, if carried, shall be a final disposition of the motion to reconsider.

Sec. 4.277. DOUBLE MOTION TO RECONSIDER AND TABLE

The double motion to reconsider and table shall be in order. It shall be undebatable. When carried, the motion to reconsider shall be tabled. When it fails, the question shall then be on the motion to reconsider, and the motion to reconsider shall, without further action, be spread on the journal, but it may be called up by any member, in accordance with the provisions of Section 4.278.

EXPLANATORY NOTES

1. In the practice of the house, the double motion to reconsider the vote on a proposition and to table the motion to reconsider occurs frequently. It is in effect two motions, one to reconsider the vote on a proposition and the other to lay the motion to reconsider on the table. The question is first on the motion to table. If that motion is lost, the question is then on the motion to reconsider. The purpose of this double motion is to prevent reconsideration of a matter the house has already decided, for when a motion to reconsider is tabled, another motion to reconsider is not permitted under the rules.

2. As stated above, when the motion to table fails, the question recurs on the

motion to reconsider, i.e., the second half of the double motion. Since a motion to reconsider is debatable, if the motion to be reconsidered is debatable, debate may be in order on the motion to be reconsidered. It follows logically that the right to close the debate under the described situation passes to the side favoring a reconsideration.

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

4. The motion to rescind is not permitted under the rules.

HOUSE PRECEDENTS

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

Sec. 4.278. DELAYED DISPOSITION OF MOTION TO RECONSIDER

(a) If a motion to reconsider is not disposed of when made, it shall be entered in the journal, and cannot, after that legislative day, be called up and disposed of unless one legislative day's notice has been given.

(b) Unless called up and disposed of prior to 72 hours before final adjournment of the session, all motions to reconsider shall be regarded as determined and lost.

(c) All motions to reconsider made during the last 72 hours of the session shall be disposed of when made; otherwise, the motion shall be considered as lost.

EXPLANATORY NOTES

1. If notice has been given a member that a motion to reconsider, which has been spread upon the journal, will be called up on the next legislative day or on some other day later, then that member or any other member can call up the motion. The fact that the notice required by the rule has been given is sufficient to qualify any member to call up the motion.

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

Sec. 4.279. MOTION TO RECONSIDER AND SPREAD ON JOURNAL

(a) A member voting on the prevailing side may make a motion to reconsider and spread on the journal, which does not require a vote, and on the motion being made, it shall be entered on the journal. Any member, regardless of whether he or she voted on the prevailing side or not, who desires immediate action on a motion to reconsider which has been spread on the journal, can call it up as soon as it is made, and demand a vote on it, or can call it up and move to table it.

(b) If the motion to table the motion to reconsider is defeated, the motion to reconsider remains spread on the journal for future action; however, any member, regardless of whether he or she voted on the prevailing side or not, can call the motion from the journal for action by the house, and, once disposed of, no other motion to reconsider can be made.

EXPLANATORY NOTES

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

SUBCHAPTER K. SUSPENSION OF THE RULES

Sec. 4.301. MOTION TO SUSPEND

A motion to suspend the rules shall be in order at any time, except when motions to adjourn or recess are pending, even when the house is operating under the previous question. A motion to "suspend all rules" shall be sufficient to suspend every rule under which the house is operating for a particular purpose except the provisions of the constitution, the statutes, and the joint rules of the two houses. If the rules have been suspended on a main motion for a given purpose, no other motion to suspend the rules on a main motion shall be in order until the original purpose has been accomplished.

EXPLANATORY NOTES

1. The wording "at any time," as used in the above paragraph, does not, however, give such a motion priority over the motions to adjourn or recess. In the 53rd Legislature the speaker, Mr. Senterfitt, held that those motions can be made and entertained when a motion "to suspend the rules" is pending.

2. Under the above rule it has been the practice for many years for a member, having in mind "a particular purpose," to move a suspension of the rules for that purpose. Members have a wide latitude--practically

unlimited--in describing such purpose. A single vote, if carried by the required two-thirds, is sufficient to obtain the desired result. For example, in the house journal of the 50th Legislature there is recorded certain action on H.B. 44. The bill was ruled illegally introduced because three identical copies had not been filed with the chief clerk. Then "Mr. Sadler moved that Sec. 1 of Rule XVIII (now Sec. 5.001) be suspended in order to consider H.B. 44 in the same status as before the point of order by Mr. Fly . . . ."

This motion was passed, 100 yeas to 38 nays. Thus a suspension occurred "for a particular purpose." The notion that some motions to suspend the rules "for the purpose of" are "double motions" is entirely erroneous. The above section gives full and specific authority for a member to define the "purpose" as he wishes. See the congressional precedents following.

3. In the absence of a specific provision in the joint rules regarding their suspension, it has long been held that only a majority vote in each house is required to suspend. If, therefore, joint rules are suspended to allow the house to consider a certain bill, house rules would then apply to bringing it before the house out of regular order, that is, a two-thirds vote would be required.

4. If a resolution contains a provision which, if adopted, would be equivalent to a suspension of the rules it would require a two-thirds vote for adoption.

5. There is nothing in the above section or elsewhere in these rules requiring a record vote for a suspension of the rules.

HOUSE PRECEDENTS

1. ONE SUSPENSION IN ORDER AT A TIME.--In the 51st Legislature, the speaker, Mr. Manford, ruled that the purpose for which a suspension of the rules was voted must be accomplished before another suspension of the rules is in order.

2. MOTION TO RECONSIDER A SUCCESSFUL SUSPENSION OF THE RULES VOTE IN ORDER UNDER CERTAIN CONDITIONS.--A motion to refer a bill having been ruled out because the routine motion period had been passed, Mr. Favors moved a suspension of the rules so the house could consider his motion. This motion prevailed. Mr. Harris of Dallas moved to reconsider the vote on suspension of the rules and Mr. Lucas raised the point of order that this motion was out of order.

The speaker, Mr. Homer Leonard, overruled the point of order, stating that such a motion was in order and could be adopted by a majority vote, unless action following the rules suspension had moved the matter to a new stage, such as the actual reading of a bill the first, second or third time. (Obviously a reading of a bill could not be undone. Under such conditions the matter could be disposed of by several other motions.) (47 H.J. Reg. 2257 (1941)).

3. MAY SUSPEND THE RULES FOR THE PURPOSE OF RECONSIDERING A VOTE, EVEN THOUGH THE TIME FOR MAKING THE MOTION TO RECONSIDER HAS PASSED.--Mr. Russell moved to suspend Rule XIII, Section 7 (now Sec. 4.214) so as to make a motion to reconsider the vote by which the "Heart Balm Bill" failed to pass.

Mr. Alsup raised a point of order on the motion to suspend the rules so as to move to reconsider the vote on the failure of the bill, on the ground such motion to reconsider would violate Section 34, Article 3 of the constitution relative to passage of

a defeated measure.

The speaker, Mr. Stevenson, overruled the point of order, on the grounds that the house may, by a two-thirds vote, suspend the rule and then vote to revive the bill. (44 H.J. Reg. 1995 (1935)).

CONGRESSIONAL PRECEDENTS

MOTION TO SUSPEND THE RULES.--The motion may not be amended (H.P., 5, 5322, 5405, 6858), postponed (H.P., 5, 5322), or laid on the table (H.P., 5, 5405).

A motion to suspend the rules applies to the parliamentary law of Jefferson's Manual as well as to the rules of the house (H.P., 5, 6796). When the rules are suspended to enable a matter to be considered, another motion to suspend the rules may not be made during that consideration (H.P., 5, 6836, 6837). A motion to suspend the rules may be entertained, although the previous question has been ordered (H.P., 5, 6827). Adoption of a motion to "suspend the rules" suspends all rules, including the unwritten law and practice of the house (C.P., 8, 3406).

Sec. 4.302. NOTICE OF PENDING MOTION TO SUSPEND THE RULES

It shall not be in order to move to suspend the rules or the regular order of business to take up a measure out of its regular order, and the speaker shall not recognize anyone for either purpose, unless the speaker has announced to the house in session that the speaker would recognize a member for that purpose at least one hour before the member is so recognized to make the motion. In making the announcement to the house, the speaker shall advise the house of the member's name and the bill number, and this information, together with the time that the announcement

was made, shall be entered in the journal. This rule may be suspended only by unanimous consent.

Sec. 4.303. VOTE REQUIREMENTS FOR SUSPENSION

A standing rule of the house may be suspended by an affirmative vote of two-thirds of the members present. However, if a rule contains a specific provision showing the vote by which that rule may be suspended, that vote shall be required for the suspension of the rule. The specific provision may not be suspended under the provisions of this section.

Sec. 4.304. DISPOSAL OF MEASURES TAKEN UP UNDER SUSPENSION

Any measure taken up under suspension and not disposed of on the same day shall go over as pending or unfinished business to the next day that the house is in session, and shall be considered thereafter from day to day (except the days used for the consideration of senate bills) until disposed of.

EXPLANATORY NOTES

1. Under a suspension of the rules or suspension of the regular order of business, the house may consider senate bills or senate joint resolutions on days set aside in these rules for house bills and house joint resolutions.

2. See annotation differentiating between "pending business" and "unfinished business" following the order of business in Sec. 4.051(a).

3. A suspension of the regular order of business, as distinguished from a suspension of the rules, is a suspension of that order of business on the speaker's table as

described in the ninth item of Sec. 4.051(a). As directed in the rules, the chair holds to the regular order of business unless the house directs otherwise by a suspension of the rules.

4. The order of recognition to suspend rules is determined entirely by the speaker. While the speaker is guided somewhat by the order in which he receives suspension requests from the members, there is neither rule nor precedent which requires him to adhere to such an order for recognition. In fact, to adhere strictly to a request order would prevent a speaker from recognizing members to bring up matters of major importance such as public and party demands, emergency measures, etc. Also, if a strict request order is followed (and the order is generally known) it is possible for abuses to occur which are not to the best interests of the membership.

HOUSE PRECEDENTS

1. NOT IN ORDER TO RECONSIDER VOTE BY WHICH A BILL IS TAKEN UP ON SUSPENSION OF THE REGULAR ORDER; IN ORDER IF VOTE TO TAKE UP FAILED.--On a Monday the house was considering a bill taken up on a suspension of the regular order of business. It had been read the second time and debate was proceeding. The motion to reconsider the vote by which the bill was taken up and made and, on a point of order that such could not be done, the speaker, Mr. Homer Leonard, sustained the point of order. He held that other disposition must be made of the bill if the house did not wish to continue its consideration since to permit the reconsideration motion would have the effect of wiping out the second reading and proceedings following. (47 H.J. Reg. (1941)).

2. RECONSIDERATION OF MOTION TO SUSPEND.--In the 52nd Legislature the speaker, Mr. Senterfitt, admitted a motion to reconsider the vote by which a motion to suspend the regular order of business had failed. This motion should not be confused with a suspension of the rules motion.

SUBCHAPTER L. AMENDMENTS

Sec. 4.321. ACCEPTABLE MOTIONS TO AMEND

When a bill, resolution, motion, or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order. It shall also be in order to offer a further amendment by way of a substitute. Such a substitute may not be amended. If the substitute is adopted, the question shall then be on the amendment as substituted, and under this condition an amendment is not in order.

EXPLANATORY NOTES

Amendments offered from the floor are not numbered.

HOUSE PRECEDENTS

NOT IN ORDER UNDER THE RULES TO AMEND AN "AMENDMENT AS SUBSTITUTED."--Mr. Farmer offered an amendment to an "amendment as substituted" which was before the house for a vote.

Mr. Keith raised a point of order against the amendment by Mr. Farmer on the ground that it is not in order to amend an amendment as substituted.

The speaker, Mr. Calvert, sustained the point of order, stating that while there were other subsidiary motions which could be made with respect to the substituted

amendment, an amendment to it was now out of order. (45 H.J. Reg. 1317 (1937)).

Sec. 4.322. MOTIONS ON A DIFFERENT SUBJECT OFFERED AS AMENDMENTS

No motion or proposition on a subject different from the subject under consideration shall be admitted as an amendment or as a substitute for the motion or proposition under debate. "Proposition" as used in this section shall include a bill, resolution, joint resolution, or any other motion which is amendable.

Amendments pertaining to the organization, powers, regulation, and management of the agency, commission, or advisory committee under consideration are germane to bills extending state agencies, commissions, or advisory committees under the provisions of the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes).

EXPLANATORY NOTES

1. The fact that rules of the house provide that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment, and the further fact that the constitution declares no bill shall be so amended in its passage through either house as to change its original purpose, narrows the scope of germaneness to such an extent that often many amendments are excluded which relate to the general subject of the original proposition but which so change the original purpose of the bill or proposition by the elimination of essential parts thereof or by adding new matter on the same subject or by alterations in essential points. This necessarily limits and restricts amendments that are germane to any

subject. The fact that there is no protection in the courts against the violation of the constitutional provision which prohibits changing the purposes of bills, makes it imperative that a presiding officer, as well as members, strictly construe the rule and use due precaution in the determination of the germaneness of an amendment.

2. Some Texas legislative precedents relating to germaneness are given below. The amendment is stated first with the matter it seeks to amend, change or displace stated second. The number of the legislature and the session are given in parentheses.

GERMANE: An amendment to provide for election of comptroller of public accounts and other officers by adding these to a joint resolution to elect governor, lieutenant governor and attorney general at same time and place as members of legislature. (41st Reg.)

An amendment providing the act under consideration shall not affect royalties now being received by the state from river, bayou or lake beds, to a bill validating all patents to certain lands along rivers and giving the owners thereof all royalties. (41st Reg.)

An amendment to prohibit railroads from owning an interest in any motor carrier, to a bill regulating motor carriers transporting property over the highway for hire. (42nd Reg.)

An amendment to have a joint session of the house and the senate to hear evidence from commissioner of agriculture, comptroller and treasurer of the state as to disposition of certain moneys mentioned in the resolution, to a resolution for the purpose of hearing evidence to be presented by commissioner of agriculture and such

other evidence to substantiate the charges set out in the resolution. (44th Reg.)

An amendment to place rangers under bond to a bill creating department of public safety to which rangers were transferred from the adjutant general's department. (44th Reg.)

An amendment to provide a literacy test for voters to a joint resolution abolishing poll tax and allowing the legislature to provide for registration of voters. (44th Reg.)

NOT GERMANE: An amendment to include control and the regulation of the natural gas industry to a bill making gas pipe lines common carriers. (44th Reg.)

An amendment granting permission to one person to have a cigar stand in capitol to resolution granting permission to another person. (44th Reg.)

An amendment to limit the weight of all trucks on highways by allowing variation of ten per centum of gross weight, to a bill providing schedule of weights to determine the load weight of lumber. (44th Reg.)

An amendment to pay a reward for bank robbers to bill creating bank deposit insurance funds. (43rd, 1st C.S.)

An amendment to place tax on natural gas to bill appropriating money for the centennial. (43rd Reg.)

An amendment repealing the law creating the board of pardons and paroles to a bill moving the board from Austin to Huntsville. (43rd Reg.)

An amendment to change the license fee on motor cars and trucks to a bill requiring a tax receipt for ad valorem taxes before registration. (43rd Reg.)

An amendment relative to teachers' certificates to a bill relating to tuition charges of state schools. (43rd Reg.)

An amendment to add light and power

companies to a bill relating to ready-to-serve charges of natural gas companies. (43rd Reg.)

An amendment taxing cigars to a bill placing a tax on natural gas and regulating the industry. (43rd Reg.)

An amendment to pay expenses of eradication of ticks to a bill to pay claims of losses in eradication of pink bollworm. (43rd Reg.)

An amendment creating a road bond and indebtedness assumptions plan to a bill relating to tax on gasoline and collection thereof. (42nd Reg.)

An amendment to provide an appropriation for relief to DeSoto school district to a bill making appropriation to the Frost independent school district. (42nd Reg.)

An amendment making the act apply to all the state to a bill making a closed season on quail in Howard County. (42nd Reg.)

An amendment making it a misdemeanor to make false reports relative to milk or false test of milk or butterfats, and providing an appropriation to carry into effect the provision of the act, to a deficiency appropriation bill. (42nd Reg.)

An amendment placing a gross production tax on the production of oil to bill providing for the county tax collector to collect a tax or license fee from cigarette dealers. (42nd, C.S.)

An amendment not to permit a truck to have more than twenty-five gallons of gasoline for purposes of operation to a bill licensing chauffeurs of trucks. (42nd, 3rd C.S.)

An amendment striking out commissioner of agriculture and substituting therefor authorities at A. & M. College, to a bill making ginners obtain license from commissioner of agriculture. (41st Reg.)

An amendment inserting drugs, groceries,

and dry goods industries to a bill making the ice industry a public business. (41st Reg.)

HOUSE PRECEDENTS

1. In the 54th Legislature, the speaker, Mr. Lindsey, held that any bill which sought to change a particular article of the statutes by re-enacting same, with a portion thereof changed, would be subject to any germane amendment. He pointed out that, despite the fact that the author claimed the "purpose" of the bill was to make a certain change (e.g., by deleting a portion of an article), whenever the entire article was exposed in the bill, the chair would be without authority to rule out any germane amendment thereto. This ruling was in keeping with similar rulings over a period of many years.

2. Substitute amendments must be germane to original amendments. For example, in the 56th Legislature, 2nd Called Session, the speaker, Mr. Carr, ruled that an amendment striking out an entire section of a bill could not be offered as a substitute for a minor amendment to the section. He noted that the amendment striking out the entire section could be offered regardless of the fate of the minor amendment.

3. EXAMPLE OF AN AMENDMENT THAT IS NOT GERMANE.--The house was considering House Bill No. 341, "An Act making appropriation to be used for the erection of a monument in the City of Crockett, Houston County, in memory of David Crockett."

Mr. Cox of Lamar offered the following amendment: Amend House Bill No. 341, by striking out the words "Crockett, Houston County," and add in lieu thereof, "on the Capitol grounds at Austin, Texas."

Mr. Sanford raised the point of order on

further consideration of the amendment on the ground that it was not germane to the purposes of the bill.

The speaker, Mr. Satterwhite, sustained the point of order. (39 H.J. 1 C.S. 1169 (1926)).

4. ANOTHER EXAMPLE OF AN AMENDMENT THAT IS NOT GERMANE.--The house was considering H.B. 267, an act banning liquor advertisements. Mr. Harris of Dallas offered an amendment seeking to include "tobaccos" under the terms of the bill.

Mr. Harris of Dickens raised a point of order that the amendment was not germane to the purpose of the bill.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 683 (1937)).

5. AN AMENDMENT AMENDING IN MAJOR PARTICULARS AN EXISTING LAW IS GERMANE TO A BILL SEEKING TO REPEAL THE LAW.--Under a congressional precedent of many years standing, followed in the house, if an amendatory bill vitally affects "a whole law so as to bring the entire act under consideration," an amendment providing for repeal of the law is germane.

Conversely, in the 56th Legislature, Regular Session, the speaker, Mr. Carr, held that an amendment to a bill which vitally affected a whole law, i.e., bringing a major portion of the entire act under consideration in the amendment, was germane to a bill proposing the repeal of the law.

6. EXAMPLE OF AN AMENDMENT NOT GERMANE BECAUSE IT WAS EXACTLY OPPOSITE TO THE PURPOSE OF THE BILL UNDER CONSIDERATION.--The house was considering H.B. 189, and Mr. Aynesworth offered an amendment. Mr. Young raised the point of order on further consideration of the amendment on the ground that it sought to permit exactly what the bill sought to prohibit, thus changing the original purpose

of the bill.

The speaker, Mr. Senterfitt, sustained the point of order. (52 H.J. Reg. 519 (1951)).

This ruling agrees with others in the past. Often attempts have been made to reverse completely the purposes of bills by amendment, sometimes the changing or addition of single words so as to "permit" rather than "prohibit." These are obviously violations of the constitution. In the proceedings above cited the opponents of the bill could have rejected it by any one of several parliamentary routes had enough votes been available.

7. AN AMENDMENT ADDING ONE OR MORE DISTINCT PROPOSITIONS TO A BILL CONTAINING ONE DISTINCT PROPOSITION IS NOT GERMANE EVEN IF THE PROPOSITIONS TO BE ADDED ARE OF THE SAME CLASS AS THE ORIGINAL PROPOSITION.--The house was considering H.B. 277, "An Act providing relief for the Old Glory Rural High Common School District No. 4 of Stonewall County . . . ." by making an appropriation to replace buildings, etc., destroyed by fire. A committee amendment was pending which proposed to add to the bill appropriations for several other destroyed buildings in other counties of the state. Many amendments were adopted to the committee amendment which added still more appropriations for similar purposes.

Mr. Knetsch raised a point of order against the committee amendment as amended on the ground that it sought to change the purpose of the bill by way of adding other distinct propositions.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 617 (1937)).

8. HOUSE MAY BY AMENDMENTS ATTACH CONDITIONS TO AN APPROPRIATION.--The house was considering the general appropriation bill when Mr. Terrell of Travis offered an

amendment to the Treasury Department as follows:

"The appropriation herein made for salary for clerks shall not be paid to more than two clerks who may be related to the State Treasurer in the third degree of consanguinity or affinity."

Mr. Bertram raised a point of order on consideration of the amendment on the ground that it is not germane to the bill.

The speaker, ruling on the point of order raised by Mr. Bertram, said:

"The Chair thinks that this amendment is a condition attached to an appropriation, upon failure to comply with which the appropriation will cease to be effective. If this view is correct, the amendment is germane and does not amount to legislation on a different subject from that under consideration, more particularly so since the clerks whose qualifications are in a measure prescribed by this amendment are, it seems not statutory officers, but merely employees filling places created by the biennial appropriation bill." (29 H.J. 1 C.S. 94 (1905)).

9. THE LEGISLATURE CANNOT AMEND EXISTING STATUTE BY AN AMENDMENT TO AN APPROPRIATION BILL.--Mr. Beck offered an amendment to House Bill No. 167 so as to combine the Board of Mineral Development with the Board of Water Engineers.

Mr. Van Zandt raised a point of order on further consideration of the amendment by Mr. Beck, on the ground that the amendment attempts to amend a statute through an appropriation bill.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. Reg. 1090 (1933)).

10. MATTER INCIDENT TO THE MAIN PURPOSE OF A BILL IS GERMANE, AND ITS ADDITION DOES NOT CONSTITUTE A SECOND "SUBJECT" IN THE MEANING OF THE CONSTITUTION.--The house was

considering H.B. 48, providing for old age assistance. Mr. Farmer offered a substitute bill in the form of an amendment.

Mr. Gibson raised a point of order against consideration of the amendment on the ground that it was not germane to the original bill since the amendment sought to levy a tax on certain natural resources for payment of the old age assistance, whereas the original bill did not seek to levy a tax; and on the further ground that if the amendment were adopted the bill would contain two subjects in violation of the constitution, namely, old age assistance and taxation.

The speaker, Mr. Calvert, overruled the point of order, stating that any matter incidental to carrying out the provisions of an act was germane; and also, since the tax feature was incidental to the main proposition, in his opinion the bill did not contain two distinct subjects within the meaning of the constitution. (45 H.J. Reg. 458 (1937)).

11. AMENDMENTS MUST BE GERMANE, AND WHILE THE HOUSE RULE RELATING TO GERMANENESS CAN BE SUSPENDED, YET THE CONSTITUTIONAL SECTION CONTAINING THE SAME REQUIREMENT CAN NOT BE SUSPENDED.--The house was considering H.B. 72, and Mr. Alexander offered the committee amendment to the bill. Mr. Mays raised the point of order that the amendment was not germane to the bill.

The speaker, Mr. Calvert, sustained the point of order.

On motion by Mr. Thornton the house rule relating to germaneness was suspended for the purpose of admitting the amendment. Whereupon Mr. Knetsch raised a point of order against further consideration of the committee amendment on the ground that while it was proper to suspend a house rule, Sec. 30 of Art. 3 of the constitution, which

requires germaneness, could not be suspended.

The speaker sustained the point of order. (45 H.J. Reg. 767 (1937)).

12. GENERAL STATEMENT AS TO GERMANENESS.--The house was considering S.B. 305 and Mr. Pearcy offered an amendment to add emotionally disturbed children to the statute enumeration of exceptional children. The bill proposed to change the age classification to the existing enumeration. In sustaining the point of order that the amendment was not germane, the speaker ruled, (in part):

"In general, the only purpose of an objection to germaneness is that the proposed amendment is a motion upon a subject different from that under consideration. Its purpose is to prevent hastily and ill-considered legislation, to prevent matters from being presented for the consideration of the body which might not reasonably be anticipated.

"It is well settled that an amendment to an existing law and relating to the terms of the law rather than to the bill are not germane. Where an amendment does not vitally affect the entire present law, amendments to that same law have been held not necessarily germane.

"In other words the rule of germaneness applies to the relation between the proposed amendment and the pending bill; and not to the relation between such amendment and existing law of which the pending bill is amendatory." (58 H.J. Reg. 1733 (1963)).

An amendment (1) adding a new tax, (2) raising or lowering an existing tax, or (3) eliminating a tax altogether is basically germane to an "omnibus tax bill"; provided, however: (a) the proposed tax is constitutional, (b) the tax feature is clearly paramount, and (c) the proposed tax

does not involve an illegal act. The two precedents following illustrate two of these limitations.

13. AN AMENDMENT RULED NOT GERMANE TO A TAX BILL BECAUSE THE TAX INVOLVED AN ILLEGAL ACT.--In the Fifty-sixth Legislature, 2nd Called Session, the speaker, Mr. Carr, ruled out of order as not germane an amendment to an omnibus tax bill which would have levied a tax on the sale in dry territory of liquor illegally distilled therein. He maintained that to levy such a tax would give semblance of legality to that which by law is specifically declared illegal.

14. EXAMPLE OF WHERE THE MAJOR PURPOSE OF AN AMENDMENT DETERMINED ITS GERMANENESS; AMENDMENT HELD NOT GERMANE.--The house was considering H.B. 8, an omnibus tax bill, when Mr. Dwyer and Mr. Bean offered an amendment which would permit the sale of liquor by the drink and levy certain taxes on the sale thereof. Mr. Hanna and Mr. Blankenship raised the point of order that the amendment was not germane on the ground that its major purpose was to legalize the sale of liquor by the drink in violation of existing law, the tax feature being of secondary importance.

The speaker, Mr. Homer Leonard, sustained the point of order. (47 H.J. Reg. 1123 (1941)).

15. BODY OF A BILL, NOT ITS CAPTION, MUST BE USED AS THE BASIS OF DETERMINING GERMANENESS OF AN AMENDMENT.--An amendment was pending to H.B. 100. Mr. Love raised a point of order on its consideration on the ground that "it does not conform to the caption of the bill."

The speaker, Mr. Daniel, overruled the point of order, explaining that the body of a bill rather than its caption must be examined to determine germaneness. He pointed out further that the rules allow

amending captions to conform to bodies of bills after they have been decided upon, and any amendment that comes under the germaneness rules may be considered regardless of whether or not the original caption properly reflected the content of the bill. (48 H.J. Reg. 699 (1943)).

16. SEVERAL TYPES OF AMENDMENTS HELD NOT GERMANE, PARTICULARLY RELATING TO CHANGING LOCAL BILLS INTO GENERAL BILLS AND VICE VERSA.--At various times during the 50th Legislature the speaker, Mr. Reed, and in the 51st Legislature, the speaker, Mr. Manford, held the following types of amendments out of order as being not germane:

a. Making a general bill out of a local bill.

b. Exempting a single county or group of counties from the terms of a general bill by statements of exemption.

c. Making a local bill out of a general bill by specifying arbitrarily that it be not applicable to any except a single county or group of counties.

d. Restricting a general bill by some arbitrary and illogical population specification such as "not applicable to cities of 3,000 or less."

CONGRESSIONAL PRECEDENTS ON GERMANE AMENDMENTS

Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest (H.P., 5, 5783, 5803). The rule that amendments should be germane applies to amendments reported by committees (H.P., 5, 5806). The rule of germaneness applies to the relation between a proposed amendment and the pending bill to

which offered and not to the relation between such amendment and an existing law of which the pending bill is amendatory (C.P., 8, 2909). The rule providing that amendments must be germane has been construed as requiring that the fundamental purpose of an amendment be germane to the fundamental purpose of the bill to which it is offered (C.P., 8, 2911). The burden of proof of the germaneness of an amendment rests upon its proponents (C.P., 8, 2995).

Under the later practice an amendment should be germane to the particular paragraph or section to which it is offered (H.P., 5, 5811-5820), and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered (H.P., 5, 5822). To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane. (Speaker Reed, H.P., 5, 5808; also ruled by Speaker Cannon, Apr. 1, 1910, 61st Cong., 1st Sess., p. 4144; Speaker Clark, Dec. 5, 1912, 62nd Cong. 3rd Sess.) So to a legislative section in a general appropriation bill amending one section of the criminal code, a provision amending the criminal code in other particulars was held not germane. (Speaker Clark, Jan. 16, 1917, 64th Cong., 2nd Sess., p. 1487.) A bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit an amendment to any portion of the act sought to be amended by the bill. (Chairman Anderson, June 10, 1921, p. 2415; Chairman Stafford, Dec. 10, 1921, p. 200.) To a bill amendatory of existing law in one particular a proposition to amend the law in another particular is not germane. (C.P., 8, 2937.) An amendment to a bill amendatory of an

existing law as to one specific particular, an amendment relating to the terms of the law rather than to the terms of the bill was held not to be germane (C.P., 8, 2916). An amendment germane to the bill as a whole, but hardly germane to any one section, may be offered at an appropriate place with notice of motions to strike out the following sections which it would supersede (H.P., 5, 5823).

In determining whether or not an amendment be germane, certain principles are established:

(a) One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following are not germane: To a bill proposing the admission of one territory into the union, an amendment for admission of another territory (H.P., 5, 5529); to a bill for the relief of one individual, an amendment proposing similar relief for another (H.P., 5, 5826-5829); to a provision for extermination of the cotton bollweevil, an amendment including the gypsy moth (H.P., 5, 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (H.P., 5, 5833); to a bill prohibiting transportation of messages relating to dealing in cotton futures, an amendment adding wheat, corn, etc. (Speaker Clark, July 16, 1912, 62nd Cong., 2nd Sess., p. 9142.) To a bill prohibiting importation of goods "made in whole or in part by convict, pauper, or detained labor, or made in whole or in part from materials which have been made in whole or in part or in any manner manipulated by convict or prison labor," an amendment prohibiting importation of goods made by child labor was held not germane on the ground that labor described in bill constituted a single class of labor.

(Speaker Clark, Mar. 25, 1914, p. 5481, 2nd Sess., 63rd Cong.)

(b) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (H.P., 5, 5843-5846). Thus, the following are not germane: To a bill for the admission of one territory into the union, an amendment providing for the admission of several other territories (H.P., 5, 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (H.P., 5, 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill (H.P., 5, 5806-5808); to a bill merely extending and re-enacting an existing law, an amendment seeking to further amend the law (H.P., 5, 5806) (contra, Chairman Burton, Oct. 18, 1921, p. 6465, and Chairman Graham of Illinois, Apr. 28, 1924, p. 7419, 68th Cong., 1st Sess.); to a bill amending the war-time prohibition act in one particular, an amendment repealing that act. (Chairman Good, July 14, 1919, p. 2555.)

(c) A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several territories into the union, an amendment adding another territory (H.P., 5, 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (H.P., 5, 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (H.P., 5, 5839). But to a resolution authorizing a class of employees in the service of the house, an amendment providing for the employment of a specified

individual was held not to be germane. (H.P., 5, 5848, 5849).

(d) Two subjects are not necessarily germane because they are related. Thus the following have been held not to be germane: To a proposition relating to the terms of senators, an amendment changing the manner of their election (H.P., 5, 5882); to a bill relating to commerce between the states, an amendment relating to commerce within the several states (H.P., 5, 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (H.P. 5, 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the executive on that subject (H.P., 5, 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the government (H.P., 5, 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (H.P., 5, 5884); to a resolution proposing expulsion, an amendment proposing censure (Oct. 27, 1921, 67th Cong., 1st Sess.); to a general tariff bill, an amendment creating a tariff board (Chairman Garrett of Tennessee, May 6, 1913, 63rd Cong., 1st Sess., p. 1234; also Speaker Clark, May 8, 1913, 63rd Cong., 1st Sess., p. 1381; for ruling in full, see Sec. 947); to a proposition to sell two battleships and build a new battleship with the proceeds, a proposition to devote the proceeds to building wagon roads. (Speaker Clark, June 23, 1914, p. 10962, 53rd Cong., 2nd Sess.; see Sec. 952.)

To a law providing for the insurance of soldiers upon the payment of premiums, a proposition for the continuance of such insurance for two years without the payment

of premiums was held not germane. (Chairman Tilson, Sept. 13, 1919; see Sec. 915.) To a proposition appropriating money for a general increase in the salaries of employees for 1918, a provision making the same increase available for the remainder of 1917 was held not germane (Chairman Harrison of Mississippi, Dec. 19, 1916, 64th Cong., 2nd Sess., p. 559), as was also a proposition to establish a minimum wage among the employees affected by the bill (Chairman Harrison, Dec. 19, 1916, p. 571).

To a bill amending a general law in several particulars, an amendment providing for the repeal of the whole law was held germane (H.P., 5, 5824), but the bill amending the law must so vitally affect the whole law as to bring the entire act under consideration before the chair will hold an amendment repealing the law or amending any section of the law germane to the bill. (Speaker Gillett, June 19, 1919, see Sec. 950; Chairman Madden, Apr. 2, 1924, p. 5437, 68th Cong., 1st Sess.)

(e) An amendment which is germane, not being "on a subject different from that under consideration," belongs to a class illustrated by the following: To a bill providing for an interoceanic canal by one route, an amendment providing for a different route (H.P., 5909); to a bill providing for the reorganization of the army, an amendment providing for the encouragement of marksmanship (H.P., 5, 5910); to a proposition to create a board of inquiry, an amendment specifying when it shall report (H.P., 5, 5915); to a bill relating to "oleomargarine and other imitation dairy products," an amendment on the subject of "renovated butter" (H.P., 5, 5919); to a resolution rescinding an order for final adjournment, an amendment fixing a new date therefor (H.P., 5, 5920).

Sec. 4.323. AMENDING A BILL TO CHANGE ITS ORIGINAL PURPOSE

No bill shall be amended in its passage through either house so as to change its original purpose.

EXPLANATORY NOTES

See Const., Sec. 30, Art. 3.

Sec. 4.324. AMENDMENTS TO BILLS ON LOCAL AND CONSENT CALENDARS

Amendments to a bill shall not be in order during its consideration on a local calendar or on a consent calendar, unless the amendments have first been submitted to and approved by the Committee on Local and Consent Calendars, which shall be noted thereon by the chair of the Committee on Local and Consent Calendars prior to the offering of the amendments.

Sec. 4.325. AMENDMENTS ON THIRD READING

When a bill has been taken up on its third reading, amendments shall be in order, but shall require a two-thirds vote of the members present for their adoption. A bill on third reading may be recommitted to a committee and later reported to the house with amendments, in which case the bill shall take the course of a bill at its second reading. After all amendments have been disposed of, the question shall be on the final passage of the bill.

Sec. 4.326. COPIES OF AN AMENDMENT

(a) Five copies of each amendment shall be filed with the speaker. When the amendment is read, two copies shall go to the chief clerk, one copy to the journal clerk, one copy to the

reading clerk, and one copy to the speaker. No amendment offered from the floor shall be in order unless the sponsoring member has complied with the provisions of this subsection with respect to copies of the amendment.

(b) Prior to the time that an amendment is offered, if the amendment exceeds one page in length, the sponsoring member must provide to the chief clerk a minimum of 15 copies to be available for distribution to those members requesting copies of the amendment.

(c) If the amendment is only one page in length or less, the sponsoring member must provide one additional copy of the amendment to the chief clerk, who shall immediately proceed to have additional copies made and available for those members requesting copies of the amendment.

(d) The provisions of this subsection with respect to extra copies shall not apply to committee amendments or to amendments which do nothing more than delete material from the bill or resolution.

EXPLANATORY NOTES

Individual committee amendments must be offered on the floor of the house before they can be considered.

HOUSE PRECEDENTS

FULL READING OF AN AMENDMENT.--In the 55th Legislature, Regular Session, Speaker Carr ruled that after the house had dispensed with the full reading of an amendment, a full reading thereof could be obtained only by an affirmative vote to have it read in full or by a reconsideration of the initial dispensing motion. Requiring only a majority vote in either case, the house directed a full reading.

Sec. 4.327. ORDER OF OFFERING MOTIONS TO AMEND

Classes of motions to amend shall be offered in the following order:

(1) motions to amend by striking out the enacting clause of a bill (or the resolving clause of a resolution), which amendment cannot be amended or substituted;

(2) motions to amend an original bill, resolution, motion, or proposition (other than substitute bills as provided for in Subdivision (3) below), which shall have precedence as follows:

(A) original amendment;

(B) amendment to the amendment;

(C) substitute for the amendment to the amendment.

Recognition for the offering of original amendments shall be as follows: first, the main author; second, the member or members offering the committee amendment; and third, members offering other amendments from the floor;

(3) motions to amend an original bill by striking out all after the enacting clause (substitute bills), which substitute bills shall be subject to amendment as follows:

(A) amendment to the substitute bill;

(B) substitute for the amendment to the substitute bill.

Recognition for offering such substitute bills shall be as follows: first, the main author of the original bill, if the member has not sought to perfect the bill by amendments as provided for in Subdivision (2) above; second, the member or members offering the committee amendment; and, third, members offering amendments from the floor.

It shall be in order under the procedure described in this subdivision to have as many as four complete measures pending before the

house at one time; that is, an original bill, an amendment striking out all after the enacting clause of the bill and inserting a new bill body, an amendment to the amendment striking out all after the enacting clause of the bill and inserting a new bill body, and a substitute for this amendment to the amendment to the original bill which is also a new bill body. These "substitute bills" shall be voted on in the reverse order of their offering;

(4) motions to amend the caption of a bill or joint resolution, which may also be offered in accordance with Section 4.329(a).

EXPLANATORY NOTES

1. Usually, the author of a bill offers the individual committee amendments; but he is free, under the above provision, to offer any he pleases. Individual committee amendments can be offered as such, or as substitutes, by others if the author does not choose to offer them.

2. When a substitute is adopted for an amendment to an amendment, the parliamentary right of authorship moves to the author of the substitute, i.e., he can close the debate directly, or under a motion to table or under the previous question.

3. See Secs. 4.162, 4.203, and 4.205.

4. The proper way to substitute a new bill from the floor is to offer two amendments, one striking out all after the enacting clause and inserting a new body, and the other striking out all before the enacting clause and inserting a new caption, if needed.

HOUSE PRECEDENTS

1. DEFEATED AMENDMENTS OFFERED AGAIN.--In the 51st Legislature, the speaker, Mr. Manford, ruled that if an amendment to one "substitute bill," allowed under Sec. 4.327 is defeated, and another complete bill body is offered in the proper manner, the defeated amendment may again be offered.

2. DEFEATED AMENDMENTS OFFERED AGAIN.--In the 54th Legislature, the speaker, Mr. Lindsey, ruled that although the practice for many years had decreed that if an amendment is lost or tabled, another of the same import is not in order at the same reading or stage of the bill (with which he agreed), yet it would be entirely in order, where the house has refused to adopt an amendment to an amendment, to consider same later as a direct amendment to the bill under consideration.

CONGRESSIONAL PRECEDENTS

MOTION TO STRIKE OUT ENACTING CLAUSE.--The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending (H.P., 5, 5328-5331), but the motion to strike out the enacting clause is not subject to amendment (C.P., 8, 2626).

RELATION OF MOTION TO AMEND TO OTHER MOTIONS.--The motions to postpone, refer, amend, . . . may be amended (H.P., 5, 5754), but the motions to lay on the table, to adjourn, and for the previous question may not be amended (H.P., 5, 5754).

Sec. 4.328. STRIKE OUTS AND INSERTIONS

(a) A motion to strike out and to insert

new matter in lieu of that to be stricken out shall be regarded as a substitute and shall be indivisible.

EXPLANATORY NOTES

1. The above is taken from a rule of congress which continues, "but a motion to strike out being lost shall neither preclude amendments nor motion to strike out an insert."

2. An amendment to strike out and insert is an acceptable substitute for an amendment to strike out.

(b) Matter inserted or stricken out of an original bill by way of amendment may not be taken out or reinserted at a later time on the same reading except under the following conditions:

(1) reconsideration of the inserting or deleting amendment;

(2) adoption of a "substitute bill" amendment;

(3) adoption of an amendment for a whole paragraph, section or subdivision of a bill which so materially changes the original text that the portion inserted or deleted is in fact of minor importance.

EXPLANATORY NOTES

"Matter inserted," as used in the above section, means any matter inserted in a bill by way of amendment. Such matter would, of course, be discarded in case a new bill, in amendment form, is adopted.

HOUSE PRECEDENTS

AN AMENDMENT TO STRIKE OUT ONLY MATTER PREVIOUSLY INSERTED IN A BILL AT THE SAME READING IS NOT IN ORDER UNLESS RECONSIDERATION IS ORDERED.--Mr. Bolin offered the following amendment:

"Amend the bill as amended by striking out the word 'lawyer' wherever it appears in the bill."

Mr. Hancock raised a point of order for the reason that the house had just inserted such amendment in the bill and had tabled a motion to reconsider the same.

The point of order was sustained. (28 H.J. Reg. 175 (1903)).

Sec. 4.329. AMENDING CAPTIONS

(a) An amendment to the caption of a bill or resolution shall not be in order until all other proposed amendments have been acted on and the house is ready to vote on the passage of the measure, and it shall then be decided without debate.

EXPLANATORY NOTES

1. Recently the house has permitted the motion "to amend the caption to conform to the body of the bill" to be made instead of requiring a definite amendment. This is a dangerous practice in some instances and a time-saver in others. When such a motion is carried the author of the bill or his representative should see that the caption is written properly.

2. The rules were amended by the 56th Legislature to empower the engrossing and enrolling clerk to amend captions to conform to bill bodies, upon the approval of authors. This, of course, applies only to house bills. Also, the new rule renders the

above section of little value. However, the new rule would not preclude the offering of caption amendments on the floor if such was desired.

(b) If the previous question has been ordered on a bill or joint resolution at any reading, an amendment to the caption of that bill or joint resolution may be offered and voted on immediately preceding the final vote on the bill or joint resolution.

EXPLANATORY NOTES

See Sec. 4.203.

Sec. 4.330. MOTION TO LIMIT AMENDMENTS

(a) A motion to limit amendments shall be admitted only when seconded by 25 members. The motion may take either of two forms:

(1) to limit amendments to those pending before the house; or

(2) to limit amendments to those pending on the speaker's desk.

(b) The motion shall be put by the chair in this manner: "The motion has been seconded. Three minutes pro and con debate will be allowed on the motion to limit amendments." As soon as the debate has ended, the chair shall continue: "As many as are in favor of limiting amendments on (here state on which question or questions) will say 'Aye,'" and then "As many as are opposed say 'Nay.'" As in all other propositions, a motion to limit amendments shall be decided by a record vote if demanded by three members. If ordered by a majority of the members voting, a quorum being present, the motion shall have the effect of confining further debate and consideration to those amendments included within the motion, and thereafter the chair will accept no more amendments to the

proposition to which the motion is applied.

(c) The motion to limit amendments, if adopted, shall not in any way cut off or limit debate or other parliamentary maneuvers on the pending proposition or propositions or amendment or amendments included within the motion. The sole function of the motion is to prevent the chair from accepting further amendments to the proposition to which the motion is applied.

(d) Except as otherwise provided, the motion to limit amendments shall have no effect on the parliamentary situation to which the motion is applied, and the matter to which the motion is applied shall continue to be considered by the house in all other respects as though the motion had not been made.

(e) The amendments that are included within the motion to limit amendments shall each be subject to amendment, if otherwise permitted under the rules.

Sec. 4.331. MOTION TO TABLE A MOTION TO LIMIT AMENDMENTS

The motion to limit amendments is not subject to a motion to table.

Sec. 4.332. ORDER OF VOTING ON AMENDMENTS

When an amendment is offered, followed by an amendment to that amendment, and then a substitute for the amendment to the amendment, these questions shall be voted on in the reverse order of their offering.

Sec. 4.333. CERTIFICATION OF ADOPTION OF AMENDMENTS

When an amendment is adopted, such action shall be certified by the chief clerk on the amendment, and the official copy of the amendment shall then be securely attached to

the bill or resolution which it amends.

ADDITIONAL NOTES ON AMENDMENTS

HOUSE PRECEDENTS

1. AMENDMENTS SHOULD BE CLEAR IN DIRECTIONS AND MEANING.--The house was considering a house resolution, and the following amendment was offered: "Amend the resolution by eliminating the condemnation of the building just erected at Tyler from this resolution."

Mr. Johnson of Dimmit raised a point of order on further consideration of the amendment on the ground that it was indefinite.

The speaker, Mr. Barron, sustained the point of order. (41 H.J. 4 C.S. 52(1929)).

This type of amendment is encountered frequently. Amendments should be drawn carefully and made definite. An amendment accurately written cannot be questioned as to meaning. It is often difficult for clerks to determine the meaning of amendments, and frequently the time of the house has to be taken to correct some vaguely written amendment. Sometimes a whole law has to be re-enacted to correct some part made indefinite or meaningless by a poorly drawn amendment.

2. AN AMENDMENT LOST ON A SECOND READING OF A BILL IS IN ORDER ON A THIRD READING.--An amendment which had been voted down on the second reading of a bill was offered while the bill was on third reading.

Mr. O'Quinn raised a point of order on consideration of the amendment, stating that it should not be entertained, for the reason that the same proposition had been submitted, voted on and lost on the second reading of the bill.

The chair overruled the point of order,

stating that as this is a different stage in the progress of the bill, the amendment was in order. (28 H.J. Reg. 212 (1903)).

3. AN AMENDMENT RULED OUT OF ORDER AT A CERTAIN STAGE OF THE PROCEEDINGS MIGHT BE IN ORDER AT ANOTHER TIME.--Mr. Jennings' substitute was not germane to Mr. Ray's amendment to the bank bill, but was germane to the original bill.

Mr. Ray raised a point of order on consideration of the amendment on the ground that the amendment was not in order, for the reason that the subject matter thereof had already been before the house one time in the form of an amendment, and killed by the ruling of the chair.

Overruled. (31 H.J. Reg. 555 (1909)).

4. IF AN AMENDMENT IS LOST OR TABLED, ANOTHER ONE OF THE SAME IMPORT IS NOT IN ORDER ON THE SAME READING OR STAGE OF THE BILL.--Mr. Shropshire offered the following amendment to an amendment:

"Amend by inserting after the word 'service,' in line 30, page 1, the following: 'Or issue to any person other than any employee of said railroad any free pass or permit to ride over said railroad.' Strike out all of Section 2, page 2."

Mr. Wooten raised the point of order that the amendment was not in order, for the reason that a similar amendment had been tabled.

Sustained (26 H.J. Reg. 1193 (1899)).

5. IT IS NOT NECESSARY TO CORRECT A TYPOGRAPHICAL ERROR IN A PRINTED BILL IF THE ORIGINAL BILL IS CORRECT.--Mr. Peyton offered an amendment to House Bill No. 12 to correct a typographical error in the printed bill.

Mr. Bryan raised a point of order on further consideration of the amendment, on the ground that its adoption would make no change in the original bill, but would only

correct a typographical error in the printed bill.

The speaker, Mr. Fuller, sustained the point of order. (35 H.J. 1 C.S. 169 (1917)).

6. THE CHAIR DOES NOT RULE ON THE EFFECT OR CONSISTENCY OF AMENDMENTS.--The house was considering H.J.R. 10 when Mr. Jones of Wise offered an amendment.

Mr. McKee raised a point of order against consideration of the amendment on the ground that it was in direct conflict with an amendment previously adopted.

The speaker, Mr. Calvert, overruled the point of order, stating that it was not the duty of the chair to construe the effect or determine the consistency of amendments. (45 H.J. Reg. 1899 (1937)).

7. CASE WHERE AN AMENDMENT AND ACTION THEREON WAS RULED OUT BECAUSE THE AMENDMENT HAD BEEN CHANGED AFTER BEING READ TO THE HOUSE AND WITHOUT ITS KNOWLEDGE.--The house was considering H.B. 136. An amendment was offered, was read to the house, and then adopted. Mr. Westbrook then raised the point of order that the words "and snuff" were added to the amendment by its author after it was read to the house and without its knowledge and that such action was sufficient reason for the speaker to declare the amendment and the action of the house thereon null and void.

The speaker, Mr. Daniel, sustained the point of order, stating that the house could not be held to action taken on an amendment which had been changed without its knowledge. (48 H.J. Reg. 1024 (1943)).

CONGRESSIONAL PRECEDENTS ON AMENDMENTS

A proposed amendment may not be accepted by the member in charge of the pending measure, but can be agreed to only by the house (H.P., 5, 5756, 5757). It is not in order to offer more than one motion to amend at a time (H.P., 5, 5755). A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words (H.P., 5, 5769). To a motion to insert words in a bill a motion to strike out certain words of the bill may not be offered as a substitute (H.P., 5, 5790). If a portion of a proposed amendment be out of order, the whole of it must be ruled out (H.P., 5, 5784). When it is proposed to amend by inserting a paragraph, it should be perfected by amendment before the question is put on inserting (H.P., 5, 5758). A negative vote on a motion to strike out and insert does not prevent the offering of another similar motion or a simple motion to strike out (H.P., 5, 5758). It is in order to insert by way of amendment a paragraph similar (if not actually identical) to one already stricken out by amendment (H.P., 5, 5760). After a vote to insert a new section in a bill, it is too late to perfect the section by amendment (H.P., 5, 5761, 5762).

Words inserted by amendment may not afterwards be changed, except that portion of the original paragraph including the words so inserted, may be stricken out, if, in effect, it presents a new proposition, and a new coherence may also be inserted in place of that stricken out (H.P., 5, 5758). It is not in order to amend an amendment that has been agreed to; but the amendment, with other words of the original paragraph, may be stricken out in order to insert a new text of a different meaning (H.P., 5, 5763).

It is not in order to offer an amendment identical with one previously disagreed to (C.P., 8, 2834). If a proposed amendment is not susceptible to any other interpretation than that which might reasonably be given an amendment previously rejected it is not admissible (C.P., 8, 2835). While not in order to insert by way of an amendment a paragraph similar to one already stricken out, an amendment will not be ruled out for that reason unless practically identical (C.P., 8, 2839). It is in order to offer as an amendment a proposition similar, but not substantially identical, with one previously rejected (C.P., 8, 2838). A motion to strike out certain words being disagreed to it is in order to strike out a portion of those words (C.P., 8, 2858).

While it is not in order to strike out a portion of an amendment once agreed to, yet words may be added to the amendment (H.P., 5, 5764, 5765). A motion may be withdrawn in the house although an amendment to it may have been offered and be pending (H.P., 5, 5347). The fact that a proposed amendment is inconsistent with the text, or embodies a proposition already voted on, constitutes a condition to be passed upon by the house and not by the speaker (H.P., 2, 1327). A new bill may be engrafted by way of amendment on the words "Be it enacted," etc. (H.P., 5, 5781). A proposition offered as a substitute amendment and rejected may nevertheless be offered again as an amendment in the nature of a new section (H.P., 5, 5797).

CHAPTER 5. LEGISLATIVE MEASURES

SUBCHAPTER A. BILLS

Sec. 5.001. CONTENTS OF BILLS

Proposed laws or changes in laws must be incorporated in bills, which shall consist of:

(1) a title or caption, beginning with the words "A Bill to be Entitled An Act" and a brief statement of the subject of the proposed measure;

(2) an enacting clause, "Be It Enacted by the Legislature of the State of Texas"; and

(3) the bill proper.

EXPLANATORY NOTES

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

HOUSE PRECEDENTS

IF THE ENACTING CLAUSE APPEARS IN THE ORIGINAL COPY OF A BILL AS FILED, ITS OMISSION FROM THE PRINTED BILL IS IMMATERIAL.--Mr. Bolin raised a point of order on further consideration of a bill, stating that as the printed bill contains no enacting clause, there is nothing before the house.

The chair overruled the point of order, stating that the original bill on the speaker's table contained the enacting clause, and that the omission was clearly a mistake of the printer. (28 H.J. Reg. 786 (1903)).

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

error was involved.

CONGRESSIONAL PRECEDENTS

MOTION TO STRIKE OUT THE ENACTING CLAUSE.--Striking out the enacting clause of a bill constitutes its rejection (H.P., 5, 5326). On a motion to strike out the enacting clause a member may debate the merits of the bill, but must confine himself to its provisions (H.P., 5, 5336). See additional precedents after Sec. 4 of Rule XVIII.

Sec. 5.002. PUBLISHING ACTS IN THEIR ENTIRETY

No law shall be revived or amended by reference to its title. The act revived, or the section or sections amended, shall be reenacted and published at length.

EXPLANATORY NOTES

See Texas Const., Art. 3, Sec. 36.

Sec. 5.003. LIMITING A BILL TO A SINGLE SUBJECT

Each bill (except a general appropriations bill, which may embrace the various subjects and accounts for which money is appropriated) shall contain only one subject, which shall be expressed in its title.

Sec. 5.004. CHANGING GENERAL LAW THROUGH AN APPROPRIATIONS BILL

A general law may not be changed by the provisions in an appropriations bill.

EXPLANATORY NOTES

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

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

3. Since Sec. 49-a of Art. 3 of the constitution has become effective, whenever an appropriation bill is finally passed, the speaker declares, "The bill is finally passed subject to the provisions of Sec. 49-a of Art. 3 of the Constitution." This declaration is made and noted on the bill when such a bill is "finally passed" on its third reading, when senate amendments thereto are concurred in, or when a conference report thereon is adopted. Whenever the bill is finally passed by both houses, the chief clerk, if it is a house bill, enrolls the bill and then takes it to the comptroller for certification required in Sec. 49-a. The comptroller then returns the bill to the chief clerk and the bill is taken to the governor in the usual manner. See also annotation following Sec. 5.016 dealing with what constitutes an "appropriation" bill.

If, through an oversight, the speaker fails to make the declaration referred to, and it becomes apparent to the chief clerk that the bill does in fact contain an

appropriation, the chief clerk should nevertheless show the bill passed subject to Sec. 49-a of Art. 3 and take it to the comptroller for certification.

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

SUMMARY

"In order for a bill to be valid that makes an appropriation in excess of the cash and anticipated revenue of the funds from which such appropriation is to be made, it must contain an emergency and imperative public necessity clause (stating the emergency and necessity that requires the appropriation notwithstanding it exceeds such cash and anticipated revenue), and it must be passed by a four-fifths vote of the total membership of each House. If a bill that makes an appropriation in excess of the cash and anticipated revenues is passed with a less vote than four-fifths of the total membership of each House, or passes with a vote of four-fifths of such membership but not containing such emergency clause, same should be returned by the Comptroller, with a finding thereon that the appropriation therein exceeds the cash and anticipated revenue, to the House in which it originated. It would then have the same status as though it had never been voted upon, and would be subject to amendment as to either form or substance."

In the body of the opinion the attorney general held that an appropriation bill receiving a four-fifths vote in each house and containing a public necessity and

emergency clause, would not be controlled by any other provisions of Sec. 49-a if a deficit is created, but would go directly to the governor in the usual manner.

HOUSE PRECEDENTS

1. RULING CONCERNING THE SETTING OF "STATUTORY SALARIES" IN AN APPROPRIATION BILL.--The house was considering the departmental appropriation bill. Mr. Sparks offered an amendment changing the salary of the superintendent of education in the bill from $5,000 to $7,500 a year. Mr. McMurry raised a point of order on further consideration of the amendment on the ground that the salary was set by statute and therefore could not be raised in an appropriation bill. Incidentally, he assumed that the $5,000 figure was the statutory salary.

After a full investigation, the speaker, Mr. Gilmer, overruled the point of order in the light of the following facts: a. An old statute set this salary, among others, at $4,000. b. For many years the legislature had passed an act, effective for the ensuing biennium, in each case, suspending for that period the old statute and declaring the salaries set in the biennial departmental appropriation bills to be the statutory salaries. c. A bill with the purpose as just described was then pending before the house, already having passed the senate, and would undoubtedly become a law. d. In the event of failure of the legislature to pass the pending suspending bill, then the old statute would prevail over the appropriation bill and would thus automatically limit the appropriation. (49 H.J. Reg. 1966 (1945)).

2. POINT CONCERNING THE CONSTITUTIONALITY OF INCLUDING CERTAIN ITEMS

IN AN APPROPRIATION BILL BECAUSE OF LACK OF AUTHORITY IN EXISTING LAW; SPEAKER UNWILLING TO STRIKE AN ITEM FROM AN APPROPRIATION BILL ON A POINT OF ORDER.--The house was considering H.B. 216, the general appropriation bill. Mr. Hale raised a point of order against certain items therein as being unconstitutional and improperly included in an appropriation bill, the items in question authorizing the establishment of a field division of the Industrial Accident Board. Mr. Hale maintained that such was not authorized by existing law, that the provisions were equivalent to enacting new law, and that such items were included in violation of Sec. 35 of Art. 3 of the constitution.

In overruling the point of order the speaker, Mr. Carr, stated that in reviewing the statute creating the Industrial Accident Board he could find no prohibition, either direct or implied, against the establishment of a field office located away from Austin; that this character of appropriation is often used to expand structures of state departments; and, of even greater significance, that he would be unwilling to take the responsibility of striking an item from an appropriation bill on a "constitutional" point of order. He noted that this had been the attitude of speakers before him and that the house by amendment could, if it desired, remove the items to which Mr. Hale objected. (56 H.J. Reg. 1190 (1959)).

CONGRESSIONAL PRECEDENTS

LEGISLATION IN GENERAL APPROPRIATION BILLS.--A proposition to repeal law is legislation and is not in order in an appropriation bill (C.P., 7, 1403). A provision extending the operation of a

statute beyond the limit of time provided by law is legislation and is subject to a point of order (C.P., 7, 1402). A provision construing or interpreting existing law is legislation and is not in order in an appropriation bill (C.P., 7, 1395). A provision which under the guise of limitation repeals or modifies existing law is legislation and is not in order in an appropriation bill (C.P., 7, 1628). Where a limitation requires the violation of existing law in order to make an appropriation available, it constitutes legislation and is not in order in an appropriation bill (C.P., 7, 1630).

A proposition to increase the number of employees fixed by law was held to be legislation (C.P., 7, 1456). A proposition increasing rate of compensation fixed by law is legislation (C.P., 7, 1458). A limitation on the discretion exercised under law by an executive is a change of law (C.P., 7, 1437), and a proposition to establish affirmative directions for an executive officer constitutes legislation and is not in order in an appropriation bill (C.P., 7, 1442). A proper limitation is negative and in the nature of a veto, and when it assumes affirmative form by direction to an executive in the discharge of his duties under existing law it ceases to be a limitation and becomes legislation (C.P., 7, 1606). Whenever a purported limitation makes unlawful that which before was lawful or makes lawful that which before was unlawful it changes existing law and is not in order in an appropriation bill (C.P., 7, 1606).

An amendment descriptive of the object for which an appropriation is made is not legislation (C.P., 7, 1445). An amendment denying the use of an appropriation for a designated purpose is a simple limitation

and in order on an appropriation bill (C.P., 7, 1580).

Sec. 5.005. COAUTHORSHIP

Any member may become the coauthor of a bill or resolution by securing permission from the author. No action shall be required by the house, but it shall be the duty of the member seeking to be a coauthor to obtain written authorization from the author. This authorization shall be filed with the chief clerk at the same time that the coauthor signs the bill or resolution. The chief clerk shall report daily to the journal clerk the names of members filed as coauthors of bills or resolutions. If a coauthor of a bill or resolution desires to withdraw from such status, the member shall notify the chief clerk, who in turn shall notify the journal clerk.

EXPLANATORY NOTES

1. The house sponsor of a senate bill or resolution has all of the rights and privileges accorded a house author under the rules.
2. There is serious doubt that a member can become the coauthor of a bill after same has been passed by the house.

Sec. 5.006. FILING, FIRST READING, AND REFERRAL TO COMMITTEE

Each bill shall be filed with the chief clerk when introduced and shall be numbered in its regular order. Each bill shall be read first time by caption and referred by the speaker to the standing committee having jurisdiction as determined by the provisions of Subchapter A of Chapter 3.

Sec. 5.007. PREFILING

Beginning the first Monday after the general election preceding the next regular legislative session, or within 30 days prior to any special session, it shall be in order to file with the chief clerk bills for introduction in that session. On receipt of the bills, the chief clerk shall number them and make them a matter of public record, available for distribution. Once a bill has been so filed, it may not be recalled. This shall apply only to members-elect of the succeeding legislative session.

Sec. 5.008. DEADLINE FOR INTRODUCTION

Bills and joint resolutions introduced during the first 60 calendar days of the regular session may be considered by the committees and in the house and disposed of at any time during the session, in accordance with the rules of the house. After the first 60 calendar days of a regular session, any bill or joint resolution, except local bills, emergency appropriations, and all emergency matters submitted by the governor in special messages to the legislature, shall require an affirmative vote of four-fifths of those members present and voting to be introduced.

EXPLANATORY NOTES

When the house gives permission for the introduction of a bill or joint resolution under the above section, the chief clerk so endorses the original bill or joint resolution.

HOUSE PRECEDENTS

1. PERMISSION TO INTRODUCE A BILL AFTER THE DEADLINE.--During the Regular Session of the 47th Legislature, Speaker Homer Leonard established the precedent that when the house refused to grant permission for a member to introduce a bill (after the period of free introduction) a second or subsequent attempt to gain permission could come only after the house reconsiders the vote by which it refused introduction originally. If the author cannot get a majority or a two-thirds vote for consideration, there is little or no chance to get the required four-fifths vote for introduction. In the past authors have taken the time of the house day after day on requests for introduction of bills despite the fact that the house had previously refused to grant permission for introduction. The motion to reconsider permission to introduce is also acceptable unless bill has been read first time.

2. APPLICATION TO JOINT RESOLUTIONS.--In the 54th Legislature the speaker, Mr. Lindsey, held that the requirement for a four-fifths vote for introduction after the first sixty days of a regular session also applied to joint resolutions.

Sec. 5.009. NUMBER OF COPIES FILED

(a) Twelve copies of every bill, except bills relating to conservation and reclamation districts and governed by the provisions of Article XVI, Section 59, of the Texas Constitution, must be filed with the chief clerk at the time that the bill is introduced.

(b) Fourteen copies of every bill relating to conservation and reclamation districts and governed by the provisions of Article XVI, Section 59, of the Texas Constitution, with

copies of the notice to introduce the bill attached, must be filed with the chief clerk at the time that the bill is introduced if the bill is intended to:

(1) create a particular conservation and reclamation district; or

(2) amend the act of a particular conservation and reclamation district to:

(A) add additional land to the district;

(B) alter the taxing authority of the district;

(C) alter the authority of the district with respect to issuing bonds; or

(D) alter the qualifications or terms of office of the members of the governing body of the district.

(c) No bill may be laid before the house on first reading until it is in compliance with the provisions of this section.

EXPLANATORY NOTES

One copy is kept in a safe by the chief clerk.

Occasionally an original bill is lost, usually during committee consideration. At times bills are lost in the senate. Current procedure necessary to remedy the difficulty is to obtain a new copy, certified by the chief clerk of the house or the secretary of the senate, as the situation dictates, complete with all endorsements so as to show the exact status of the bill at the time it was lost. If a bill of one house is lost in the other, a resolution requesting a new copy, with all endorsements, from the house of origin, is in order, and the request must be granted as authorization for the substitution.

IDENTICAL COPIES OF BILLS MUST BE FILED WHEN INTRODUCED. CASE WHERE FAILURE TO DO SO CAUSED THE BILL TO BE RULED AS NOT LEGALLY INTRODUCED EVEN THOUGH SAME HAD REACHED SECOND READING.--H.B. 44 was laid before the house, and Mr. Fly raised a point of order on its further consideration on the ground that when it was introduced the author failed to comply with the then paragraph 2 of Sec. 1 of Rule 18 in that the original and the required copy were not identical, but rather there were significant differences between the two.

The speaker, Mr. Reed, after thoroughly investigating the facts concluded that, while the differences involved were due entirely to an oversight, yet they were of such a character as to be clearly in violation of the rule cited and, as a consequence, he ruled that the bill had never been legally introduced. In so ruling he held further that the point of order did not come too late when made on second reading of the bill. (50 H.J. Reg. 832 (1947)).

Sec. 5.010. LOCAL BILLS

(a) Neither the house nor a committee of the house may consider a local bill unless notice of intention to apply for the passage of the bill was published as provided by law and evidence of the publication was attached to the bill on filing with the chief clerk.

(b) Neither the house nor a committee of the house may consider a bill whose application is limited to one or more political subdivisions by means of population brackets or other artificial devices in lieu of identifying the political subdivision or subdivisions by name. However, this

subsection does not prevent consideration of a bill that classifies political subdivisions according to a minimum or maximum population or other criterion that bears a reasonable relation to the purpose of the proposed legislation or a bill that updates laws based on population classifications to conform to a federal decennial census.

(c) "Local bill" means:

(1) a bill for which publication of notice is required under Article XVI, Section 59, of the Texas Constitution (water districts, etc.);

(2) a bill for which publication of notice is required under Article IX, Section 9, of the Texas Constitution (hospital districts);

(3) a bill relating to hunting, fishing, or conservation of wildlife resources of a specified locality;

(4) a bill creating or affecting a county court or statutory court or courts of one or more specified counties or municipalities; or

(5) a bill creating or affecting the juvenile board or boards of a specified county or counties.

EXPLANATORY NOTES

1. Article IX, Section 9, of the Texas Constitution requires publication of notice on all bills that create a hospital district. Other bills concerning hospital districts do not require publication of notice.

2. Article XVI, Section 59, of the Texas Constitution requires publication of notice on all bills that create a conservation and reclamation district (e.g., water district, water authority, river authority, subsidence district, waste disposal authority, etc.). In addition, publication of notice is

required on all bills amending a law creating or governing a conservation and reclamation district if the bill (1) adds additional land to the district; (2) alters the taxing authority of the district; (3) alters the authority of the district with respect to the issuance of bonds; or (4) alters the qualifications or terms of office of the members of the governing body of the district.

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

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

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

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

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

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

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

Bills relating to a judicial district are general.

Bills reorganizing one or more judicial districts are general.

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

Bills affecting county auditors are not local bills.

A law can be general though having local applicability.

HOUSE PRECEDENTS

1. During the 58th Legislature, Regular Session, Mr. Cotten raised the point of order that H.B. 370, as amended, violated Article 3, Section 30 of the constitution in

that by adding a new judicial district for Orange County and two additional courts for Harris County to the bill which, as originally introduced, created district courts for Dallas County only, a local bill was changed to a general bill.

Speaker Tunnell, in overruling the point of order, held that Mr. Cotten's premise that the original bill was local was erroneous. The speaker cited Harris County vs. Stewart, 41 SW 650, and Section 1 of Article 5 of the constitution, as they relate to the creation of a new district court for the state's judicial system. (58 H.J. Reg. 2119 (1963)).

2. SENATE BILL GRANTING COLLIS P. HUNTINGTON THE RIGHT TO USE CERTAIN STREETS, WHARVES AND ALLEYS OF GALVESTON HELD TO BE A GENERAL BILL.--Mr. Garner raised the point of order that Senate Bill No. 228 is a local bill, and that the proper notice required by the constitution had not been given.

Overruled. (26 H.J. Reg. 942 (1899)).

And Mr. Wooten raised the point of order that this bill is a local bill, as recognized by its authors in giving notice by advertisement, and it affects every locality through which any and all of Collis P. Huntington's railroads pass. Therefore, it ought to have been advertised in every locality affected by the proposed law, which had not been done. The notice has only been published in Galveston, whereas it ought to have been advertised in all towns and counties whose railroad connections are affected by the Huntington wharves.

Overruled. (26 H.J. Reg. 948 (1899)).

3. BILL TO VALIDATE TITLES IN CARSON, DALLAM AND HUTCHINSON COUNTIES HELD TO BE A GENERAL BILL.--On local bill day the house was considering House Bill No. 396, "An Act to validate titles to lands located and patented in Carson, Dallam and Hutchinson

Counties on July 4, 1879."

Mr. Dowell raised the point of order that the bill was not a local bill and that it was not in order to consider it on that day.

Sustained. (26 H.J. Reg. 1157 (1899)).

4. BILL EXTENDING TIME FOR PAYMENT ON SCHOOL LANDS TO CITIZENS OF FORT BEND, WALLER AND HARRIS COUNTIES HELD TO BE A GENERAL BILL.--House bill extending time for the payment of principal and interest on certain school lands for five years to citizens of Fort Bend, Waller and Harris Counties, was placed before the House on local bill day.

Mr. Terrell of Cherokee raised the point of order that it is not a local bill.

Sustained. (27 H.J. Reg. 844 (1901)).

5. BILL RELATING TO THE SALE OF PUBLIC LAND ON ISLANDS NOT LOCAL.--A bill to be entitled "An Act to provide for the purchase of public lands in quantities of five acres or less situated on islands by actual settlers who have settled on and placed valuable improvements thereon in good faith, or to their heirs or legal representatives prior to the first day of January, 1895, and prescribing the price, terms and manner and time of such purchase," was held, on a point of order by Mr. Bean, not to be a local bill. (27 H.J. Reg. 1162 (1901)).

6. BILL TO CREATE A NEW COUNTY HELD NOT TO BE A LOCAL BILL.--During the consideration of a bill to create the county of Ross out of parts of Comanche, Brown, Coleman, Eastland and Callahan Counties, Mr. Terrell of McLennan raised the point of order on the consideration of the bill that it is not a local bill and that this night's session was set apart for the consideration of local bills only.

Sustained. (29 H.J. Reg. 918 (1905)).

Mr. Robertson of Bell raised a point of order that the bill was not a local bill,

for the reason that it is sought to create a county out of four different counties; it was general in its nature; and that any measure that would come up in the interest of this county, if organized, after it was created, would be a local measure.

The chair, Mr. O'Bryan, sustained the point of order.

Mr. Canales appealed from the ruling of the chair on the point of order raised by Mr. Robertson of Bell.

The house sustained the point of order. (31 H.J. Reg. 492 (1909)).

7. BILL CREATING A DISTRICT COURT OUT OF PARTS OF TWO OR MORE COUNTIES NOT LOCAL.--Pending, on a local bill day, a house bill, the nature of which the following point of order explains:

Mr. Bowles raised a point of order on further consideration of the bill, on the ground that it is not a local bill, for the reason that it creates another district court for half of Dallas County and half of Grayson County, and makes changes also in the time of the meeting of the district court in Collin County.

Sustained. (31 H.J. Reg. 602 (1909)).

8. FEE BILL APPLYING TO COUNTIES OF MORE THAN 80,000 NOT LOCAL.--The house was considering a fee bill applying to counties having a population of 80,000 or more.

Mr. Adams raised a point of order on consideration of the amendment on the ground that the bill is a local bill and notice thereof must be advertised before its passage by the legislature.

Overruled. (31 H.J. Reg. 837 (1909)).

9. A GENERAL BILL CANNOT BY AMENDMENT BE CHANGED TO A LOCAL BILL.--The House was considering a bill to provide means of securing fair elections and true returns thereof whenever any election is held when any proposed amendment or amendments to the

Constitution of this State shall be voted upon. Mr. Smith of Atascosa offered an amendment providing that the provisions of the act should apply only to the Fourth Senatorial District, which amendment, upon the point of order raised by Mr. Schluter, was held not germane to the purpose of the bill. (32 H.J. Reg. 1153 (1911)).

10. During the 58th Legislature Speaker Tunnell ruled, in part, regarding publication of game and fish laws, as follows:

"The sixth and final numbered point of order relates to the requirement of publication of notice of a local law 30 days before its introduction, in that no publication has been made of S.B. 341. This publication requirement is provided by Section 57, Article 3 of the Constitution of the State of Texas. The point of order refers to the enrolled bill doctrine and the necessity for the presiding officers of the Legislature to enforce this provision.

The enrolled bill doctrine was established in a Texas Supreme Court decision in 1892 in a case styled William vs. Taylor. This doctrine provides that a bill which is signed by the presiding officers of both houses and approved by the Governor affords conclusive evidence that it was passed according to the Constitution, and the journals of the houses cannot be looked to in determining a question in judicial review.

Now, as to the Chair's duty concerning the lack of publication of S.B. 341. The Chair has found clear judicial precedent to rule that a game and fish law, such as we have proposed before us in S.B. 341, does not require the notice provided by Section 57 of Article 3.

As the Chair has ruled in consideration of these points of order that according to

the specific proviso contained in Section 56 of Article 3 of the Constitution, an act of the Legislature for the protection of the fish of the State, as proposed in S.B. 341, is not a 'local' law in the sense used in Sections 56 and 57 of Article 3 of the Constitution. The Chair cites Stephenson v. Wood 35 SW 2d 795, in clear support of a ruling that the authority of the Legislature to pass game and fish laws such as the one under consideration without notice mentioned in Section 57 of Article 3 of the Constitution is specially reserved. For these reasons, the point of order is respectfully overruled." (58 H.J. Reg. 2511 (1963)).

Sec. 5.011. CONSIDERATION IN COMMITTEE

(a) No bill shall be considered unless it first has been referred to a committee and reported from it.

EXPLANATORY NOTES

1. See Sec. 37 of Art. 3, Texas Constitution. It has long been held that the requirement of this section is satisfied if a bill is reported out of a committee of one of the two houses within the time described, three days of final adjournment. Regardless of this holding, long followed, speakers have historically refused to admit motions to suspend the rules so as to keep senate bills from going to house committees. They have contended that to allow such would be a violation of the spirit of Sec. 37 of Article 3 as well as legislative committee rules generally, since the two houses of the legislature are of equal importance and each requires committee consideration of its own bills without exception.

2. The above rule applies alike to

regular and called sessions.

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

Sec. 5.012. PREFERRED BILLS

Each member shall be entitled to one preferred bill, the order of preference to be determined by lot. The numbers 1 through 149 shall be placed in one container, and the name of each member shall be placed in another container. The chief clerk shall draw one number and one member's name and record and announce the preferred number for that member.

A member may designate in writing any one bill filed under that member's principal authorship to be the member's preferred bill and the chief clerk shall designate the preferred bill by adding a dash and the order of preference following the regular bill number.

A member must designate a bill as a preferred bill before a committee hearing may be held on the bill.

When a preferred bill is reported from committee, it shall be placed on the General State Calendar in its order of preference ahead of all bills not designated as preferred bills. On any day on which there is both a regular and a supplemental general state calendar for house bills and the supplemental calendar contains preferred bills on second or third reading, the preferred bills on the supplemental calendar shall be considered, in order of preference, ahead of all other bills on the general state calendar on the same reading except any preferred bills of higher preference.

The provisions of this section apply only to house bills.

Sec. 5.013. ORDER OF CONSIDERATION

All bills before the house shall be taken up and acted on in the order in which they appear on their respective calendars, and each calendar shall have the priority accorded to it by the provisions of Subchapter D of Chapter 4. With respect to a particular calendar, bills on third reading shall have precedence over bills on second reading.

Sec. 5.014. CONSIDERATION OF SENATE BILL ON SAME SUBJECT

When any house bill is reached on the calendar or is before the house for consideration, it shall be the duty of the speaker to give the place on the calendar of the house bill to any senate bill containing the same subject that has been referred to and reported from a committee of the house and to lay the senate bill before the house, to be considered in lieu of the house bill.

EXPLANATORY NOTES

Such senate bill must be at the same reading status as the house bill, i.e., 2nd reading or 3rd reading.

Sec. 5.015. SENATE BILL DAYS

On calendar Wednesday and on calendar Thursday of each week, only senate bills and senate resolutions shall be taken up and considered, until disposed of. Senate bills and senate resolutions shall be considered in the order prescribed in Subchapter D of Chapter 4, on separate senate calendars prepared by the Committee on Calendars. In case a senate bill or senate resolution is pending at adjournment on calendar Thursday, it shall go over to the succeeding calendar

Wednesday as unfinished business.

Precedence given in this subchapter to certain classes of bills during the first 60 calendar days of a regular session shall also apply to senate bills on senate bill days.

EXPLANATORY NOTES

1. This section does not preclude the consideration of conference committee reports on house bills on senate bill days.

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

3. A house biennial appropriation bill does not have priority on senate bill days, unless permission for consideration has been given by the senate.

HOUSE PRECEDENTS

1. In the 51st Legislature, the speaker, Mr. Manford, held that the consideration of a senate bill, passed in the senate on house bill day in violation of the joint rules, should not be ruled out of order. The speaker's theory was that if the house did not wish to consider the bill, it could take any appropriate action.

2. During the regular session of the 47th Legislature, Speaker Homer Leonard ruled that appropriation bills above defined have right of way on Tuesdays over house joint resolutions, and in the 52nd Legislature the speaker, Mr. Senterfitt, held that the general claims appropriation bills should be included among the appropriation bills listed above.

Sec. 5.016. CONSIDERATION OF BILLS INVOLVING STATE FUNDS

(a) In order to assure the continuation of financial support of existing state services through the passage of the general appropriations bill, it shall not be in order during the first 120 days of the regular session for the speaker to lay before the house, prior to the consideration, passage, and certification by the comptroller of the general appropriations bill, any bill that directly or indirectly:

(1) prevents any money from entering the state treasury; or

(2) transfers or diverts money in the state treasury from one fund to another fund except from a special fund into the general revenue fund.

(b) Subsection (a) of this section shall not apply to any bills allocating money for:

(1) the payment of expenses of the legislature;

(2) the payment of judgments against the state; or

(3) any emergency matter when requested by the governor in a formal message to the legislature.

(c) When bills subject to the provisions of this section become eligible for consideration, they shall be considered for passage under the rules of the house and the joint rules as any other bill but shall not be signed by the speaker as required by the Constitution of Texas and the rules of the house until the general appropriations bill has been signed by the presiding officers of both houses of the legislature and transmitted to the comptroller of public accounts for certification as required by Article III, Section 49a, of the Constitution of Texas.

(d) All bills subject to the provisions of this section that have finally passed both

houses shall be enrolled as required by the rules and transmitted to the speaker. The speaker shall note on each bill the date and hour of final legislative action and shall withhold his signature and any further action on all such bills until the general appropriations bill has been signed by the presiding officers of both houses and transmitted to the comptroller of public accounts for certification. Immediately thereafter, the speaker shall sign in the presence of the house all bills on which further action was being withheld because the bills were subject to the provisions of this section. After being signed by the speaker, the bills shall then be transmitted to the comptroller of public accounts for certification or to the governor, as the case may be, in the order in which final legislative action was taken. "Final legislative action," as that term is used in this subsection, shall mean the last act of either house meeting in general session necessary to place the bill in its final form preparatory to enrollment.

EXPLANATORY NOTES

Since the adoption of joint rules limiting the consideration of appropriation bills until after the general appropriations bill has been passed, speakers have construed the joint rule strictly, as indicated above. They have included under it bills clearly "appropriating," "reappropriating" and "transferring" funds, as well as bills which, although not containing these exact words, in fact under practices of the comptroller pursuant to rulings of the attorney general, contain wording which, so far as the end results of use are concerned, are respectively equivalent thereto. The practices referred

to are likewise of importance to the presiding officers of the two houses since they must determine whether or not a particular bill is to be submitted to the comptroller for his certification under the terms of Sec. 49-a of Article 3 of the constitution. In view of the various interpretations and questions arising under Sec. 49-a the speaker looks carefully into each doubtful case. At times there is a question as to whether or not a particular bill, by its terms, "automatically" calls for an expenditure of state funds without containing an outright appropriation. Regarding such a bill, unless it actually carries a specific appropriation it is not sent to the comptroller except where, by an existing appropriation act, the passage of the bill would result in an automatic increase in expenditures under the appropriation. A "transfer of funds" bill is considered an appropriation bill under the spirit of Sec. 49-a and should go to the comptroller for certification.

HOUSE PRECEDENTS

1. During the 58th Legislature Mr. Shipley, on March 25, raised a point of order against further consideration of H.B. No. 27 in that it contained an appropriation and thereby contravened the provisions of the joint rules. The bill proposed to transfer existing funds, which were subject to the control of the Banking Department, from the State Treasury to the Banking Department for deposit and continued control in local depositories. Speaker Tunnell cited Section 6 of Article 8 of the constitution which provides that no money shall be drawn from the treasury but in pursuance of specific appropriation and sustained the point of order. (58 H.J. Reg.

724 (1963)).

2. Also, in the 54th Legislature the speaker, Mr. Lindsey, held out of order, before the passage of the general appropriation bill, an amendment to a bill seeking to make an appropriation to carry out its general provisions, and also ruled out of order the consideration of a bill which carried an appropriation, even though incidental to its main purpose. He pointed out that in both instances the spirit of the joint rules was violated.

3. Similarly, in the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled that he could not lay an "appropriation" bill before the house in violation of the joint rules if a point of order were raised against such, thus precluding the offering of an amendment to delete the appropriation provision.

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

Although technically it might be argued that an appropriation bill is not finally passed by the two houses until certified by the comptroller, it has never been the practice of the presiding officers of the houses to hold the terms of the joint rules applicable to the final passage of an appropriation bill (including a conference report) beyond majority favorable votes thereon by both houses.

5. INSTANCE WHEREIN A BILL DID NOT ACTUALLY APPROPRIATE FUNDS AND THEREFORE DID NOT COME UNDER THE PROVISIONS OF THE JOINT RULES.--The house was considering H.B. 29,

"Creating the Commission on Organization of the Executive Branch, etc.", whereupon Mr. Ehrle raised a point of order against its further consideration on the ground that same was in violation of the joint rules.

In overruling the point of order, the speaker, Mr. Carr, called attention to the fact that the bill did not actually contain an appropriation, only a provision that "the Legislature shall appropriate" the necessary funds. He emphasized he had consistently held that unless a bill used the term "appropriated" or specifically or by its terms actually set aside funds for a particular purpose, it did not come under the provisions of the joint rules. (56 H.J. Reg. 561 (1959)).

Sec. 5.017. DEADLINES FOR CONSIDERATION

No house bill or senate bill on its second reading, except an appropriations bill, shall be considered for any purpose during the last 72 hours preceding the final adjournment of the legislature. The speaker shall not recognize anyone to take up a bill out of its regular order within 48 hours of final adjournment; nor shall the speaker lay any bill before the house or take a vote on its passage within 24 hours of the final adjournment of the legislature, except to adopt a conference committee report or to concur in senate amendments.

EXPLANATORY NOTES

1. "Final adjournment" means sine die adjournment of a session.

2. These "end-of-the-session rules" apply alike to regular and called sessions.

HOUSE PRECEDENTS

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

2. POINT OF ORDER RELATIVE TO SETTING BACK THE HANDS OF THE CLOCK NEAR THE END OF A SESSION.--Mr. Tillotson raised a point of order, stating that the hands of the clock in the hall of the house had been set back, and that the clock should be set at the correct time. He contended that the hour set for final adjournment of the session had actually passed and that the house was not legally in session.

The speaker, Mr. Bobbitt, overruled the point of order, and Mr. Tillotson appealed from the ruling of the chair. The appeal was duly seconded. The house sustained the ruling of the chair by a vote of 90 to 24. (40 H.J. 1 C.S. 602 (1927)).

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

3. AFTER THE HOUR SET FOR FINAL

ADJOURNMENT HAS ARRIVED THE SPEAKER REFUSES TO ACCEPT ANY BUSINESS EXCEPT PURELY ROUTINE MATTERS INCIDENT TO COMPLETION OF SESSION'S BUSINESS.--On the last day of the regular session of the 49th Legislature, the hour set for final adjournment having actually arrived, though not so indicated by the house clock, the speaker, Mr. Gilmer, refused to accept any business involving a decision of the house, except purely routine matters and those necessary to the conclusion of the session, such as signing of bills and resolutions in the presence of the house, reports of notification committee, and the like. The speaker earlier had notified the house of his intention and received unanimous approval. It was still necessary, as usual, to turn back the hands of the house clock, as described above. This new procedure has many advantages and has become the rule. (49th Reg.)

Sec. 5.018. PRINTED COPIES REQUIRED PRIOR TO CONSIDERATION

(a) A printed copy of each bill except the general appropriations bill shall be placed in the newspaper mailbox of each member at least 24 hours before the bill can be considered by the house. A printed copy of the general appropriations bill shall be placed in the newspaper mailbox of each member at least 168 hours during a regular session and at least 72 hours during a special session before the bill can be considered by the house.

(b) By majority vote, the house may order both the original bill or resolution and the complete committee substitute to be printed. It shall not be necessary for the house to order complete committee substitutes printed in lieu of original bills.

(c) A two-thirds vote of the house is

necessary to order that bills, other than local bills, be not printed. It shall not be necessary for the house to order that local bills be not printed.

EXPLANATORY NOTES

1. See Sec. 3.123 and 3.128 in regard to minority reports, particularly as to the printing of bills on minority report.

2. Committees have no authority to order not printed bills which they report favorably, except local bills, even though such bills may be considered uncontested, and the chief clerk should disregard such recommendations and send the bills to the printer as required in the above section. A two-thirds vote of the house, by way of a suspension of the rules, is necessary to order bills, other than local bills, not printed.

3. A "complete committee substitute" takes the form of a complete bill with a title, enacting clause and text of the bill.

4. If, for some reason, usually a clerical error, a committee fails to order a local bill not printed, it should be sent to the printer unless, by majority vote, the house orders it not printed.

Sec. 5.019. REQUIREMENT FOR THREE READINGS

A bill shall not have the force of law until it has been read on three several legislative days in each house and free discussion allowed, unless, in case of imperative public necessity (which necessity shall be stated in the preamble or in the body of the bill), this provision is suspended by a vote of four-fifths of the members present and voting, a quorum being present. The yeas and nays shall be taken on the question of suspension and entered in the journal. As

used in this section, "an imperative public necessity" means only a condition or state of affairs that, if not immediately remedied, shall cause great loss of life or property. The speaker shall not entertain a motion to suspend the constitutional rule unless it definitely appears that such a condition or state of affairs actually exists.

EXPLANATORY NOTES

1. "Days" as used in Sec. 32 of Art. 3 of the constitution has repeatedly been held to mean "legislative days." A "legislative day" is that period from a convening following an adjournment until the next adjournment. The most common daily session pattern is for the house to meet say at 10 a.m., recess for lunch, and adjourn say at 5:00 p.m. A legislative day is thus completed on the particular calendar day. But, if at the end of the day (or any other time) the house recesses, the particular legislative day continues. Often a single legislative day will span several calendar days. Also, parts of two legislative days will often fall on a single calendar day, this occurring when the house adjourns and meets again on the same calendar day. It is possible, therefore, to have as much as a fraction of one legislative day and the whole of the next legislative day on the same calendar day, this occurring when the house meets say in the morning following a recess, adjourns until 2:30 p.m., for example, and then adjourns later in the day until a future day. It is not possible, however, to create two complete legislative days on the same calendar day; for example, a morning meeting following an adjournment from a previous day, followed by an adjournment before noon until afternoon, followed by a convening in the afternoon,

pursuant to the adjournment, and then an adjournment later in the day--constituting two complete legislative days--would not be permitted. As noted, "days" in Sec. 3 of Art. 3 have always been held to be "legislative days." Thus it is possible, since parts of two legislative days (sometimes a fraction and a whole) can occur on the same calendar day, it is possible to place a bill on two readings in the same calendar day without having to suspend the constitutional rule. Within a single legislative day, however, a constitutional rule suspension must occur if a bill is to be read twice.

2. The motion to reconsider may not be applied to a vote to suspend the constitutional rule requiring bills to be read on three several days. If a motion to suspend fails, and, if accepted by the speaker, a new motion may be made, usually after intervening business, but not when another matter is pending.

HOUSE PRECEDENTS

1. INTERPRETATION OF THE MEANING OF "DAYS" AS FOUND IN THE CONSTITUTIONAL REQUIREMENT THAT BILLS BE READ ON "THREE SEVERAL DAYS."--The house met at 10 a.m. on April 1, 1954, on recess from the previous day. Later in the day H.B. 8 was read second time and ordered engrossed. The house then adjourned for a few minutes and was called to order on a new legislative day. When H.B. 8 was again laid before the house and read third time Mr. Bergman raised the point of order against "further consideration of House Bill 8 on third reading for the reason that Article 3, Section 32 of the Constitution of Texas provides that no bill shall have the force of a law until it has been read on three

several days in each house and free discussion allowed thereon. The term 'three several days,' as used in the Constitutional provision,,had reference to calendar days as known and applied at the time of the adoption of the Constitution, and the fiction of 'legislative days,' as used in the Rules of the House, cannot have the force and effect of changing the meaning of the term 'several days,' as used in the Constitution. This bill having been considered and passed to engrossment this morning, April 1, 1954, and this being the afternoon of April 1, 1954, is not properly before the House for consideration."

The speaker, Mr. Senterfitt, overruled the point of order stating that the procedure followed in this case was exactly the same as followed previously in the session and had long been the established practice of the house, i.e., "days" as used in Sec. 32 of Art. 3 had for more than fifty years, at least, been held to be "legislative days" - a legislative day being the period between a convening following an adjournment and the next adjournment. (53 H.J. 1 C.S. 231 (1953)).

2. INSTANCE WHEREIN THE CONSTITUTIONAL RULE REQUIRING BILLS TO BE READ ON THREE SEVERAL DAYS WAS SUSPENDED BEFORE THE BILL WAS PLACED ON SECOND READING AND IN ANTICIPATION OF ITS LATER PASSAGE TO ENGROSSMENT; COMMENTS ON "LEGISLATIVE DAYS."--The house suspended the rules for the purpose of considering H.B. 11, an omnibus tax bill. Just as the speaker was preparing to lay the bill before the house on second reading (it having been read first time on a previous legislative day and reported from a committee) Mr. Zbranek moved to suspend the constitutional rule requiring bills to be read on three several days so that in the event H.B. 11 passed to

engrossment on that legislative day it could immediately be placed on third reading and finally passed. The motion prevailed by the necessary four-fifths vote. (56th, 3rd C.S.)

This is the only known instance of such a suspension before the time needed therefor, and was the solution of a unique situation. It was believed by the mover that a suspension vote prior to second reading, debate, amendment, and passage to engrossment would be successful whereas after passage to engrossment, which could be by a majority vote, a four-fifths vote for suspension might not be obtained. Lacking a precedent to the contrary, and noting that no constitutional limitation existed on just when such a motion could be made, the speaker, Mr. Carr, allowed the motion. However, there is considerable doubt regarding the need for or advantage of such a departure from the long-established practice relating to this motion to permit a premature suspension as described. Such is not necessary, certainly the proceeding is of doubtful value, and, of greater importance, the house should know the exact substance of a bill passed to engrossment before it votes on the motion to suspend the constitutional rule.

3. A FOUR-FIFTHS VOTE OF THOSE PRESENT AND VOTING HELD NECESSARY FOR A SUSPENSION OF THE CONSTITUTIONAL RULE REQUIRING BILLS TO BE READ ON THREE SEVERAL DAYS; ALSO, A QUORUM MUST BE VOTING.--A motion to suspend the constitutional rule requiring that bills be read on three several days was made. The vote showed Yeas, 59, Nays, 1, and present or not voting, 67. In declaring the motion lost, Speaker Homer Leonard called attention to Section 32 of Art. 3 of the constitution which requires a "four-fifths of the House" vote. He pointed out that "House" has been

held to be a working quorum, and that since on the motion to suspend only 60 votes were cast out of a total of 127 members present, and, therefore a quorum had not voted, the motion was lost. (47th Reg.)

4. CASE WHERE THE CONSTITUTIONAL RULE REQUIRING BILLS TO BE READ ON THREE SEVERAL DAYS HAD TO BE SUSPENDED A SECOND TIME.--The house was considering Senate Bill No. 375 on second reading. It was passed to third reading, the constitutional rule was suspended, and the bill was placed on its third reading. After consideration the house reconsidered the vote by which it was passed to its third reading. After amending the bill, the house again passed it to its third reading. The speaker, Mr. Minor, held that since the bill had been amended, it would be necessary to again suspend the constitutional rule before it could be placed on its third reading on that legislative day. (42nd Reg.)

Sec. 5.020. CALL FOR FULL READING

When a bill is before the house on its second or third reading, any member may call for a full reading, but the reading may be dispensed with by a majority vote of the house.

Sec. 5.021. CONSIDERATION SECTION BY SECTION

(a) During the consideration of any bill or resolution, the house may, by a majority vote, order the bill or resolution to be considered section by section, or department by department, until each section or department has been given separate consideration. If such a procedure is ordered, only amendments to the section or department under consideration at that time shall be in order. However, after each

section or department has been considered separately, the entire bill or resolution shall be open for amendment, subject to the provisions of Section 4.328(b). Once the consideration of a bill section by section or department by department has been ordered, it shall not be in order to move the previous question on the entire bill, to recommit it, to lay it on the table, or to postpone it, until each section or department has been given separate consideration or until the vote by which section by section consideration was ordered is reconsidered.

(b) A motion to consider a bill section by section is debatable within narrow limits; that is, the pros and cons of the proposed consideration can be debated but not the merits of the bill.

Sec. 5.022. PASSAGE TO ENGROSSMENT OR THIRD READING

After a bill or complete committee substitute for a bill has been taken up and read, amendments shall be in order. If no amendment is made, or if those proposed are disposed of, then the final question on its second reading shall be, in the case of a house bill, whether it shall be passed to engrossment, or, in the case of a senate bill, whether it shall pass to its third reading. All bills ordered passed to engrossment or passed to a third reading shall remain on the calendar to which assigned, but with future priority over bills on the same calendar that have not passed second reading.

EXPLANATORY NOTES

1. A committee has the power to suggest individual amendments, and these amendments must be offered from the floor by some member. If not offered from the floor, they

should not be considered.

2. House bills "ordered engrossed" must actually be engrossed and returned to the speaker's desk before they can be laid before the house on third reading, unless the constitutional rule requiring bills to be read on three several days is suspended, in which case practice of long-standing foregoes actual engrossment at this stage, the four-fifths vote needed for such suspension being considered in effect a simultaneous suspension (only a two-thirds vote needed) of the above section insofar as the actual engrossment requirement is concerned. Such bills are engrossed before they are sent to the senate.

3. Engrossed "riders" (amendments adopted on second reading) may be used in lieu of full engrossment on second reading passage.

4. See Sec. 4.327, on precedence of amendments, and associated annotations.

Sec. 5.023. CERTIFICATION OF FINAL PASSAGE

The chief clerk shall certify the final passage of each bill, noting on the bill the date of its passage, and the vote by which it passed, if by a yea and nay vote.

Sec. 5.024. RESOLUTION TO RECALL BILL FROM THE SENATE

A resolution to recall a bill from the senate shall be in order if a motion to reconsider the vote by which the bill finally passed has been made and adopted within the time prescribed by the rules.

Sec. 5.025. EFFECTIVE DATE

Every law passed by the legislature, except the General Appropriations Act, shall take

effect or go into force 90 days after the adjournment of the session at which it was enacted. In case of an emergency, which must be expressed in a preamble or in the body of the act, the legislature may, by a vote of two-thirds of all the members elected to each house, provide otherwise. The vote shall be taken by yeas and nays and entered in the journals. (See Constitution of Texas, Article III, Section 39)

EXPLANATORY NOTES

1. Due to the great amount of business which usually comes before a regular session of the legislature, and the limited time of such a session, if there is a "public necessity" for the immediate enactment of a law and for its taking effect immediately, in the practice of the house it is customary to permit such a law to be passed under the emergency provisions of the constitution and the rules of the house. The imperative public necessity for the suspension of the constitutional rule requiring bills to be read on three several days, and the reasons for its taking effect from and after its passage are usually stated in the last section of the bill, the "emergency clause." This practice is necessary to the quick enactment of certain measures, but it should not be abused to the extent of placing an emergency clause on a bill so as to put into immediate effect that for which there is no real necessity; however, such is the custom because without such emergency clause it would not be possible to pass a bill to engrossment and final passage on the same legislative day. This is important in speeding the work of a session.

2. The attorney general has held consistently that a concurrent resolution, passed subsequent to the passage of a bill,

which failed to receive the required two-thirds vote in its passage, could not put the bill into immediate effect, even though it declared legislative intent and the bill contained the required emergency clause. See Opinions Nos.: O-95, O-1717, O-3697, and V-867. However, in Opinion No. V-850, the attorney general held that the date for the submission of a proposed amendment to the constitution could be changed by the adoption of a joint resolution setting a new one. In this latter case the same legislative method, a joint resolution, was used in both actions.

3. On rare occasion a clerk has accidentally shown incorrect votes in endorsements relating to final passage of bills. The attorney general has ruled (Opinion O-5171a) that in such matters the journals control, if they differ from the endorsements on the enrolled bills. There have been several instances where bills were recalled from the governor and the endorsements corrected, and one where an endorsement was corrected to conform with the journal even after the session had adjourned sine die. This was done before the bill reached the secretary of state.

4. Whenever a bill receives the necessary two-thirds vote and is signed by the governor, or becomes a law by absence of a veto, its terms became effective immediately. If, however, there is a specific recitation in the act which determines its effective date, then such controls. If such a recitation is contained in an act which does not receive the necessary two-thirds vote and such date is prior to ninety days after adjournment, then such specific recitation is of no effect, and the bill becomes effective ninety days after adjournment. If an author wants to speed passage of a bill he may resort to use

of the emergency clause, as is customarily done, even though the bill is not to go into immediate effect. The desired end can be attained by having a non-record vote on final passage or including a specific date on which the bill is to become effective.

Sec. 5.026. BILLS CONTAINING SAME SUBSTANCE AS DEFEATED BILL

After a bill or resolution has been considered and defeated by either house of the legislature, no bill or resolution containing the same substance shall be passed into law during the same session.

EXPLANATORY NOTES

See Const., Art. 3, Sec. 34.

HOUSE PRECEDENTS

1. In the Twenty-sixth Legislature (journal, p. 415) a point of order was made on consideration of a bill in the house because the senate had considered and defeated a bill containing the same subject matter. The speaker held the point of order not well taken. A point of order of this kind must be decided on the actual facts in the case; a bill might be similar, even containing apparently the same substance, and yet be so different as not to come within the rule. If the senate has officially reported the defeat of a particular measure, a point of order on consideration of a similar measure in the house would stand or fall according to whether or not the presiding officer of the house thinks the measure being considered in the house contains the same "substance" as the measure defeated in the senate. See the precedent following.

2. HELD THAT A BILL DEFEATED IN THE SENATE COULD BE CONSIDERED IN THE HOUSE.--The speaker laid before the house as a special order House Bill No. 44 on its second reading and passage to engrossment.

Mr. Thomason raised a point of order on consideration of the bill on the ground that the house has official notification that the senate has defeated a bill containing the same substance.

The speaker, Mr. Thomas, overruled the point of order, stating that while the constitution prohibits the passage by either house of a bill after being officially notified of a defeat by the other house of a bill containing the same substance, it does not prohibit its consideration. (37 H.J. Reg. 425 (1921)).

The contention of the speaker was that it was entirely possible for the house to amend the bill and so change it by germane amendments as to make it agreeable to the senate.

ADDITIONAL NOTES ON BILLS
RECALL OF BILLS AND RESOLUTIONS

EXPLANATORY NOTES

1. Frequently concurrent resolutions are passed authorizing the correction of errors in bills in the process of being enrolled, and it is often necessary to recall bills from the governor for correction. Such recall is done by concurrent resolution, usually originating in the house in which the bill originated.

2. "Corrective" resolutions should be strictly of that character, it not being allowable under the rules to make changes in substance. To allow such would set a dangerous precedent, because there would be no way of drawing a line as to what could

and what could not be changed by such a resolution. If such practice were allowed, an act that passed both houses under the constitutionally specified three-reading procedure, could be set aside or changed in whole or in part. However, over recent years both houses have accepted resolutions (concurrent) which authorized many and various types of corrections in the general appropriation bill after adoption of the conference report relating thereto. At times these "corrections" have been to insert unintended omissions due to clerical errors, to remedy obviously faulty wording, and to eliminate any contradictions between provisions. Generally speaking, the houses have accepted genuine corrections, as explained by the Chairmen of the Committees on Appropriation and Finance, even though such "corrections" are admittedly broader in character than would be allowed through resolutions for other bills. Such course of action has been deemed preferable to recommitting the bill to conference, since under such procedure the entire subject matter of the appropriation bill would thereby be reopened.

3. When it becomes necessary to recall a bill from the governor, the house in which the bill originated should pass a resolution such as the following:

"Resolved by the . . . . ., the . . . . . concurring, that the Governor be and he is hereby requested to return to the . . . . . Bill No. . . . ., for further consideration; and be it further

Resolved, that the action of the Speaker and the President of the Senate in signing . . . Bill No. . . . be declared null and void, and that the two presiding officers be authorized to remove their signatures from the enrolled bill."

If only a simple correction is involved,

this additional clause should appear in the resolution: "and be it further Resolved, that the chief clerk of the house (or the enrolling clerk of the senate) be and is hereby directed to correct the enrolled copy of . . . Bill No. . . . in the following manner--(here should follow an exact description of the correction)."

This resolution, having been adopted by both houses and properly signed by the two presiding officers, should be officially communicated to the governor, whereupon the governor will doubtless return the bill by message to the house in which it originated. In turn, the presiding officers will remove their signatures.

If further consideration of the bill is involved, every step must be retraced in regular order until the bill is again at a stage which permits the desired action.

HOUSE PRECEDENTS

1. In the 54th Legislature, the speaker, Mr. Lindsey, held that a resolution correcting, in any manner whatsoever, a bill finally passed and being enrolled (which must be a concurrent resolution), must receive 100 affirmative votes (registration) if the bill is to go into immediate effect. He added that, of course, the bill must have received the necessary two-thirds vote when finally passed by the two houses, such a vote on passage of a corrective resolution in itself being insufficient to put the bill into immediate effect.

2. PRACTICE OF RECALLING A BILL FROM THE SENATE. RESOLUTION TO RECALL A BILL FROM THE SENATE NOT IN ORDER UNLESS A MOTION TO RECONSIDER THE VOTE BY WHICH THE BILL FINALLY PASSED HAS BEEN ADOPTED.--A resolution was pending to request the senate to return H.B. 497 for further

consideration. Mr. Reed of Dallas raised the point of order that such a resolution was out of order because a suspension of the rules would now be necessary before a motion to reconsider could be made, since such motion to reconsider would come too late under the rules. He contended that while a two-thirds vote would be required to suspend the rules, only a majority vote is required for the passage of the resolution, which would invalidate the previous action of the house; and, further, that a motion to reconsider, made under the rules or a suspension thereof, must be adopted before any such resolution would be in order.

The speaker, Mr. Daniel, sustained the point of order. (48 H.J. Reg. 2448 (1943)).

If a motion to reconsider the vote by which a bill was finally passed by the house prevails, it is an order to recall the bill sent to the senate. This is done by the adoption of a house resolution. But the motion to reconsider cannot be made except on the legislative day the final vote was taken on the bill or on the next legislative day before the order of the day is taken up. See Sec. 5.024.

3. NOT IN ORDER TO DIRECT THE CHIEF CLERK TO MAKE ANY CHANGES IN A BILL WHICH HAS PASSED THE HOUSE AND BEEN SENT TO THE SENATE.--The house was considering H.S.R. 190 by Mr. Zivley. The resolution recited actions by the House in amending H.B. 132, and directing the engrossing clerk to send to the senate a "corrective" amendment to be attached to the bill.

Mr. Hull raised the point of order on further consideration of the resolution on the ground that the resolution was an attempt to amend a bill which had passed the house and was then in the senate.

The speaker, Mr. Senterfitt, sustained the point of order. A bill must be recalled

to make any changes therein. (53 H.J. Reg. 917(1953)).

4. IN ORDER TO REQUEST THE SENATE TO RETURN A RESOLUTION; LIMITATION.--Mr. Tillotson offered a resolution requesting the senate to return to the house the concurrent resolution which set a time for sine die adjournment.

Mr. Lewelling raised a point of order on consideration of the resolution on the ground that it is not in order for the house to recall a resolution from the senate except for the purpose of correcting an error therein.

The speaker, Mr. Woods, overruled the point of order. (34 H.J. Reg. 693 (1915)).

A motion to reconsider the vote on passage of the resolution must now be made and passed before the recall resolution can be acted upon.

CONGRESSIONAL PRECEDENTS

CORRECTION OF ERRORS IN BILLS--RECALL.--It is a common occurrence for one house to ask the other (by simple resolution or motion) to return a bill for correction or otherwise (H.P., 4, 3460-3464). There being an error in an engrossed house bill sent to the senate, a request was made that the clerk be permitted to make correction (H.P., 4, 3465). The correction of an enrolled bill is sometimes ordered by concurrent resolution (H.P., 4, 3446-3450).

MOTION TO RESCIND

HOUSE PRECEDENTS

1. A BILL HAVING BEEN DEFEATED, AND A MOTION TO RECONSIDER THE VOTE BY WHICH IT WAS DEFEATED BEING LAID ON THE TABLE, A MOTION TO RESCIND THE VOTE BY WHICH THE

HOUSE TABLED THE MOTION TO RECONSIDER IS NOT IN ORDER. SUCH MOTION IS NOT RECOGNIZED BY THE RULES.--Mr. Savage moved to rescind the vote by which the house, on February 10, tabled the motion to reconsider the vote by which House Bill No. 4, known as the "full crew bill," was on that day lost.

Mr. Kennedy raised a point of order "that the motion to rescind is out of order; that such a motion, if carried, would abrogate the Rules of the House, which provide for the reconsideration of all matters adopted by the House, and that the motion must be made by a Member of the majority, or prevailing side, and must be made on the same or next sitting day before the order for the day is taken up, and that one day's notice must be given before the motion can be called up and disposed of. The Rules of the House further provide that where a motion to table prevails that motion cannot be reconsidered. Immediately after House Bill No. 4 was defeated on engrossment, a motion to reconsider that vote was made, and the motion to reconsider was tabled. The motion to rescind is but another method of reconsideration, and is now made by a gentleman who voted with the losing side and made several days after the House defeated the bill which he now proposes to revive. The adoption of his motion would establish a dangerous precedent. It would mean an interminable conflict over bills that, under the Rules, have been killed."

In sustaining the point of order raised by the gentleman from Kerr, Mr. Kennedy, the speaker, Mr. Terrell, gave the following reasons:

"Rule 14, Section 1, (now Sec. 4.271) provides as follows: 'When a motion has been made and carried or lost, or an amendment, resolution or bill voted upon, it shall be in order for any Member of the

prevailing side to move for a reconsideration thereof, on the same day or the next sitting day, before the order of the day is taken up.'

Rule 12, Section 7, (now Sec. 4.162) provides as follows: 'A motion to lay on the table, if carried, shall have the effect of killing the bill, resolution or other immediate proposition tabled.'

Article 3, Section 34, of the Constitution, provides: 'After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance shall be passed into law during the same session.'

House Bill No. 4 was considered fully by the House, and after lengthy debate was defeated; a motion to reconsider and table was made, which motion carried, and, in the opinion of the Chair, the motion to table the motion to reconsider killed the bill. It is just as important to the House to be able to kill a bill as it is to pass it. If a motion to rescind could be made, the motion to reconsider and table would be without value, and if one motion to rescind could be made, such a motion could be made every day in the Session, and thus waste the time and thwart the will of the House deliberately expressed when the bill was defeated.

The Speaker is aware of the action of the House in the Twenty-sixth, Twenty-eighth and Twenty-ninth Legislatures and also familiar with the rulings of the Thirty-second Legislature dealing with the question of rescinding, and he is unhesitatingly of the opinion that the rulings made by Speaker Rayburn in the Thirty-second and by the present Speaker, who was in the Chair during the same session, were correct.

If a motion to rescind could be made on

the defeat of any bill, it could also be made after the passage of a bill, and in this way defeat the expressed will of the House. A motion to rescind must be based on the proposition that the only way to defeat a bill is by final adjournment, and if that be true, the provision of Section 34 of Article 3 of the Constitution would be meaningless.

For the above reasons, the Speaker sustains the point of order." (33 H.J. Reg. 832(1913)).

REVENUE BILLS

HOUSE PRECEDENTS

1. THE HOUSE REFUSES TO ACCEPT A REVENUE-RAISING (TAX BILL) FROM THE SENATE.--The senate bill having for its purpose the taxing of pool halls was laid before the house and read first time.

Mr. Terrell of Bexar made the point of order that it is a measure for the purpose of raising revenue and cannot be received by the house from the senate, and that the chair should have it returned to the senate with the suggestion that all bills for raising revenue must, under the constitution, originate in the house of representatives, and the house is therefore compelled to return it to the senate.

The speaker, Mr. Rayburn, sustained the point of order and the chief clerk was instructed to return the bill to the senate. (32 H.J. Reg. 864 (1911)).

2. HELD THAT THE BILL CREATING A FUND TO PAY THE STATE HIGHWAY ENGINEER BY CHARGING A LICENSE FEE FOR THE REGISTRATION OF MOTOR VEHICLES IS NOT A REVENUE MEASURE OF SUCH CHARACTER AS TO PREVENT ITS ORIGINATING IN THE SENATE.--The house was considering Senate Bill No. 8, creating a State Highway

Department and providing for the appointment of a state highway engineer, and prescribing the duties of each and fixing the compensation of the engineer; creating a fund by the license of motor vehicles, etc., when Mr. Broughton made a point of order on further consideration of the bill on the ground that it was a bill raising revenue, and, under the provisions of the constitution, should originate in the house of representatives.

The speaker, Mr. Terrell, overruled the point of order. (33 H.J. Reg. 1577 (1913)).

3. INTERPRETATION OF SECTION 33 OF ART. 3 OF THE CONSTITUTION WHICH REQUIRES THAT REVENUE-RAISING MEASURES ORIGINATE IN THE HOUSE.--The house was considering S.B. 6 which increased the tuition and certain other fees at state-supported institutions of higher education. Mr. Johnston and Mr. Townsend jointly raised a point of order that the bill was not properly before the house since it was a revenue-raising measure originating in the senate, and that under the provisions of Sec. 33 of Art. 3 of the constitution revenue-raising measures must originate in the house. They pointed out that earlier in the session the speaker had held the bill to be within the governor's call because it was a revenue-raising measure.

In overruling the point of order, the speaker, Mr. Carr, cited cases in Vernon's Constitution of the State of Texas Annotated which held generally that Sec. 33 "applies to bills to levy taxes in the strict sense of the word, and not to bills for other purposes which may incidentally raise revenue." Regarding the earlier ruling, which had been referred to, Mr. Carr quoted the wording of the governor's call which clearly included any bill to raise revenue by whatever means, not just through

taxation. He noted that a bill to produce additional revenue for the institutions of higher education by an increase in fees, would, to a certain extent at least, relieve the general revenue fund. (56 H.J. 2 C.S. 697 (1959)).

SPECIAL SESSION--LEGISLATION WHICH MAY BE CONSIDERED

EXPLANATORY NOTES

1. Section 40 of Article 3 of the state constitution reads as follows:

"When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor."

In order to abide by the spirit of this section, it becomes imperative that a presiding officer, as well as individual legislators, strictly construe this provision. The rule should be rigidly adhered to in special sessions of the legislature, and points of order raised against bills on the ground that they do not come within the purview of the governor's call or have not been specially submitted, should be uniformly sustained, where it clearly appears that the bill is subject to objection. See the Texas precedent below for further information on this matter.

2. In a special session a point of order that a bill does not come within the governor's call or messages may properly be raised and decided at the time the bill is read first time. Because the point of order was not raised at the first reading, it does not mean, however, that it cannot be raised at a later stage in the consideration of the bill.

3. It is uniformly held that the subject matter of house and concurrent resolutions does not have to be submitted by the governor before they can be considered at a special session.

4. In called sessions occurring in recent years two distinct plans of procedure have been followed by speakers in dealing with bills embodying subjects not submitted by the governors in their calls or messages. Under the first plan, any and all bills introduced by members are admitted regardless of their content. If, on second reading (occasionally on first or third reading) a point of order is raised against a bill on the ground that its subject matter has not been submitted by the governor, the speaker, finding such to be the case, will sustain the point of order and thus terminate the bill's consideration.

Under the second plan, the speaker reviews all bills filed with the chief clerk, or coming from the senate, to determine if their subject matter has been submitted by the governor. He will then admit to first reading only those that are so covered.

The second plan follows both the letter and the spirit of the constitution which legislators and the governor are sworn to uphold. The first plan does not. The second plan protects both members of the legislature and the governor from needless and often unfair pressures. The governor can of course submit any matter for consideration by the legislature. If he does not then the subject matter should not be considered.

It is generally conceded, however, that if a bill, not within the governor's call or later submissions, is passed by the legislature and signed or filed by the governor (not vetoed), it will become law.

HOUSE PRECEDENTS

1. DECISIONS REGARDING SUBJECT MATTER ALLOWED UNDER GOVERNOR'S CALL AT A SPECIAL SESSION; ALSO TEST OF WHETHER OR NOT SUBJECT MATTER OF AMENDMENTS COME UNDER GOVERNOR'S CALL.--Mr. John R. Lee raised the point of order that an amendment to H.B. 6 by Mr. Murray Watson did not come within the call of the governor convening the special session. Speaker Waggoner Carr's ruling follows:

"Article 3, Sec. 40 of the Constitution of Texas reads as follows:

'When the Legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, or presented to them by the Governor.

There are several court decisions interpreting Art. 3, Sec. 40 that have a direct bearing on this question.

1. It was not the intention of this section to require the Governor to define with precision as to detail the subject of legislation, but only in a general way, by his call, to confine the business to the particular subjects. Brown vs. State, 32 Cr. App., 133; 22 S.W., 601; Long vs. State, 58 Cr. App., 209; 127 S.W., 208.

2. It is not necessary nor proper for the Governor to suggest in detail the legislation desired. It is for the Legislature to determine what the legislation shall be. Brown vs. State, 32 Cr. App., 133; 22 S.W., 601.

3. This section of the Constitution does not require the proclamation of the Governor to define the character or scope of legislation, but only in a general way to present the subjects for legislation. Long vs. State, 58 Cr. App., 209; 127 S.W., 208.

4. The Constitution does not require the proclamation of the Governor to define the character or scope of legislation which may be enacted at a special session but only in a general way to present the subjects for legislation, and thus confine the business to a particular field which may be covered in such way as the legislature may determine. Baldwin v. State, 21 Tex. App. 591; 3 S.W. 109; Devereaux v. City of Brownsville (C.C.) 29 Fed. 742.

5. Governor's proclamation or messages, submitting subject of legislation to special session under Art. 3, Sec. 40, need not state the details of the legislation to be considered; such matters being within the discretion of Legislature.

The gist of these opinions is that the legislature is not held to strict interpretation of "subject" submitted in the Governor's call, but rather that it has the authority to determine the specific details of legislation as long as they come generally within the call. And it seems clear that the Governor could not restrict the legislature to a particular bill or plan of legislation.

Item 4 of the Governor's proclamation concerning this session reads as follows:

4. 'To create and finance a statewide water planning agency to work in cooperation with State, local and Federal agencies in conducting research and planning for an over-all program of water conservation and flood control with authority to contract for water conservation storage in Federal reservoirs to be paid for out of revenue.

Establishment of the precedent of having to rule on whether or not such amendment offered comes within the Governor's call would be cumbersome and useless. Rather, it would seem the part of reason to apply the rule that if a bill is within the Governor's

call then it would follow logically that any germane amendment falls within the call. Germaneness would then become the critical tests as to whether or not an amendment comes within the Governor's call, so long, of course, as the bill itself comes within the Governor's call.

With regard to the Watson amendment to the committee amendment, the Chair has heretofore refused to rule it out as not germane, realizing at the time that the question was close, since H.B. 6 and Committee Amendment No. 1 have within their provisions a reaffirmation, at least, of a portion of the present law dealing with 200-acre-feet reservoirs, thereby exposing such provision to amendment.

In this case, the bill appears clearly within the Governor's call. Consequently, the point of order that the amendment does not fall within the call of the Governor is respectfully overruled."

2. In the 55th Legislature, 1st Called Session, the speaker, Mr. Carr, in the light of a unique set of circumstances, and under a rarely-used procedure, passed directly to the house the decision as to whether or not a particular bill came within the governor's call. (55 1st C.S. 156 (1957)).

3. LEGISLATURE IS WITHOUT AUTHORITY TO PROPOSE AMENDMENTS TO THE CONSTITUTION AT A SPECIAL SESSION.--Mr. Tillotson raised a point of order on further consideration of House Joint Resolution No. 1 on the ground that the legislature is without authority to propose amendments to the constitution at a special session.

The speaker, Mr. Fuller, sustained the point of order. (35 H.J. 1 C.S. 397 (1917)).

VETOED BILLS

EXPLANATORY NOTES

The constitution provides that when the governor vetoes a bill it shall be returned to the house in which it originated and that said house shall "proceed to reconsider it." For some time it was held that when a motion to pass a bill over the veto of the governor failed that no further action could be had, specifically that no motion to reconsider such vote could be made on the theory that when the constitution said "reconsider" that it meant only once. Later practice, however, discarded this theory, Speakers R. E. Morse, Homer Leonard, and Price Daniel holding that the constitutional term "reconsider" did not refer to the parliamentary motion "to reconsider." The practice now permits one additional vote on passage over the governor's veto if obtained under the route defined in the reconsideration rule, and an additional vote or votes if obtained under a suspension of the rules.

HOUSE PRECEDENTS

1. ONLY REQUIRES A TWO-THIRDS MAJORITY OF THOSE PRESENT TO PASS BILL OVER THE VETO OF THE GOVERNOR.--In the Thirtieth Legislature, Senate Bill No. 6 was pending in the house after having been passed in the senate over the governor's veto. The first vote showed 83 yeas, 36 nays, 2 present and not voting, 4 paired, a total of 125 present. The speaker announced that, it requiring two-thirds majority vote of the members present to pass it, the bill was lost.

Mr. Alderdice, who had voted against the bill, moved to reconsider the vote by which

Senate Bill No. 6 failed to pass notwithstanding the objection of the governor. The motion to reconsider prevailed.

After the second roll call the speaker announced the result: 88 yeas, 36 nays, 3 present not voting, 127 members present, and that the bill had passed.

When the speaker announced the result, Mr. Gaines raised the point of order that the bill had not passed, and in support of the point of order submitted to the chair the following proposition:

The Constitution, in providing the procedure of passing a bill over the Governor's veto, provides that it shall be returned, with his objections, to the House in which it originated, and that this House--that is, "the House in which it originated"--may pass it by "two-thirds of the Members present." Then the bill shall be sent to the other House, where it can pass by "two-thirds of the Members of that House." The point of order being that in this case the bill could pass the Senate by two-thirds of those "present," but that in the House it required two-thirds of the "Members of the House," which would mean two-thirds of all Members elected, or eighty-nine votes, and there being only eighty-eight votes cast in favor of the bill, it had not passed.

The speaker, Mr. Love, overruled that point of order and announced that the bill had passed. (30 H.J. Reg. 1529 (1907)).

Research into the proceedings of the Constitutional Convention of 1875, congressional rulings and rulings of the Supreme Court of the United States, and Texas legislative history, confirms the ruling that the vote necessary to pass a bill over the veto of the governor is "two-thirds of the members present" in each

house. A quorum must be present, of course.

2. CAN NOT AMEND A BILL AFTER BEING VETOED.--The house had under consideration a bill vetoed by the governor, the question being, "Shall the bill be passed notwithstanding the objections of the Governor?"

Mr. Nickels offered an amendment.

Mr. Kennedy raised a point of order on consideration of the amendment on the ground that it is not within the province of the house to amend the bill at this time.

Sustained. (32 H.J. Reg. 732 (1911)).

3. A GOOD "CONSTITUTIONAL" POINT OF ORDER CONCERNING A BILL MAY BE SUCCESSFULLY RAISED AT ANY TIME A BILL IS BEFORE THE HOUSE FOR CONSIDERATION. CASE WHERE SUCH A POINT WAS RAISED WHILE A BILL WAS BEFORE THE HOUSE ON MOTION TO PASS OVER VETO OF THE GOVERNOR.--The house was considering H.B. 260 on motion to pass same over the veto of the governor. Mr. Craig raised a point of order on further consideration of the motion on the ground that certain constitutional provisions concerning local bills had not been complied with in the case of H.B. 260. Opponents of this position held that such a point could not successfully be raised at the time because the only question pending was whether or not it should be passed over the veto of the governor.

The speaker, Mr. Daniel, after ascertaining the facts from the author, sustained the point of order, stating that the bill was then just as truly before the house for consideration as at any other previous stage of its passage. (48 H.J. Reg. 887 (1943)).

BILLS "REMITTING" TAXES

HOUSE PRECEDENTS

ONLY MAJORITY VOTE REQUIRED TO PASS BILLS "GRANTING" OR "DONATING" TAXES.--The speaker declared H.B. 497 passed by a 68 to 57 vote, whereupon Mr. Lansberry raised the point of order that "this bill has failed to pass for the reason that Sec. 10 of Art. 8 of the Constitution of the State of Texas provides that taxes cannot be remitted unless in case of public calamity and then only by vote of two-thirds of each House of the Legislature."

The speaker, Mr. Daniel, overruled the point of order, stating that the bill in question was like many others heretofore introduced and passed by the Texas legislature, all of which had uniformly been held not to be "tax remission" bills but rather bills which dealt with granting or donating taxes after their collection. (48 H.J. Reg. 2136 (1943)).

SUBCHAPTER B. APPROPRIATIONS BILLS

Sec. 5.051. PURPOSE OF SUBCHAPTER

(a) This subchapter governs consideration of general appropriations bills and other appropriations bills referred to the Committee on Appropriations as provided by the rules. This subchapter is cumulative of other rules governing consideration of bills, but to the extent of any conflict between this subchapter and other rules, the provisions of this subchapter prevail.

(b) The purpose of this subchapter is to strengthen and make more deliberative the process of budgeting state government by bringing into the process the consideration and the recommendations of standing committees

having jurisdiction over the various agencies and institutions, and toward this end this subchapter shall be liberally construed.

Sec. 5.052. SUBSTANTIVE COMMITTEES DEFINED

In this subchapter, "substantive committee" means a standing committee, other than the Committee on Appropriations and the Committee on Constitutional Amendments, to which a portion or portions of an appropriations bill is or may be referred under the provisions of this subchapter.

Sec. 5.053. ASSIGNMENT TO SUBSTANTIVE COMMITTEES

As soon as possible after an appropriations bill has been referred to the Committee on Appropriations, the chair of the Committee on Appropriations shall assign to each substantive committee having jurisdiction over agencies or institutions affected by the bill the portion or portions of the bill affecting those agencies or institutions. Jurisdiction is determined under Subchapter A of Chapter 3. The assignment shall be in a form determined by the chair of the Committee on Appropriations and shall be recorded in the journal. The assignment does not have the effect of removing the bill or any portion of the bill from the custody of the Committee on Appropriations.

Sec. 5.054. ASSERTION OF JURISDICTION

(a) Within a reasonable time, specified in writing by the chair of the Committee on Appropriations, the budget and oversight subcommittee of each substantive committee shall notify the chair of the Committee on Appropriations, in writing, of the assigned agencies or programs within an agency that the

budget and oversight subcommittee asserts jurisdiction over for the purpose of developing budget recommendations.

(b) Those agencies or parts of agencies over which the budget and oversight subcommittee does not assert jurisdiction are under the jurisdiction of the Committee on Appropriations.

Sec. 5.055. NONASSIGNABLE ITEMS

(a) The chair of the Committee on Appropriations shall not assign to any substantive committee:

(1) any part of Article V of the general appropriations bill;

(2) any part of the Special Provisions of Article I, II, or III of the general appropriations bill;

(3) line-item salaries;

(4) salaries of classified or unclassified personnel or professional fees and services; or

(5) any other matter affecting state agencies or institutions in general.

(b) The Committee on Appropriations shall develop guidelines on these matters, which shall be used by the substantive committee in formulating its recommendations. No assignment made under this section shall be construed to have an effect contrary to this subsection.

Sec. 5.056. MULTIPLE JURISDICTIONS

If an agency comes under the jurisdiction of more than one substantive committee, as provided by Subchapter A of Chapter 3, the chair of the Committee on Appropriations shall refer to the appropriate substantive committees only those portions of the bill that, in the chair's opinion, are severable.

Sec. 5.057. CONSIDERATION AND RECOMMENDATIONS

The substantive committee shall consider the portions of the appropriations bill assigned to it. The consideration is subject to the applicable rules of the house and to any applicable rules of the substantive committee. The recommendations of the substantive committee shall be transmitted to the chair of the Committee on Appropriations before the deadline set by that chair. The chair of the Committee on Appropriations may prescribe the form of the recommendations. The recommendations of a substantive committee shall be adopted by a majority of the membership of the committee.

Sec. 5.058. SUBCOMMITTEES FOR BUDGET AND OVERSIGHT

(a) Each substantive committee shall have a subcommittee for budget and oversight consisting of a chair for budget and oversight and not more than four members. The Committee on State Affairs and the Committee on Higher Education shall have an additional subcommittee for budget and oversight. The speaker shall designate as chair for budget and oversight a member of each substantive committee to which assignments may be made under this subchapter, and that member shall serve as chair of the subcommittee for budget and oversight. The chair for budget and oversight is primarily responsible for developing the recommendations of the substantive committee for presentation to the Committee on Appropriations and shall perform other duties as prescribed by this subchapter or as determined by the substantive committee.

(b) In addition to any duties and responsibilities delegated in this subchapter, each subcommittee for budget and oversight shall perform oversight functions for those

areas within its jurisdiction.

Sec. 5.059. SCHEDULE OF SUBCOMMITTEE HEARINGS

(a) After consultation with the chair for budget and oversight, the chair of the Committee on Appropriations shall develop and post a calendar specifying the dates and times for subcommittees for budget and oversight to hold public hearings on the proposed appropriations for each agency, or parts of an agency, over which the budget and oversight subcommittee asserted its jurisdiction.

(b) Following each public hearing, the subcommittee for budget and oversight shall prepare its recommendations for the agency heard and report them to the substantive committee. The substantive committee shall file written recommendations with the Committee on Appropriations within 120 hours after the conclusion of a hearing unless the time for filing has been extended by the chair of the Committee on Appropriations.

Sec. 5.060. SCHEDULE OF JOINT HEARINGS

(a) The chair of the Committee on Appropriations shall develop and post a calendar specifying the dates and times for public hearings on the proposed appropriations for each agency and the substantive committee report on those proposed appropriations.

(b) If a substantive committee report has not been filed at the time set for a public hearing, the report will not be received or considered.

Sec. 5.061. POSTING NOTICE OF MEETINGS

Posting of the schedule of hearings developed by the chair of the Committee on Appropriations and the chair for budget and oversight at least five days in advance of the

initial hearing shall serve as notice for all public and formal meetings of subcommittees and substantive committees on budget and oversight assigned to substantive committees. This provision shall take precedence over any rules to the contrary.

Sec. 5.062. CONSIDERATION OF SUBSTANTIVE COMMITTEE RECOMMENDATIONS

(a) The Committee on Appropriations shall consider the recommendations of each substantive committee if received before the deadline unless the records of the substantive committee show that the recommendations were not adopted by a majority of the membership of the committee.

(b) The Committee on Appropriations need not consider any recommendation on items included in the scope of Section 5.055.

Sec. 5.063. ACTION ALLOWED ON RECOMMENDATIONS

With regard to recommendations that the Committee on Appropriations is required to consider, the committee may, by a majority vote of the members present and voting, a quorum being present, reduce any item and reduce or eliminate any program recommended. The committee may not increase any item over the amount recommended or fund any program that the substantive committee recommends be terminated, except on the vote of two-thirds of the members present and voting, a quorum being present.

Sec. 5.064. REPORTING DEADLINE

The general appropriations bill shall be reported to the house by the Committee on Appropriations not later than the 90th calendar day of the regular session. Should the Committee on Appropriations fail to report

by the deadline, this section shall be suspended for the balance of that regular session.

Sec. 5.065. CONSIDERATION ON HOUSE FLOOR

On second reading of an appropriations bill, any violation of the provisions of this subchapter is subject to a point of order if a point of order was timely raised before the Committee on Appropriations and overruled. If a point of order is sustained by the speaker, the ruling does not affect the continued consideration of the bill, but the speaker shall direct that the appropriate change be made in the report of the Committee on Appropriations. Nothing in this section affects the right of a member to propose amendments to the bill.

Sec. 5.066. LIMITATION ON APPROPRIATIONS

(a) In order to assure compliance with the limitation on appropriations of state tax revenue not dedicated by the constitution as provided by Article VIII, Section 22, of the Texas Constitution, it is not in order for the speaker to lay before the house, prior to the time that the general appropriations bill has been finally passed and sent to the comptroller, any bill that appropriates funds from the state treasury that are not dedicated by the constitution, except bills appropriating money for:

(1) the payment of expenses of the legislature;

(2) the payment of judgments against the state; or

(3) any emergency matter when requested by the governor in a formal message to the legislature.

(b) Unless within the authority of a resolution or resolutions adopted pursuant to

Article VIII, Section 22(b), of the Texas Constitution, it is not in order for the house to consider for final passage on third reading, on motion to concur in senate amendments, or on motion to adopt a conference committee report, a bill appropriating funds from the state treasury in an amount that, when added to amounts previously appropriated by bills finally passed and sent or due to be sent to the comptroller, would exceed the limit on appropriations established under Article 5429c-4, Revised Civil Statutes of Texas, 1925.

SUBCHAPTER C. JOINT RESOLUTIONS

Sec. 5.091. AMENDMENTS TO THE TEXAS CONSTITUTION

A proposed amendment to the Texas Constitution shall take the form of a joint resolution, which shall be subject to the rules that govern the proceedings on bills, except that it shall be adopted on any reading after the first if it receives a two-thirds vote of the elected membership of the house. If such a joint resolution receives only a majority vote on second reading, it shall be passed to engrossment, and subsequent proceedings shall be the same as those governing the final passage of bills which have been passed to engrossment. If such a joint resolution does not receive a two-thirds vote of the elected membership of the house on third reading and final passage, it shall fail of adoption.

EXPLANATORY NOTES

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

2. The joint resolution has been used for years by congress and state legislatures as a vehicle for different forms of

business. In the Texas Legislature the rules provide that such a resolution should be used as the means of submitting amendments to the state constitution. The above section provides, in effect, that a joint resolution shall take the same course through the two houses as a bill and be like a bill in all respects, except that if it receives, at any reading beyond the first, a two-thirds vote of all members elected to a particular house, then the resolution is passed finally by that house. The two-thirds vote requirement in the rules is in keeping with the Texas constitutional requirement that an amendment to the constitution can be proposed only by that vote.

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

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

Sec. 5.092. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

Ratification by Texas of a proposed amendment to the Constitution of the United States shall take the form of a joint resolution, which shall be subject to the rules that govern the proceedings on bills, except that it shall be adopted on second reading if it receives a majority vote of the members present and voting, a quorum being present. If such a joint resolution fails to receive a majority vote, it shall fail of adoption and shall not be considered again unless revived by a motion to reconsider as

otherwise provided in the rules.

EXPLANATORY NOTES

Amendments to the federal constitution are considered adopted after submission by the congress and ratification by the required number of states through the action of their legislatures. It has been the custom to present such proposals for ratification in the Texas Legislature through the vehicle of a joint resolution, but since nothing exists to the contrary, such a resolution can be passed by a majority vote of each house, the two-thirds vote requirement referred to in Section 5.091 obviously not being applicable. To illustrate, when the 19th Amendment to the Federal Constitution (Suffrage Amendment) was ratified by the Texas Legislature, it received a record vote in the house but only a voice vote in the senate, and was declared duly ratified. The 20th Amendment to the Federal Constitution (Presidential Succession) was adopted by a unanimous vote of each house of the Texas Legislature, the vote being recorded but no reference being made to a "two-thirds vote." Had such been considered significant it would have been appropriately recorded.

Sec. 5.093. ASSIGNMENT OF JOINT RESOLUTIONS TO A CALENDAR

Joint resolutions on committee report shall be referred to the Committee on Calendars for assignment to an appropriate calendar. The Committee on Calendars shall maintain a separate calendar for house joint resolutions and a separate calendar for senate joint resolutions. Senate joint resolutions shall be considered on calendar Wednesdays and calendar Thursdays along with senate bills.

SUBCHAPTER D. HOUSE AND CONCURRENT RESOLUTIONS

Sec. 5.111. FILING

Resolutions shall be introduced by the filing of 12 identical copies with the chief clerk, who shall number and record house resolutions in one series and concurrent resolutions in a separate series.

Sec. 5.112. REFERRAL TO STANDING COMMITTEE

(a) After numbering and recording, all resolutions shall be sent to the speaker for referral to the proper committee.

(b) Resolutions proposing the expenditure of money out of the contingent expense fund of the legislature shall be referred to the Committee on House Administration.

(c) All other resolutions shall be referred to the standing committee having jurisdiction as determined by the provisions of Subchapter A of Chapter 3.

Sec. 5.113. REFERRAL TO CALENDARS COMMITTEES

All resolutions on committee report, other than privileged resolutions, shall be referred immediately to the appropriate calendars committee for assignment to the appropriate calendar.

Sec. 5.114. ORDER OF CONSIDERATION

Unless privileged, resolutions shall be considered by the house only at the time assigned for their consideration on the calendar, in accordance with the provision of Subchapter D of Chapter 4.

Sec. 5.115. SIGNING BY GOVERNOR

Concurrent resolutions shall take the same course as house resolutions, except that they shall be sent to the governor for signing when finally passed by both houses.

EXPLANATORY NOTES

1. Matters of business solely between the two houses, except such business as requires suspension of the joint rules, are handled by concurrent resolutions; for example, requests for the return of bills for further consideration, corrections, etc., are contained in concurrent resolutions. All concurrent resolutions, except those pertaining to adjournment, must be submitted to the governor for his approval.

2. Under the terms of Sec. 15 of Art. 4 of the constitution, concurrent resolutions must be sent to the governor for his approval before they become effective. In the case of concurrent resolutions dealing solely with the rules of proceedings of the two houses, which, under Sec. 11 of Art. 3 of the constitution is determined by the houses respectively, as well as jointly, approval by the governor has become a foregone conclusion. Certainly there is no record in recent Texas legislative history of a governor failing to approve (or file) such a resolution, although it might be argued that he would have full right to do so. Consequently, presiding officers of both houses have repeatedly held that the provisions of such a concurrent resolution actually become effective as soon as it is approved by both houses. A resolution type falling in this category would be one that gives one or both houses the right to consider a bill at a time or times other than set out in the joint rules.

3. Concurrent resolutions do not have to

be "put into immediate effect" by receiving one hundred votes on passage. A majority vote is all that is necessary to carry out the provisions of any house or concurrent resolution, other than a resolution suspending or amending the joint rules.

Sec. 5.116. RESOLUTIONS AUTHORIZING EXPENDITURES

All resolutions authorizing the expenditure of money out of the general house fund of the legislature shall contain a proposed budget itemizing the maximum amounts of money authorized by the resolution. The Committee on House Administration shall not authorize the expenditure of an amount greater than the proposed budget adopted by passage of the resolution.

Sec. 5.117. MASCOT RESOLUTIONS

(a) All candidates for the office of mascot shall be named in and elected by a single house resolution.

(b) Only children of house members who are under the age of 12 years shall be eligible for election to the honorary office of mascot. A child once named a mascot shall not be eligible for the honor a second time.

(c) No separate classification or special title shall be given to any mascot, but all shall receive the same title of honorary mascot of the house of representatives.

(d) The speaker shall issue a certificate showing the election of each mascot and deliver it to the parent member of the child.

Pictures of mascots shall appear on the panel picture of the house.

Sec. 5.118. CONSIDERATION OF RESOLUTIONS DURING CALLED SESSIONS

The subject matter of house resolutions and concurrent resolutions does not have to be submitted by the governor in a called session before they can be considered.

EXPLANATORY NOTES

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

2. Legislature has broad powers in investigations.

3. See Article 5429f, Vernon's Texas Civil Statutes.

HOUSE PRECEDENTS RELATING TO RESOLUTIONS

1. TYPES AND CHARACTER OF RESOLUTIONS FREQUENTLY ENCOUNTERED THAT ARE CLASSED AS PRIVILEGED.--At various times speakers have held that resolutions of the following types were privileged:

a. Routine requests between the two houses. (House resolutions.)

b. Suspension of the joint rules for designated purposes. (Concurrent resolutions.)

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

d. Adjournment beyond the constitutional limit of three days. (Concurrent resolutions.)

e. Sine die adjournment. (Concurrent resolutions.)

f. Directing the appropriate clerk to make corrections in bills or resolutions, the term "corrections" being strictly construed and not including any change in subject matter to which the houses have

agreed. (Concurrent resolutions.)

2. LEGISLATIVE AND JUDICIAL INQUIRIES MAY BE MADE AT THE SAME TIME AND ARE INDEPENDENT.--The house was considering a concurrent resolution providing for the appointment of a Joint Legislative Committee to investigate alleged bond sale irregularities in a certain county.

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

The speaker, Mr. Satterwhite, overruled the point of order. (39 H.J. 1 C.S. 465 (1926)).

Legislative investigation of a matter in the hands of the courts is within the power of the legislature.

3. THE LEGISLATURE BY CONCURRENT RESOLUTION CANNOT POSTPONE THE DATE A LAW IS TO BECOME EFFECTIVE.--The speaker had laid before the house a Senate Concurrent Resolution No. 12, relating to postponing the date upon which a certain act passed by the regular session was to become effective.

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

The speaker, Mr. Barron, sustained the point of order. (41 H.J. 1 C.S. 601 (1929)).

4. NOT IN ORDER FOR THE HOUSE ITSELF, OR FOR A COMMITTEE CHAIRMAN ACTING IN HIS OWN

BEHALF, TO REQUEST AN OPINION FROM THE ATTORNEY GENERAL.--On several occasions speakers have ruled out of order resolutions requesting official opinions from the attorney general, on the ground that Art. 4399, R.C.S., does not list the two houses of the legislature as being eligible to ask for and secure such opinions. In the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled officially, in keeping with long-prevailing practice, that a committee chairman is not eligible either if he acts in his own behalf. Frequently, however, committees instruct their chairmen to ask for opinions on matters pending before them, since they are eligible under Art. 4399. Such requests should show clearly that they are being made pursuant to specific committee authorization.

5. AUTHORITY CANNOT BE GIVEN TO A STATE AGENCY BY CONCURRENT RESOLUTION IF SUCH DOES NOT ALREADY EXIST BY LAW.--The house was considering H.C.R. 68 which required of the Department of Public Safety certain activity not prescribed by law. Mr. Carlton raised a point of order on consideration of the resolution on the ground that delegation of authority not authorized by law cannot be accomplished by a concurrent resolution.

The speaker, Mr. Daniel, sustained the point of order. (48 H.J. Reg. 1018 (1943)).

6. CANNOT AUTHORIZE BY RESOLUTION AN ACT IN VIOLATION OF AN EXISTING STATUTE.--H.C.R. 122, authorizing the Game, Fish and Oyster Department to issue complimentary hunting licenses to out-of-state sportsmen, was before the house.

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

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 2723 (1937)).

7. HELD THAT PERMISSION TO SUE THE STATE COULD BE GRANTED BY CONCURRENT RESOLUTION.--In an opinion rendered Hon. Dewey Young, dated March 18, 1931, Mr. J. A. Stamford, assistant attorney general, stated:

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

8. APPROPRIATION FROM THE GENERAL REVENUE FUND OF THE STATE CAN NOT BE MADE BY RESOLUTION.--H.C.R. 13, pending before the house, provided an appropriation of $1,000 "out of the General Revenue Fund of the State Treasury" to defray the expenses of a committee, consisting of members of the house and senate and others, to meet with representatives of the State of Oklahoma in regard to certain boundary matters.

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

The speaker, Mr. Calvert, sustained the point of order, and the resolution was amended by unanimous consent to provide for the appropriation out of the Contingent Expense Fund of the house and senate. (45 H.J. Reg. 209 (1937)).

9. SINE DIE ADJOURNMENT RESOLUTION MUST FIX A TIME CERTAIN FOR ADJOURNMENT.--The house was considering S.C.R. 64, providing for sine die adjournment on a certain date. An amendment was offered to change the

adjournment date to "Twelve days after the departmental appropriation . . . is presented to the Governor." Mr. Isaacks raised a point of order that the amendment was out of order because it would make the adjournment date vague and indefinite. The speaker, Mr. Homer Leonard, sustained the point of order (47 H.J. Reg. 3760 (1941)).

10. SEVERAL POINTS ON THE CONSIDERATION OF A SINE DIE ADJOURNMENT RESOLUTION SETTING ASIDE A PREVIOUS RESOLUTION AND FIXING A NEW DATE FOR SINE DIE ADJOURNMENT.--Section 17 of Article 3 of the constitution provides: "Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the Legislature may be sitting."

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

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

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

1. I raise the point of order that the House and Senate, on May 12, 1931, passed the sine die adjournment resolution, adjourning the Legislature sine die at 12

m., Friday, May 22nd, which action is final and binding upon the Legislature, and any action taken by the House and/or the Senate after May 22nd is null, void and of no force and effect.

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

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

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

The speaker, Mr. Minor, overruling the points of order, held that the legislature had authority to fix a date for final adjournment different from the date previously set, or to repeal and set aside, by proper resolution, a resolution fixing the date for final adjournment. He pointed out that an adjournment resolution was an act or expression of the legislature for its own government and was not subject to the approval of the governor. He also ruled that the new resolution was not a "reconsideration" of the old one, and therefore the reconsideration rule did not apply. He further ruled that it was

entirely in order for the legislature, if it so desired, to recess a regular session to some future time within its period of existence. (42 H.J. Reg. 2406 (1931)).

SUBCHAPTER E. PRINTING

Sec. 5.141. PRINTINGS OF BILLS AND JOINT RESOLUTIONS

Except as otherwise provided in this subchapter, all bills and joint resolutions shall be printed and a copy provided to each member at each of the following stages in the parliamentary progress of the bill or joint resolution:

(1) at the time of the committee report on the bill or joint resolution, which shall be known as "First Printing." The first printing shall consist of:

(A) a complete text of the bill or joint resolution as reported from committee. In the event that the bill or joint resolution proposes to amend an existing statute or constitutional provision, any language sought to be deleted shall be inserted in its appropriate place in brackets and stricken through, and any language sought to be added shall be underlined, except as provided in Section 3.118(d). Sections on severability, nonseverability, emergency, and repealers shall not be underlined;

(B) a complete copy of the committee bill analysis;

(C) the text of the committee report;

(D) the record vote by which the measure was reported from committee, including the vote of individual members;

(E) a copy of the latest fiscal note or fiscal statement prepared by the author; and

(F) a copy of the latest actuarial

analysis;

(2) at the time the bill or joint resolution, if amended, finally passes the senate, senate amendments and house engrossment text will be printed, which shall be known as "Second Printing"; and

(3) at the time the conference committee, if any, makes its report on the bill or joint resolution, which shall be known as "Third Printing."

Sec. 5.142. LOCAL BILLS

Local bills shall not be reprinted after the first printing except when ordered printed by a majority vote of the house.

Sec. 5.143. CONCURRENT RESOLUTIONS

A concurrent resolution shall be printed only if the resolution:

(1) grants permission to sue the state;

(2) memorializes Congress to take or to refrain from taking certain action;

(3) sets legislative policy or declares legislative intent;

(4) makes corrective changes in any bill, joint resolution, or conference committee report;

(5) establishes or interprets policy for a state agency, department, or political subdivision;

(6) authorizes a conference committee to include or omit from a conference committee report a matter which otherwise would be prohibited by the rules;

(7) establishes, modifies, or changes internal procedures or administration of the legislature or any component part thereof;

(8) proposes an amendment to the Joint Rules of the Senate and the House of Representatives; or

(9) is ordered printed by a majority vote of the house.

Sec. 5.144. HOUSE RESOLUTIONS

A house resolution shall be printed only if the resolution:

(1) proposes an amendment to the rules of the house;

(2) establishes, modifies, or changes the internal procedures and administration of the house;

(3) establishes legislative policy or interprets legislative intent; or

(4) is ordered printed by a majority of the house.

EXPLANATORY NOTES

If house and concurrent resolutions are required to be printed, the printing stages would be the same as those provided in Sec. 5.141.

Sec. 5.145. ACCEPTABLE STANDARDS OF COMPLIANCE WITH PRINTING REQUIREMENTS

Except for matter to be printed in the journal, all requirements contained in the rules with respect to the printing of bills, resolutions, reports, and other matters shall be considered complied with if the material is adequately and properly reproduced by any acceptable means of reproduction.

CHAPTER 6. INTERACTIONS WITH THE GOVERNOR AND SENATE

SUBCHAPTER A. MESSAGES

Sec. 6.01. MESSAGES FROM THE GOVERNOR

Messages and communications from the governor shall be received when announced, and shall be read on the calendar day received.

Sec. 6.02. MESSAGES FROM THE SENATE

(a) All messages from the senate shall be received when announced. Senate bills announced as passed shall be read for the first time and referred to the appropriate committee on the calendar day received, if possible, or on the next calendar day the house is in session.

(b) Messages from the senate announcing amendments to house bills and resolutions, nonconcurrence in house amendments to senate bills and resolutions, requests for conference committees, reports of conference committees, and all other matters of disagreement, amendments, and requests between the two houses, shall go to the speaker's desk in their regular order, but may be called up for action by the house at any time as a privileged matter, yielding only to a motion to adjourn.

EXPLANATORY NOTES

1. A motion to reconsider the vote on a privileged motion, such as those described in Sec. 6.02(b) has the same high priority as the original motion.

2. In view of the high priority given conference reports in the above rule and the wording of then Sec. 21 of the joint rules, Speaker W. O. Reed held, in the 50th

Legislature, that a conference report on a house bill could properly be considered on a senate bill day.

SUBCHAPTER B. SENATE AMENDMENTS

Sec. 6.21. HOUSE ACTION ON SENATE AMENDMENTS

When a bill, resolution, or other matter is returned to the house with senate amendments, the house may:

(1) agree to the amendments; or

(2) disagree to all of the amendments and ask for a conference committee; or

(3) agree to one or more of the amendments and disagree as to the remainder and request a conference committee to consider those in disagreement; or

(4) agree to one or more and disagree as to the remainder; or

(5) disagree to all amendments.

EXPLANATORY NOTES

1. The chief clerk should notify members when their bills are returned to the house with senate amendments.

2. The mover of a main motion to concur in senate amendments or not to concur and request a conference committee, or a variation of these motions, is allowed the usual twenty minutes to open and close debate on the motion if he so desires. Additional time may be allowed by the house as described in Sec. 4.107.

3. As a rule the chair refuses to decide upon the germaneness of senate amendments to house bills, leaving such decision to the house to be expressed by concurrence or non-concurrence in the amendments. While there are many precedents which uphold this practice, recent rulings hold that such precedents should not control decisions of

the chair in regard to situations like the one described in the second precedent below. There is nothing in the rules that could possibly prevent a member from raising a point of order against a clear violation of Sec. 30 of Art. 3 of the constitution and having it sustained. Ordinarily, however, the chair should not be expected to pass upon the germaneness of senate amendments, and this is borne out by the precedents referred to, which are both reasonable and wise, but recent trends in legislative practice point to the advisability of departing from the established practice in cases as clear as the one cited.

4. Since direct negatives as substitutes are not in order, if a motion "to concur" in senate amendments is pending, a substitute "not to concur" is not in order because a refusal to adopt the first motion would gain the same end. A motion not to concur and ask for a conference would be in order, however, because it contains other matter which keeps it from being a direct negative.

5. A senate committee substitute for a house bill reported out of a senate committee and then amended on the senate floor and finally passed is, so far as the motions to concur or not concur and request a conference in the house are concerned, a single senate amendment. It is not divisible.

HOUSE PRECEDENTS

1. In the 54th Legislature the speaker, Mr. Lindsey, ruled that making the motion "to concur" or "not to concur" is not exclusively the right of the author (or member in charge) of a bill, same being the right of any member. However, he pointed out that custom and propriety dictated that the author or member in charge of a bill

should be given full opportunity to determine upon the course of action and that he would refuse to recognize any other member until it became evident that the author, or member in charge, would refuse to act.

2. IN ORDER TO POSTPONE A PRIVILEGED MATTER, AND WHEN POSTPONED THE PRIVILEGED NATURE IS RETAINED.--The house was considering a conference committee report. Mr. Hartzog moved to postpone the report to a time certain. Mr. Morris raised the point of order that the motion was out of order because the report was privileged matter under Sec. 6.02(b). The speaker, Mr. Homer Leonard, overruled the point of order, stating that privileged matters could be postponed or laid on the table subject to call by a majority vote, and that when the time came for their consideration they would retain their privileged nature. (47 H.J. Reg. 3710 (1941)).

3. CASE WHERE THE SPEAKER RULED OUT A SENATE AMENDMENT TO A HOUSE BILL, WHICH AMENDMENT CLEARLY CHANGED THE PURPOSE OF THE HOUSE BILL IN A MAJOR DEGREE.--Mr. Celaya moved to concur in senate amendments to H.B. 1116. Mr. Wood raised a point of order on consideration of the motion to concur on the ground that the amendments were put on the bill in violation of Sec. 30 of Art. 3 of the constitution which provides that "no bill shall be so amended in its passage through either house, as to change its original purpose."

The speaker, Mr. Calvert, in sustaining the point of order pointed out that the original house bill as passed and sent to the senate was a local fishing license law for McLennan County, and that the senate, by amendments striking out all below and above the enacting clause, had substituted an entirely new bill which was a general

fishing license law for the entire state, such a change in the purpose of the original bill being clearly a violation of the constitution. (45 H.J. Reg. 2592 (1937)).

4. CASE WHERE BILL WAS DECLARED PASSED WHEN THE SENATE RECEDED FROM ITS AMENDMENTS.--H.B. 373 passed the house and then passed the senate with amendments. The house refused to concur in the senate amendments and asked for the appointment of a conference committee. This request was granted, and, while the lieutenant governor was considering naming of the conference committee on the part of the senate, a resolution was offered and adopted in the senate receding from the amendments to which the house had disagreed originally. The house was duly notified of the passage of the resolution. Mr. Harris of Dallas raised a point of order that when the house disagreed on the amendments and the matter had moved to the status just described that the senate could not recede.

The speaker, Mr. Homer Leonard, overruled the point of order and called the attention of the house, first to the fact that the bill and amendments had not been turned over to a conference committee because none existed as yet, the lieutenant governor not having named the senate conferees. He pointed next to the fact that when the senate receded from its position there were, in fact, no differences between the two houses, both having passed the bill in identical form, and, in support of this position he discussed congressional precedents which upheld the idea that whenever by receding or by other parliamentary method the two houses are brought together on the text of a bill then the bill is considered passed. (47 H.J. Reg. 3003 (1941)).

Sec. 6.22. ADOPTION OF SENATE AMENDMENTS FOR BILLS WITH IMMEDIATE EFFECT

If a bill is to go into immediate effect, senate amendments thereto must be adopted by a vote of two-thirds of the elected membership of the house.

Sec. 6.23. PRINTING SENATE AMENDMENTS

Senate amendments to house bills and resolutions must be printed and copies provided to the members at least 24 hours before any action can be taken thereon by the house; however, during the last 72 hours of any session, it shall not be necessary for the 24-hour period to elapse before action can be taken by the house.

EXPLANATORY NOTES

In light of the above, often, to gain time, the motion "to suspend the rules for the purpose of concurring in senate amendments" to a bill or resolution is made. Handling and effect of this motion is exactly parallel to the motion "To suspend the rules for the purpose of adopting the conference report," as discussed in the precedents following Sec. 5.025 in so far as the requirements for a two-thirds vote of the membership is concerned, if a bill is to go into immediate effect. The endorsement of the chief clerk, regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and senate amendments adopted by the following vote: Yeas , Nays ." Whenever a motion to suspend this particular rule is made and carried, even before senate amendments are laid on members' desks, the amendments are nevertheless printed in the journal if adopted.

SUBCHAPTER C. CONFERENCE COMMITTEES

Sec. 6.41. MEMBERSHIP AND OPERATION

In all conferences between the senate and the house by committee, the number of committee members from each house shall be five. All votes on matters of difference shall be taken by each committee separately. A majority of each committee shall be required to determine the matter in dispute. Reports by conference committees must be signed by a majority of each committee of the conference.

EXPLANATORY NOTES

1. The names of house conferees should accompany a request to the senate for a conference, not be sent later.

2. Six official copies of conference committee reports are signed by the conferees, three going to each house, usually in keeping of the chairmen who file the copies with the presiding officers. When a conference committee report on a house bill is laid before the house one copy of the report goes immediately to the journal clerk. If adopted, the chief clerk so endorses the other two copies, sending one by messenger to the senate, and holds the other copy awaiting action on the report by the senate. If the senate adopts the report, an officially endorsed copy will be sent to the house, and the chief clerk causes the conference committee report to be enrolled showing action thereon by both houses and it is printed in the journal.

Sec. 6.42. MEETINGS

House conferees when meeting with senate conferees to adjust differences shall meet in

public and shall give a reasonable amount of notice of the meeting in the place designated for giving notice of meetings of house standing committees. Any such meeting shall be open to the news media. Any conference committee report adopted in private shall not be considered by the house.

Sec. 6.43. INSTRUCTIONS

Instructions to a conference committee shall be made after the conference is ordered and before the conferees are appointed by the speaker, and not thereafter.

Sec. 6.44. LIMITATIONS ON JURISDICTION

(a) Conference committees shall limit their discussions and their actions solely to the matters in disagreement between the two houses. A conference committee shall have no authority with respect to any bill or resolution:

(1) to change, alter, or amend text which is not in disagreement;

(2) to omit text which is not in disagreement;

(3) to add text on any matter which is not in disagreement;

(4) to add text on any matter which is not included in either the house or senate version of the bill or resolution.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(b) Conference committees on appropriations bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. In addition to the limitations contained elsewhere in the rules, a conference committee on appropriations bills shall be strictly

limited in its authority as follows:

(1) If an item of appropriation appears in both house and senate versions of the bill, the item must be included in the conference committee report.

(2) If an item of appropriation appears in both house and senate versions of the bill, and in identical amounts, no change can be made in the item or the amount.

(3) If an item of appropriation appears in both house and senate versions of the bill but in different amounts, no change can be made in the item, but the amount shall be at the discretion of the conference committee, provided that the amount shall not exceed the larger version and shall not be less than the smaller version.

(4) If an item of appropriation appears in one version of the bill and not in the other, the item can be included or omitted at the discretion of the conference committee. If the item is included, the amount shall not exceed the sum specified in the version containing the item.

(5) If an item of appropriation appears in neither the house nor the senate version of the bill, the item must not be included in the conference committee report. However, the conference committee report may include appropriations for purposes or programs authorized by bills that have been passed and sent to the governor and may include contingent appropriations for purposes or programs authorized by bills that have been passed by at least one house.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(c) Conference committees on tax bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. In addition to the limitations

contained elsewhere in the rules, a conference committee on a tax bill shall be strictly limited in its authority as follows:

(1) If a tax item appears in both house and senate versions of the bill, the item must be included in the conference committee report.

(2) If a tax item appears in both house and senate versions of the bill, and in identical form and with identical rates, no change can be made in the item or the rate provided.

(3) If a tax item appears in both house and senate versions of the bill but at differing rates, no change can be made in the item, but the rate shall be at the discretion of the conference committee, provided that the rate shall not exceed the higher version and shall not be less than the lower version.

(4) If a tax item appears in one version of the bill and not in the other, the item can be included or omitted at the discretion of the conference committee. If the item is included, the rate shall not exceed the rate specified in the version containing the item.

(5) If a tax item appears in neither the house nor the senate version of the bill, the item must not be included in the conference committee report.

This rule shall be strictly construed by the presiding officer in each house to achieve these purposes.

(d) Conference committees on reapportionment bills, to the extent possible, shall limit their discussions and their actions to the matters in disagreement between the two houses. Since the adjustment of one district in a reapportionment bill will inevitably affect other districts, the strict rule of construction imposed on other conference committees must be relaxed somewhat when reapportionment bills are involved.

Accordingly, the following authority and limitations shall apply only to conference committees on reapportionment bills:

(1) If the matters in disagreement affect only certain districts, and other districts are identical in both house and senate versions of the bill, the conference committee shall make adjustments only in those districts whose rearrangement is essential to the effective resolving of the matters in disagreement. All other districts shall remain unchanged.

(2) If the matters in disagreement permeate the entire bill and affect most, if not all, of the districts, the conference committee shall have wide discretion in rearranging the districts to the extent necessary to resolve all differences between the two houses.

(3) Insofar as the actual structure of the districts is concerned, and only to that extent, the provisions of Section 6.44(a) shall not apply to conference committees on reapportionment bills.

(e) Conference committees on recodification bills, like other conference committees, shall limit their discussions and their actions solely to the matters in disagreement between the two houses. The comprehensive and complicated nature of recodification bills makes necessary the relaxing of the strict rule of construction imposed on other conference committees only to the following extent:

(1) If it develops in conference committee that material has been inadvertently included in both house and senate versions which properly has no place in the recodification, that material may be omitted from the conference committee report, if by that omission the existing statute is not repealed, altered, or amended.

(2) If it develops in conference

committee that material has been inadvertently omitted from both the house and senate versions which properly should be included if the recodification is to achieve its purpose of being all-inclusive of the statutes being recodified, that material may be added to the conference committee report, if by the addition the existing statute is merely restated without substantive change in existing law.

(f) Limitations imposed on certain conference committees by the provisions of this section may be suspended in part by permission of the house to allow consideration of and action on a specific matter or matters which otherwise would be prohibited. Permission shall be granted only by resolution passed by majority vote of the house, with yeas and nays recorded in the journal of the house. Any such resolution relating to the general appropriations bill shall be privileged in nature and shall be eligible for consideration by the house one hour after introduction and need not be referred to a committee. The resolution shall specify in detail:

(1) the exact nature of the matter or matters proposed to be considered;

(2) the specific limitation or limitations to be suspended;

(3) the specific action contemplated by the conference committee; and

(4) the reasons that suspension of the limitations is being requested.

In the application of this subsection to appropriations bills, the resolution shall include a general statement outlining a proposed salary plan but need not include changes in amounts resulting from the salary plan and differences in language which do not affect the substance of the bill.

Permission thus granted shall suspend the limitations only for the matter or matters

clearly specified in the resolution, and the action of the conference committee shall be in conformity with the resolution.

Sec. 6.45. PRINTING AND DISTRIBUTION OF REPORTS

(a) All conference committee reports on appropriations bills, tax bills, reapportionment bills, and recodification bills must be printed and a copy furnished to each member at least 48 hours before any action can be taken thereon by the house.

(b) All conference committee reports on bills other than appropriations, tax, reapportionment, and recodification bills must be printed and a copy furnished to each member at least 24 hours before action can be taken on the report by the house; however, during the last 48 hours of any session it shall be necessary for only two hours to elapse after a copy has been provided to each member before action can be taken on the report by the house.

EXPLANATORY NOTES

1. The above section does not apply to a bill which only incidentally carries an appropriation.

2. Frequently, usually to avoid the time lapses required in the above section, the motion "To suspend the rules for the purpose of adopting the conference report" on a particular bill is made. Basically, such a motion requires only a two-thirds vote (of the members present and voting) for adoption. If the motion is adopted, the speaker declares the rules suspended and the report adopted. However, such motion must be adopted by a record vote, and receive at least one hundred (two-thirds of the membership) affirmative votes if the bill

covered by the conference report is to go into immediate effect. The endorsement by the chief clerk regarding affirmative action on a motion of this sort should be as follows: "Rules suspended and Conference Report adopted by the following vote: Yeas , Nays ."

3. If it is not desired to put a bill into immediate effect, but for reasons it is desired to suspend the rules to obtain a vote on the conference report, a non-record vote should be taken. If it becomes evident that a record vote is to be demanded (by 3 members or more), then two separate motions could be utilized. The first motion should be, "To suspend the rules for the purpose of making the motion to adopt the conference report on ." The second should be, "To adopt the conference report on ." Of course, if a record vote is demanded on the latter motion, and it receives 100 affirmative votes, in so far as the house is concerned the bill would go into immediate effect. This situation is unlikely. A better route would be not to put an "immediate effect" clause in the bill reported by the conference.

Sec. 6.46. ANALYSIS OF REPORTS

All reports of conference committees shall include an analysis showing wherein the report differs from the house and senate versions of the bill, resolution, or other matter in disagreement. The analysis of appropriations bills shall show in dollar amounts the differences between the conference committee report and the house and senate versions. No conference committee report shall be considered by the house unless such an analysis has been prepared and distributed to each member.

Sec. 6.47. CONSIDERATION OF REPORTS

A conference committee report is not subject to amendment, but must be accepted or rejected in its entirety. While a conference committee report is pending, a motion to deal with individual amendments in disagreement is not in order.

Sec. 6.48. WHEN REPORTS NOT ACCEPTABLE

When a conference committee report is not acceptable to the house for any reason, it may be recommitted to the same committee with the request for further consideration, and the house may or may not give any specific instructions on the report to the conference committee; or the house may request the appointment by the senate of a new conference committee and then proceed to empower the speaker to name new conferees for the house.

EXPLANATORY NOTES

1. A number of rulings have made it clear that conference committee reports could not be changed by concurrent resolutions after adoption. Such resolutions have sought to "amend" such reports or to direct the appropriate engrossing and enrolling clerk to make specified changes. However, from time to time concurrent resolutions have been adopted which instructed an engrossing and enrolling clerk to make corrections in typographical errors, punctuation, section numbering, accidental omissions due to stenographic errors, and the like, all of which were changes to which there was little or no objection and all of which were designed to perfect the final legislative product.

2. In the case of conference committee reports on biennial appropriation bills, for a number of years it has been the practice, because of the size and nature of the bills, to admit concurrent resolutions to correct accidental omissions, wording, titles, totals, typographical errors and the like. Often these were admitted under protest that such changes could not be made in such a manner. Admitting the question of procedural legality in general, presiding officers went along with the procedure as the best for all practical purposes. However, in the 55th Legislature, Regular Session, Speaker Waggoner Carr ruled in order a supplement to the original conference committee report which contained all needed corrections, holding this type of procedure was preferable to a concurrent resolution. The report was adopted.

3. Conference committees are composed of five members, as provided above and in the joint rules. Usually where the vote in the house has been close on the major point or points at issue, the speaker gives the majority three members and the minority two members on the committee. When the vote is not close but there has been a strong minority fight, the minority is usually given one place on the committee.

4. A conference report must receive a two-thirds vote of each house in order to put the measure into immediate effect, except in case of the general appropriations act. The same is true regarding concurrence in senate amendments. The mere concurrence in senate amendments by a two-thirds vote does not put a measure into immediate effect unless final passage in each house was obtained by a two-thirds vote.

5. A slight deviation from the conference report rule just stated is recognized, because in a decision handed

down on June 27, 1931, Judge Morrow, presiding judge of the Court of Criminal Appeals, said: "It seems enough to say that a reasonable and logical interpretation of the controlling provision of the Constitution of this State confers upon the Legislature both the power (by a record vote of two-thirds vote of the Members of each House) to change the time within which an act of the Legislature may ordinarily become effective, and requires that they exercise such authority and power at the time when they become aware of the terms of the law as finally agreed upon. Previous action upon a bill in its initial stages, before material and radical changes have been made, would not control." In the light of this decision, it would be reasonable to assume that if a bill did not receive the necessary two-thirds record vote on final passage in both houses and was not subjected to "material and radical changes" in conference, the adoption of the conference report by the necessary two-thirds record vote in both houses would not put the bill into immediate effect. On the other hand, if such changes had been made in conference and the necessary two-thirds record vote obtained on the adoption of the conference report, then the bill would go into immediate effect.

6. See annotation following Sec. 5.091 on vote required to concur in senate amendments to a house joint resolution and to adopt a conference committee report on a joint resolution.

HOUSE PRECEDENTS ON CONFERENCES

1. THE HOUSE, AND NOT THE SPEAKER, DECIDES WHETHER OR NOT A CONFERENCE COMMITTEE HAS VIOLATED INSTRUCTIONS.--The house was considering a conference committee report, having previously given its committee certain instructions.

Mr. Hopkins raised a point of order on further consideration of the report on the ground that the committee had violated the instructions given it by the house.

The speaker, Mr. Barron, overruled the point of order. (41 H.J. 1 C.S. 695 (1929)).

This was a matter for the house, not the speaker, to decide. It has often been held that a conference report should not be ruled out on a point of order that instructions had been disobeyed. The house may either accept the report or send it back to the conference committee for further consideration, provided, of course, that the senate conferees have not been automatically discharged by adoption of the report by the senate.

2. CAN NOT INSTRUCT CONFERENCE COMMITTEE WHEN TO REPORT IF THE COMMITTEE HAS ALREADY BEEN APPOINTED.--Mr. Alsup moved to instruct the conference committee on House Bill No. 1 to bring in a conference report within a certain time.

Mr. Van Zandt raised a point of order on the ground that a conference committee can not be instructed when to report after they have already been appointed.

The speaker, Mr. Stevenson, sustained the point of order. (43 H.J. 3 C.S. 294 (1933)).

Also, any action the house could take would only affect the house conferees, and they alone could not, of course, bring back any report for adoption.

3. NOT IN ORDER TO INSTRUCT A CONFERENCE COMMITTEE TO INCLUDE IN ITS REPORT, IN VIOLATION OF THE RULES, MATTER NOT IN DISAGREEMENT BETWEEN THE TWO HOUSES.--The house had just refused to concur in the senate amendments to H.B. 5. Mr. Morse moved that the conference committee be instructed to include certain matter in its report.

Mr. Jones of Wise raised a point of order against the motion on the ground that it sought, in violation of the rules, to have the committee include matter which was not in disagreement between the houses.

The speaker, Mr. Calvert, sustained the point of order. (45 H.J. Reg. 3056 (1937)).

The senate amendments to H.B. 5 were of minor importance in form and content, so far as the bill was concerned, and affected only parts of the bill, so they did not bring the disagreement situation under the exceptions set out in the then Sec. 8.

4. FURTHER POINT REGARDING INSTRUCTIONS TO CONFEREES ON INCLUSION IN THEIR REPORT OF MATTER NOT IN DISAGREEMENT BETWEEN THE TWO HOUSES.--Mr. Sewell moved that the house conferees on H.B. 285 be instructed as follows: That the provisions of H.B. 669 as same passed the house be included in H.B. 285.

Mr. Murphy raised the point of order that the inclusion of H.B. 669 in H.B. 285 is not a matter of disagreement between the two houses, and that any attempt to instruct the house conferees to include same as a part of H.B. 285 would be out of order.

The speaker, Mr. Senterfitt, sustained the point of order. (52 H.J. Reg. 2578 (1951)).

Had the substance of H.B. 669 become a part of H.B. 285 in its passage through either house, resulting in a matter of difference, then instructions relating

thereto would have unquestionably been in order, but such was not the case.

5. HOUSE HAS NO RIGHT TO DISCHARGE ITS CONFEREES ON A SENATE BILL WHILE BILL IS STILL IN CONFERENCE.--Mr. Love moved that the conferees on S.B. 167 be discharged and that a new conference committee be appointed on the part of the house and that the senate be requested to appoint a new committee to adjust the differences between the two houses. Mr. Cato raised a point of order on further consideration of the motion on the ground that such a motion as Mr. Love's must originate in the house where the bill originated while the bill is still in conference. The speaker, Mr. Gilmer, sustained the point of order. (49 H.J. Reg. 2758 (1945)).

6. CASE WHERE CONFERENCE ON A HOUSE BILL WAS DISSOLVED BY ACTION OF THE SENATE IN DISCHARGING ITS CONFEREES.--In the 56th Legislature, 2nd Called Session, the speaker, Mr. Carr, held that a conference had been dissolved because the senate, in the light of a report by its conferees that the conference was deadlocked, had discharged them and so notified the house. The house then requested a new conference and this request was granted.

7. In the 52nd Legislature the speaker, Mr. Senterfitt, refused to sustain a point of order that proposed additional instructions to house conferees on a particular bill were inconsistent with instructions given earlier. He also refused to rule out of order a proposed instruction for the conferees to advocate a report which would embody the terms of a conference report previously rejected.

CONGRESSIONAL PRECEDENTS

SENATE AMENDMENTS.--Revenue bills must originate in the house, but the senate may concur with amendments (H.P., 2, 1480). Instances wherein the senate has acquiesced in the constitutional requirement as to revenue bills, while holding to a broad power of amendment (H.P., 2, 1497-1499). It is for the house and not the speaker to decide whether or not a senate amendment on the subject of revenue violates the privileges of the house. (H.P., 2, 1320).

DISAGREEMENTS BETWEEN THE HOUSES--CONFERENCES.--Sometimes one house disregards the request of the other for a conference and recedes from its disagreement, thereby rendering a conference unnecessary (H.P., 5, 6316, 6318).

The majority of the managers of a conference should represent the attitude of a majority of the house on the disagreements (H.P., 5, 6336). In a conference the managers of the two houses vote separately (H.P., 5, 6336). The house may instruct its managers of a conference, and the motion to instruct should be offered after the vote to ask for or to agree to a conference, and before the managers are appointed (H.P., 5, 6379-6382). The motion to instruct conferees may be amended unless the previous question has been ordered (H.P., 5, 6525). While it is unusual to instruct conferees before a conference is had, it is in order to move instructions for a first conference as for any subsequent conference. (C.P., 8, 3230).

A conference may be had on only a portion of the amendments in disagreement, leaving the differences as to the remainder to be settled by the action of the two houses themselves (H.P., 5, 6401). After a conference has been agreed to and the

managers for the house appointed it is too late to reconsider the vote whereby the house acted on the amendments in disagreement (H.P., 5, 5664).

Conferees do not usually admit persons to make arguments before them (H.P., 5, 6263).

The motion to agree or concur should be put in the affirmative and not in the negative form (H.P., 5, 6166). A conference report being presented, the question on agreeing to it is regarded as pending (H.P., 5, 6517). The motion to agree is the pending question to a conference report, and the motion to disagree is not admitted (H.P., 2, 1473).

Although a conference report may be in disregard of the instructions given the managers, yet it may not be ruled out on a point of order (H.P., 5, 6395). A conference report must be accepted or rejected in its entirety, and while it is pending no motion to deal with individual amendments in disagreements is in order (H.P., 5, 6323). A conference report is not subject to amendment, but must be considered and disposed of as a whole (C.P., 8, 3306).

The rejection of a conference report leaves the matter in the position it occupied before the conference was asked (H.P., 5, 6525). Where managers of a conference are unable to agree, or where a report is disagreed to in either house, another conference is usually asked (H.P., 5, 6288-6291). Where a conference report is ruled out of order, the bill and amendments are again before the house as when first presented, and motions relating to amendments and conference are again in order (C.P., 8, 3257).

The speaker may rule a conference report out of order if it is shown that the conferees have exceeded their authority (C.P., 8, 3256). Exceeding authority does

not mean violating instructions given conferees.

Action on a conference report by either house discharges the committee of conference and precludes a motion to recommit, but until one house has acted on the report the motion to recommit to the conferees, with or without instructions, is in order (C.P., 8, 3241).

The failure of a conference does not prevent either house taking such independent action as may be necessary to pass a bill (H.P., 5, 6320).

CHAPTER 7. GENERAL PROVISIONS

Sec. 7.01. WHEN RULES ARE SILENT

If the rules are silent or inexplicit on any question of order or parliamentary practice, the Rules of the House of Representatives of the United States Congress, and its practice as reflected in Hind's and Cannon's Precedents, and Mason's Manual of Legislative Procedure shall be considered as authority.

Sec. 7.02. AMENDMENTS TO THE RULES

(a) Amendments to the rules of the house shall be proposed by house resolutions which shall be referred at once, without debate, to the Committee on Rules for study and recommendation.

(b) A resolution proposing an amendment to the rules shall not be considered by the house until a printed copy of the resolution has been provided to each member of the house at least 48 hours before consideration.

(c) Amendments to the rules shall require a majority vote of the house for adoption.