

Order of Business

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Research References

- 4 Hinds §§ 3056–3152
- 6 Cannon §§ 708–757
- 6 Deschler Ch 21 §§ 1–8, 28–31
- Manual §§ 878–899

A. The Daily Order of Business

§ 1. In General; Varying the Order of Business

Generally

The order or sequence in which business is taken up for floor consideration is governed by various House rules. A general rule for the “daily order of business” is set forth in Rule XXIV clause 1. *Manual* § 878. Other procedures affecting the order of business include the Discharge Calendar as provided for by Rule XIII (*Manual* §§ 746, 747), the Private Calendar (Rule XXIV clause 6, *Manual* § 893), the Corrections Calendar (Rule XIII clause 4(a), *Manual* § 745a), Calendar Wednesday (Rule XXIV clause 7, *Manual* § 897), and suspensions (Rule XXVII clause 1, *Manual* § 902). The order of business specified by such rules may be varied by unanimous-consent agreements (see CONSIDERATION AND DEBATE), and by special orders reported from the Committee on Rules and adopted by the House. Generally, see SPECIAL RULES.

Although Rule XXIV states the daily order of business, it does not bind the House to a fixed daily routine. Other House rules make certain important subjects privileged so as to permit the daily order of business to be inter-

rupted or even supplanted entirely for days at a time. See § 7, *infra*. But while privileged matters may interrupt the order of business, they may do so only with the consent of a majority of the House, as expressed by its vote on the adopting of a special rule, on a motion to resolve into Committee of the Whole, on the question of consideration or some other procedural question. It is this system that enables the House to give precedence to its most important business without at the same time losing the power by majority vote to go to any other bills on its calendar. *Manual* § 879.

The order of business may also be affected when the Speaker exercises his discretionary authority to recognize Members on particular questions. The Chair may refuse to recognize for unanimous-consent requests and holds the power of recognition at all times. See RECOGNITION.

Scheduling Business

The business of the House is scheduled by the Speaker and the Members who with him constitute the leadership, acting in concert with the leadership of each standing committee. Deschler Ch 21 § 1. The daily or weekly agenda of the House is ordinarily formulated by the Leadership and implemented by special rules reported from the Committee on Rules and adopted by the House. The legislative schedule for the House is announced to the Members by the majority leader or whip or his designee, or, rarely, by the Speaker himself. 87–2, Aug. 16, 1962, p 16730; 88–2, May 21, 1964, p 11690.

§ 2. Sequence of Particular Business

The general rule specifying the daily order of business is set forth in Rule XXIV clause 1 (*Manual* § 878), as follows:

- First: Prayer by the Chaplain.
- Second: Reading and approval of the Journal, unless postponed.
- Third: Pledge of Allegiance to the Flag.
- Fourth: Correction of reference of public bills.
- Fifth: Disposal of business on the Speaker's table.
- Sixth: Unfinished business.
- Seventh: The morning hour for bills called up by committees.
- Eighth: Motions to go into Committee of the Whole.
- Ninth: Orders of the day.

Ranked first in the daily order of business, the prayer precedes all business. No business is in order before the prayer, which is offered daily when the House meets. Deschler Ch 21 § 2. A point of order of no quorum is not entertained before the prayer. *Manual* § 774c.

The next order of business is the approval of the Journal. Messages from the President or the Senate have been received, and questions of privileges of the House have been raised before the approval of the Journal, but no other business, including privileged business, may intervene. See JOURNAL.

Following the approval of the Journal is the Pledge of Allegiance to the Flag, which is led by a Member at the invitation of the Speaker. One-minute speeches, although not provided for by Rule XXIV, are sometimes entertained by unanimous consent. § 3, *infra*. It is then in order to offer motions or unanimous-consent requests for the rereferring of public bills. See INTRODUCTION AND REFERENCE OF BILLS.

Rule XXIV next provides for the disposal of business on the Speaker's table. Such business consists of executive communications, messages from the President, bills, resolutions, and messages from the Senate, and House bills with Senate amendments. Clause 2. *Manual* § 882. Messages from the President and messages from the Senate are matters of privilege and may be received, laid before the House and disposed of at any time when business permits. Deschler Ch 21 § 2. Disposition of Senate bills, see SENATE BILLS; AMENDMENTS BETWEEN THE HOUSES.

Under the prescribed order of business in Rule XXIV, the motion to resolve into Committee of the Whole is in order after the morning hour for consideration of bills reported by committees and before "orders of the day." The morning hour provision is largely obsolete and is not used under the modern practice to call up legislative business. "Orders of the day" have not been used in many years, the House relying instead on special orders, which often supersede the regular order of business for lengthy periods. 4 Hinds § 3056. See SPECIAL RULES.

An order of business resolution reported from the Committee on Rules making in order the motion to resolve into the Committee of the Whole (or permitting the Speaker to declare that the House so resolve) to consider a particular bill, gives precedence to the motion (equal to the precedence of the motion to resolve into Committee of the Whole for consideration of an appropriation bill). Deschler Ch 21 § 30.3. The motion to resolve into the Committee of the Whole may also be made privileged by the provisions of a statute. Deschler Ch 21 §§ 30.8 *et seq.*

As to when particular matters are in order, see APPROPRIATIONS; CONFERENCES BETWEEN THE HOUSES; CALENDARS; DISTRICT OF COLUMBIA BUSINESS; PRIVATE CALENDAR; QUESTIONS OF PRIVILEGE; QUORUMS; RESOLUTIONS OF INQUIRY; VETO OF BILLS.

§ 3. The Daily Practice

The sequence of events on the House floor on any given day may vary from the prescribed order. Certain customs and norms have been developed over the last 40 years which allow Members to express their concerns on matters not pending before the House or scheduled for consideration in the daily or weekly agenda. One-minute speeches, special-order speeches and the “morning hour” are all vehicles for this type of free expression. See CONSIDERATION AND DEBATE.

On each legislative day, certain events do occur in a predictable order. The prayer, the approval of the Journal, the Pledge of Allegiance, all occur with regularity, although the actual vote on the approval of the Journal may be postponed.

Before reaching the scheduled business of the day, the Speaker usually agrees to recognize Members for one-minute speeches. He may limit the number if the anticipated legislative schedule is full. See CONSIDERATION AND DEBATE for practices and norms relating to such speeches. Because of the precise language in the rules governing the Private Calendar, the Corrections Calendar and the discharge rule, one-minute speeches may await the disposition of those types or classes of business.

Following the disposition of one minutes, the Chair may signal the advent of legislative business by laying down messages received from the President or the Senate and may make announcements concerning appointments or informing the House of communications addressed to him in his official capacity.

Following these “preliminary matters,” the House may proceed to business holding a privileged status for that day. That special status may be set by a standing rule, by a special order reported by the Committee on Rules or an order previously adopted by the House either by unanimous consent or motion.

Once this business is reached, the prescribed order is still subject to some flexibility. Certain roll call votes may be postponed or “clustered” to occur in sequence, pursuant to the Speaker’s authority under Rule I.

When scheduled business has been completed, it is again customary for Members to be given an opportunity to address the House on other subjects. Special-order speeches may be granted, by unanimous consent, for up to one hour per Member. Limits on the number and duration of such speeches have been mutually agreed upon by the leadership of the two parties and enforced by the exercise of the Speaker’s power of recognition.

B. Privileged Business

§ 4. In General; Under the Constitution

Privileged business is business of such importance as to enjoy precedence over the regular order of business; it is business which can supersede or interrupt other matters which might otherwise be called up or be pending before the House. *Manual* §§ 879, 880.

Privileged questions are to be distinguished from what are termed “questions of privilege.” Privileged questions relate to the order or priority of business under the rules of the House, whereas “questions of privilege” pertain to the safety and dignity of the House or the integrity of its proceedings, or to the rights or reputation of its Members under Rule IX. 3 Hinds §§ 2654, 2718. See QUESTIONS OF PRIVILEGE.

Privilege may be derived from language used in the U.S. Constitution, from the rules and practices of the House, and from statutes enacted pursuant to the legislative rulemaking power. Because of constitutional provisions a veto message from the President is privileged for consideration when received by the House. This privilege arises from article I, section 7, clause 2 of the Constitution. See VETO OF BILLS. Likewise, since the power of the House in the impeachment of civil officers arises from article I, section 2, clause 5 of the Constitution, the House has determined that propositions to impeach, and reports from the committee investigating charges of impeachment, are highly privileged for consideration. See IMPEACHMENT. Similarly, since article VI, clause 3 provides that Representatives shall take an oath, the administration of the oath to Members is privileged; a Member-elect appearing during a session may be administered the oath as a matter of the highest privilege which may interrupt other business. See OATHS.

Certain propositions are privileged for consideration because of indirect constitutional mandate. Examples are concurrent resolutions for adjournment *sine die* or to a day certain (see ADJOURNMENT) and motions incident to establishing a quorum (see QUORUMS). But privilege is not conferred merely because the question is one committed to the House under the Constitution. For example, a resolution to confirm the nomination of the Vice President, a duty committed to the House under the 25th amendment to the Constitution, is not privileged for consideration. Deschler Ch 21 § 28.

§ 5. Business Privileged by House Rule

A variety of bills, reports, and resolutions are privileged for consideration under the House rules. Some committees are given the power to report to the House at any time on certain subjects. See COMMITTEES. Certain

kinds of reports are privileged for consideration when reported by any committee, including reports on the contempt of witnesses (see CONTEMPT POWER) and on resolutions of inquiry (see RESOLUTIONS OF INQUIRY).

In order to retain its privilege, a privileged report must be submitted as privileged from the floor while the House is in session (and not filed in the hopper). A committee may, however, obtain by unanimous consent permission to file a privileged report while the House is not in session. Deschler Ch 21 § 29.

Privilege of matters relating to election contests, see ELECTION CONTESTS AND DISPUTES.

§ 6. — Privilege of Particular Business

The House rules make certain important subjects privileged so as to permit the daily order of business to be interrupted or even supplanted entirely for days at a time. Among the privileged matters which may interrupt the order of business are:

- General appropriation bills. Rule XVI clause 9; 4 Hinds § 3072.
- Conference reports. Rule XXVIII clause 1(a); 5 Hinds § 6443.
- Motions to request or agree to a conference. Rule XX. 92–2, Aug. 1, 1972, p 26153.
- Special orders reported by the Committee on Rules. Rule XI clause 4(b); 4 Hinds §§ 3070, 3071, 4621.
- Consideration of amendments between the Houses after disagreement. 4 Hinds §§ 3149, 3150.
- Questions of privilege. Rule IX. See QUESTIONS OF PRIVILEGE.
- Bills coming over from a previous day with the previous question ordered. 5 Hinds §§ 5510–5517.
- Bills returned with the objections of the President. 4 Hinds §§ 3534–3536.
- Measures in order on the Corrections Calendar. Rule XIII clause 4.

Some propositions are privileged for consideration on certain days of the week or month. On any Monday or Tuesday, for example, the Speaker may recognize Members to move to suspend the rules and pass bills. *Manual* § 902. The second and fourth Mondays of the month are set apart for such business as may be presented by the District of Columbia Committee. *Manual* § 899. Bills on the Private Calendar are called on the first Tuesday of the month and also on the third Tuesday if directed by the Speaker. *Manual* § 895. The Speaker has the discretion to dispense with the call of the Private Calendar on the third Tuesday. 101–2, Oct. 16, 1990, p _____. The Speaker has the discretion to direct the call of Corrections Calendar bills on the second and fourth Tuesdays of the month. *Manual* § 745a.

Other classes of business are not only given a prescribed day but are also keyed to a specific reference in the order of business prescribed in Rule XXIV clause 1. Motions to discharge, for example, when perfected and otherwise eligible can be called up after the approval of the Journal (Rule XXVII clause 3); a motion to resolve into the Committee of the Whole on a general appropriation bill is in order immediately following the reading of the Journal (Rule XVI clause 9); District business is given a position following “disposal of business on the Speaker’s table which requires reference only” (Rule XXIV clause 8); the Corrections Calendar follows the Pledge of Allegiance (Rule XIII clause 4). Both the provisions which designate a day for the class of business, and those which give that class a specified place in the order of business, can be changed by the House by adoption of a special order, generated by a report from the Committee on Rules, a unanimous-consent agreement, or a motion under the suspension procedure.

The privileged status that is conferred on certain classes of business does not necessarily carry with it an exemption from applicable layover requirements of the House rules. Thus, a conference report may be called up for floor consideration as privileged business only after the report has been filed and is in compliance with the three-day layover and two-hour availability requirements of Rule XXVIII, discussed elsewhere. See CONFERENCES BETWEEN THE HOUSES.

On occasion when the Speaker is faced with competing Members seeking recognition for consideration of different items of business, he must determine whether one class or type of business is of a higher precedence than the other. In making these determinations, he relies on the language of the House rules which give the matter precedence and, occasionally, on prior rulings of the Chair which may predetermine his choice. Deschler Ch 21 § 31 contains a compilation of such rulings. They are of lesser relevance in the modern practice since the House usually determines the order of consideration by adoption of a special order reported from the Committee on Rules. It should also be noted that the priority of propositions of equal or near-equal privilege may be determined by the Chair as within his power of recognition.

§ 7. — Privileged Motions

Certain motions relating to the order of business are given precedence under the rules of the House. Examples are the motion to suspend the rules, which may be used to change the order of business as well as to adopt a measure (see SUSPENSION OF RULES), and the motion to dispense with Cal-

endar Wednesday (see CALENDAR WEDNESDAY). The motion that the House resolve itself into the Committee of the Whole to consider a general appropriation bill is likewise privileged under the rules. See APPROPRIATIONS.

Under the modern practice, a motion to discharge a committee, when called up pursuant to the provisions of the discharge rule (*Manual* § 908), is privileged, and the Speaker may decline to recognize for a matter not related to the proceedings. 7 Cannon § 1010. Such motions take precedence over business merely privileged under the general rules of the House. 7 Cannon § 1011. See DISCHARGING MEASURES FROM COMMITTEES.

A matter may be sent to conference pursuant to a privileged motion permitted by House Rule XX clause 1 where the motion has been authorized by the committee (or committees) with jurisdiction over the bill. *Manual* § 827. See 94–2, Aug. 26, 1976, p 27831; 95–1, Oct. 12, 1977, p 33433. The motion is privileged at any time the House is in possession of the papers if the appropriate committee has authorized the motion and the Speaker in his discretion recognizes for that purpose. 94–1, Mar. 20, 1975, p 7646. A motion to discharge or instruct conferees is privileged under Rule XXVIII clause 1(c). See CONFERENCES BETWEEN THE HOUSES.

Precedence of secondary motions, see AMENDMENTS; LAY ON THE TABLE; POSTPONEMENT; PREVIOUS QUESTION; REFER AND RECOMMIT; and RECONSIDERATION.