The Motion to Recommit in the House: The Creation, Evisceration, and Restoration of a Minority Right

Donald R. Wolfensberger
Director, The Congress Project
Woodrow Wilson International Center for Scholars
1300 Pennsylvania Ave., NW.
Washington, D.C. 20004
(202) 691-4128 (phone)
(202) 691-4001 (fax)
wolfensd@wwic.si.edu

A paper prepared for presentation at a conference on the History of Congress, University of California, San Diego, December 5-6, 2003.

Introduction

> *...the fact is that a motion to recommit is intended to give the minority one chance to fully express their views so long as they are germane....The whole purpose of this motion to recommit is to have a record vote upon the program of the minority. That is the main purpose of the motion to recommit.*
>
> –Speaker Frederick H. Gillett (R-Mass.)
> October 7, 1919

In 1909, in an effort to stave off a bipartisan House revolt against his speakership, Joseph Gurney Cannon (R-Ill.) collaborated with a conservative Democrat to substitute a package of internal House reforms for a plan devised by liberal Democrats and progressive Republicans to remove Cannon as chairman, member, and appointing authority of the powerful House Rules Committee. One of the changes offered by Cannon's Democratic ally in the substitute package gave the opponents of legislation a final opportunity to amend a bill through a motion to recommit, just before the House voted on final passage of the legislation. Previously, recognition was at the discretion of the Speaker who would often recognize members of his own party to offer the motion. The new guarantee was enforced by a provision prohibiting the Rules Committee from reporting a special rule that denied opponents the first right to offer the motion to recommit.

The 1909 rule remained essentially intact for over a half century. It wasn't until a 1932 ruling by Speaker John Nance Garner (D-Tex.) that the right was firmly established as belonging to a minority *party* opponent of a bill (and not just any opponent).[1] Although there were some instances in the 1970s in which the Democratic majority limited what minority Republicans could offer in a motion's instructions, it wasn't until the 1980s that they began denying instructions altogether on selective bills. When Republicans began challenging the practice by raising points of order, the Chair would cite an obscure, 1934 ruling by Speaker Henry T.

Rainey (D-Ill.) which upheld a special rule making amendments to a specified title off limits for amendatory instructions.

The stripping of a fundamental minority right in the late twentieth century set off a firestorm among House Republicans, leading to numerous points of order and votes on appealing the Chair's ruling. It also prompted Republicans to begin including a rule change guaranteeing the motion to the minority in their House rules reform packages at the beginning of each Congress. And, when they took control of the House in 1995, they included the guarantee as part of their opening day House rules reform package, even though it would now benefit the new Democratic minority.

However, as time went on, Republicans began to increasingly use special rules to restrict what amendment could be offered to bills, until the minority was quite often left with little more than the motion to recommit on major bills. A rule of fairness had been converted into an excuse for unfairness. Because the House Rules Committee is again considered the "Speaker's committee" today, many have likened the current Republican approach to procedural fairness to the age of "Czar Speakers" like Cannon and Thomas Brackett Reed (R-Me.), both of whom used their chairmanships of the Rules Committee to impose their legislative agendas and ideas of procedural fairness.

Speaker Reed made clear in his 1890 rulings from the Chair, abolishing various minority obstructionist devices, that, "the object of a parliamentary body is action, not the stoppage of action."[2] He had earlier outlined in a national magazine his intentions to end gridlock and implement majority party rule . "If the majority do not govern," he wrote in *Century Magazine* in March 1889, "the minority will; and, if tyranny of the majority is hard, the tyranny of the minority is unendurable. *The rules, then, ought to be arranged to facilitate the action of the*

majority."[3] (emphasis added).

The speakerships of Reed and Cannon are bookends to a remarkable two decade period of party government in the House, including four years under Democratic majorities (1891-1895). The introduction of the motion to recommit as a minority right just prior to the successful removal of Cannon from the Rules Committee in 1910 for his arbitrary abuse of his powers, provides a fitting endnote, if not total antidote, to Reed's bold assertion that rules are made solely to facilitate the working of the majority's will.

However, considering the original source and rationale for the creation of the right, and viewing it in the context of today's legislative floor process, the right may be more symbolic than significant, and ultimately a greater friend of anxious majorities than of frustrated minorities.

The purpose of this paper is to trace the history of the motion to recommit as an example of the purposes for which rules are adopted, modified, waived, ignored, gored, and restored, and how it all relates to institutional power relationships between the majority and minority parties in the House.

Origins and Purpose of The Motion

The motion to commit a matter to a committee has existed in the rules of the U.S. House of Representatives since the first Congress in 1789. The terms, "refer," "commit," and "recommit," are nearly interchangeable but their correct usage depends on the parliamentary situation.

There are three categories of motions to recommit: (1) a straight motion to recommit which in effect kills a bill by sending it back to committee; (2) a motion to recommit with general instructions, which are non-binding directives to a committee to do such things as hold

further hearings or conduct a study; and, (3) a motion to recommit with instructions "to report back forthwith" with an amendment specified in the motion. This automatic device dates back at least to an 1891 ruling by Speaker Reed upholding a motion by fellow Republican Joe Cannon with instructions to a committee to report back "forthwith" a substitute bill.[4] It is the device most used in modern times.

The motion to "commit" was listed as the second in priority of four motions contained in the first body of rules adopted by the House in 1789: "When a question is under debate, no motion shall be received, unless to amend it, to commit it, for the previous question, or to adjourn....A motion for commitment until it is decided, shall preclude all amendment of the main question. Motions and reports may be committed at the pleasure of the House." In providing for the consideration and disposition of bills, the first House rules also provided that, "on the second reading of a bill, the Speaker shall state it as ready for commitment or engrossment, and if committed, then a question shall be whether to a select committee, or to a committee of the whole house."[5]

And finally, the 1789 rule on "Committees of the Whole House," provides that after the committee of the whole has finished debating and amending a bill, it shall report the bill to the House which would then further debate and amend the bill until the previous question was ordered to bring the bill to a vote on final passage. Early rulings by the Speaker held against a committal (or referral) motion after the adoption of the previous question.

In the comprehensive House rules rewrite of 1880, however, this was changed to permit a motion to commit, with or without instructions, either before or after the previous question is ordered. According to House precedents, quoting from the Rules Committee's report on the 1880 revision, this rule change was authorized so as to afford "the amplest opportunity to test

the sense of the House as to whether or not the bill is in the exact form it desires."[6]

There is a difference of opinion in the literature and the precedents as to the actual purpose and effect of the change. Was it to advantage the majority in cleaning up its own bill at the end of the process? Or, was it to allow opponents of the bill a final chance to change it?

Speaker Reed for instance, in the 1891 ruling cited above, held the former view. It could be, he said, that the House had adopted two conflicting amendments, "and that a majority of the House would not be in favor of both amendments together. It is to give opportunity to remedy this that the motion to recommit is permitted."[7]

Speaker Joe Cannon (R-Ill.), also seemed to hold this view of the motion's purpose. On April 27, 1904, for instance, Representative Alfred Lucking (D-Mich.) asked to be recognized to offer a motion to recommit with instructions a bill relating to the use of vessels of the United States for public purposes. Speaker Cannon refused to recognize him for that purpose, whereupon Representative David H. Smith (D-Ky.) made a point of order that Lucking was entitled to recognition. Cannon informed Smith that he was recognizing instead the member in charge of the bill, Representative Grosvenor (R-Ohio) to offer the motion. As Cannon explained it:

> The object of the rule was to give the House a chance to cure a mistake, if perchance any had been made in the engrossment of a bill, or mishap to it....The present occupant of the Chair, the Speaker of the House, follows the usual rule that has obtained ever since he has been a Member of the House, that the Chair chooses whom he will recognize....[and] under the present conditions, in the closing hours, the Chair has the prefect right, following the parliamentary precedents of all parties, to prefer some one with whom, perchance, the Chair is in sympathy or upon the Chair's side of the House.[8]

Later, in 1910, reflecting back on the 1880 rule, Cannon offered a similar observation:

> The object of this provision was, as the Chair has always understood, that the motion should be made by one friendly to the bill, for the purpose of giving one more chance to perfect it, as perchance there might be some error that the House desired to correct.[9]

As a result of these statements in the precedents, many (including this author in a previous paper) have assumed and written that between 1880 and the 1909 rules change, the motion to recommit operated as a majority party prerogative to clean-up legislation, or at least to block the minority from making last minute changes. A review of House precedents on motions to recommit between 1880 and 1909, however, reveals quite another picture. Although the precedents examined involved issues other than recognition, it was easy enough to track the party of the Speaker and the person offering the motion to recommit. As table 1 (below) reveals, Speakers were more inclined to recognize members of the minority party than members of their own party to offer the motion to recommit in. On 19, or 68 percent, of the 28 bills, Speakers recognized members of the other party, while recognizing members of their own party in just nine, or 32 percent, of the cases.[10]

Table l.
Party of Speaker and of Member
Recognized to Offer Motion to Recommit
(1881-1909)

	Republican Speaker	**Democratic Speaker**
Motion to Recommit Offered by a Republican	5	7
Motion to Recommit Offered by a Democrat	11	4
Motion Offered by Other Party Member	1	0

Even in 1904, when Speaker Cannon had refused to recognize a Democrat (on April 4) to offer the motion on grounds it was the prerogative of those friendly to the bill, he had recognized

Democrats to offer the motion on three other bills: in January, February, and March. Moreover, he recognized a Democrat to offer a motion to recommit the following year on March 1, 1905.[11]

Further undergirding the case that the 1880 rule was intended to advantage opponents of legislation are early rulings by Speaker John Carlisle (D-Ky.) in 1884 and 1886, upholding the right to amend a motion to recommit before the previous question is ordered on the motion. In his 1886 ruling he explained that the right to amend the motion should be protected "for the very obvious reason that an advocate of the pending measure, and therefore an opponent of recommitment might offer a motion to recommit with such instructions as it was evident the House would not agree to, thereby preventing anybody who desired in good faith to recommit the measure from submitting such a motion." Carlisle said he considered it "a matter of simple justice to those on the floor who desired to recommit with substantial instructions that they should have an opportunity to propose amendments."[12]

Finally, in explaining the context of the 1909 rule change discussed below, Clarence Cannon's precedents indicate that the latter modification "was occasioned by the practice which had grown up under which the Speaker recognized the Member in charge of the bill to make the motion to recommit, *in effect nullifying the purpose of the motion*." The purpose of the 1909 rule change, the precedents continue, "is to insure recognition of a Member actually opposed to the measure and afford the House a last opportunity to express its preference on the final form of the bill."[13]

The 1909 Revolt

Cannon first became Speaker in 1903, and, while he was well liked personally, he gradually alienated members of both parties with his arbitrary leadership style. Not only did he rule with an iron fist in appointing and removing members from committees to ensure the

legislative results he wanted in committee and on the floor, but, as a "regular" Republican, he resisted pressures to clear progressive legislation for floor consideration. He is often quoted to the effect that, "We don't need any new legislation; everything's just fine back in Danville." As chairman of the five-member Rules Committee, the Speaker controlled the flow of legislation to the floor.

Discontent with Cannon's rule was especially acute among a group of about 30 progressive Republicans, known as the "Insurgents," led by Representative George Norris of Nebraska. Consequently, on March 15, 1909, the opening day of the 61st Congress, the Insurgent Republicans joined with Democratic Minority Leader Champ Clark in defeating the previous question on the adoption of House Rules for the new Congress. Under the terms of the rules, if the previous question is defeated, the Chair then recognizes a member opposed to the previous question who is recognized for an hour and given the opportunity to amend the pending resolution.

Cannon recognized Clark who offered a substitute set of House rules which, among other things, enlarged the Rules Committee to 15 members, removed the Speaker as member, chairman, and appointing authority of the Rules Committee, and removed the Speaker's power to appoint all but five other committees (Ways and Means being the only important one left under his appointment authority).[14]

Rather than take another hour of debate, Clark promptly moved the previous question on his substitute set of rules, in order to bring it to an immediate vote. However, while 28 Republican insurgents joined in supporting Clark on adopting the previous question, 22 conservative Democrats, led by Tammany Hall chief John J. Fitzgerald (D-N.Y.), joined with the regular Republicans to defeat the previous question, 180 to 203.

Fitzgerald, whose "machine" Democrats feared some of the progressive legislation favored by the Insurgents as much as Cannon did, had conspired with the Speaker to engineer a procedural coup against Clark and the Insurgents. Cannon consequently recognized Fitzgerald to offer his own substitute rules package. Fitzgerald's substitute only slightly curbed the Speaker's powers by establishing a Consent Calendar two days a month for minor bills of interest to individual members, and by requiring a two-thirds House vote to set aside the Calendar Wednesday–a procedure by which committees could bypass the Rules Committee and Speaker to call-up reported bills. Finally, the Fitzgerald rules substitute gave opponents of a bill the right of first recognition to offer a motion to recommit legislation and prohibited the reporting of special rules denying that right.

The new recommit rule provided specifically that, "after the previous question shall have been ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, and the Speaker shall give preference in recognition to a Member who is opposed to the bill or joint resolution." Moreover, the rule prohibited the Rules Committee from reporting "any rule or order that would prevent the motion to recommit from being made as provided in paragraph 4 of Rule XVI."[15]

In explaining his proposed recommit change, Fitzgerald observed that, "the greatest legislative outrages that have been perpetrated in this country have been by means of special rules by which the majority has denied the minority the right to have a vote on its position upon great public questions."

Representative John Dalzell (R-Pa.), although a Cannon ally, nevertheless supported Fitzgerald's claim about the abuse of the rule, as well as underscoring the rule's original intent:

We all know that the motion to recommit, under existing practice, has been used

> not to secure recommittal, but to prevent recommittal. The custom has grown up to have a Member of the majority party move to recommit and then have his colleagues vote the motion down. Now, that is, without any doubt, an infringement on the rights of parties who under the rules are understood and were intended to have the right to test the sense of the House on a motion to recommit.[16]

While the Fitzgerald rules ploy in 1909 saved the day for Speaker Cannon's position on the Rules Committee, a year later, on March 19, 1910, the Democrats and Insurgents successfully carried out their own parliamentary coup by voting 191 to 156 for a resolution offered by Republican Representative Norris to remove the Speaker from the Rules Committee, and enlarge and elect its membership, thereby removing from Speaker's power to appoint Rules Committee members.[17]

Early Precedents on the Modern Rule

Following his loss on the Norris resolution, Cannon offered to entertain a motion offered by a Democrat that the Speakership be vacated. Cannon prevailed on that vote and remained in the chair for the remainder of the 61st Congress. But, the issues of "Cannonism" and public support for a more activist Congress led to a Democratic takeover of both houses of Congress in the 1910 elections, and Champ Clark was elevated to the Speakership by the new majority.

One might think that the majority Democrats in 1911 would feel no special obligation to retain the rule that gave the minority the motion to recommit since it was the product of a conservative Democrat who used it specifically to thwart Clark's more ambitious rules changes when he was minority leader. However, there was no effort at the beginning of 62nd Congress to repeal the rule.

In fact, Speaker Clark had an early opportunity in May, 1912, to uphold the minority's right to recommit. A point of order was raised against a special rule from the Rules Committee

discharging a bill from committee, together with Senate amendments adopted to it, disagreeing to the Senate amendments, and appointing conferees, *without intervening motion*. In ruling on the point of order that the rule denied a motion to recommit, Clark quoted from *Jefferson's Manual* to the effect that rules are instituted as a check and control on the actions of the majority and a shelter and protection to the minority. "It is not necessary to go into the history of how this particular rule came to be adopted," Clark continued, "but that it was intended that the right to make the motion to recommit should be preserved inviolate the Chair has no doubt whatever."[18]

However, later that year, on August 16, 1912, drawing on the Carlisle rulings from 1884 and 1886, Speaker Clark upheld the majority's right to trump a minority sponsored recommittal amendment with its own substitute. Representative John A. Moon (D-Tenn.) had called-up a Post Office appropriations bill. At the end of the bill's consideration, House Minority Leader James R. Mann (R-Ill.) offered a motion to recommit with instructions to eliminate one of the Senate amendments to the bill. Representative Moon countered by offering a substitute motion.

Representative George Norris raised a point of order against the Moon motion, arguing that it in effect deprived the minority of its right to move to recommit. Clark responded that "the Chair has given the minority a right to make a motion," and that once the minority exercises that right, under the precedence given to it by the rule, "then the motion is in the hands of the House and subject to every rule of the House and to every rule of amendment." The majority substitute motion, concluded Clark, "does not take away from the minority the preferential right in the matter...."[19]

Another instructive incident occurred when Republicans retook control of the House in the 1918 elections. In October 1919, a point of order was made against a motion to recommit a

tariff bill with instructions to report back a substitute on grounds that the substitute had the effect of altering an amendment already adopted by the House. Former Speaker Charles Crisp (D-Ga.), spoke against the point of order, saying the purpose of the motion was to give the minority of the House "a chance affirmatively to go on record as to what they think this legislation should be, and if a motion to recommit does not permit that, the motion is futile."[20]

Representative Abraham Garret (D-Tenn.) concurred, arguing that, "The motion to recommit is regarded as so sacred that it is one of the few things protected against the Committee on Rules by the general rules of the House." Garret concluded that if the Speaker should uphold the point of order, "the practical effect would be to do by parliamentary decision that which the Committee on Rules and the House itself cannot do under the general rules of the House. It will practically destroy the efficacy of the motion to recommit with instructions."[21]

In delivering his ruling, House Speaker Frederick Gillett (R-Mass.) agreed with Crisp and Garret, with the words quoted in the epigraph to this paper: "The whole purpose of this motion to recommit is to have a record vote on the program of the minority."[22]

The 1934 Precedent

The first indication of an erosion in the minority's right to recommit occurred in 1934 when a special rule was called up from the Rules Committee providing for the consideration of an appropriations bill for the Executive Office and various independent agencies. The rule waived certain points of order against provisions in the bill and prohibited any amendment to Title II of the bill "during the consideration" of the bill– meaning in either the Committee of the Whole or in the House. Since the motion to recommit is made in the House, after a bill is reported from the Committee of the Whole, Representative Bertrand Snell (R-N.Y.) made a point of order against the rule on grounds that if effectively prohibited a motion to recommit with

amendatory instructions.

In making the argument for his point of order, Representative Snell said that it "has been the precedent for a great many years that under no circumstances will the minority be prohibited from making a motion to recommit. . . . In this way the minority is allowed to place its position before the Congress, and, if enough members approve of it, they are entitled to a roll-call vote."[23]

Representative William Bankhead (D-Ala.) responded that, "There is nothing in this rule that would prevent any Member from offering a motion to recommit on any other phase of the bill except that covered by Title II." Snell shot back that the interpretation being put on the rule "is contrary to the spirit of the rules of this House and to every precedent of the House in the last 20 years."[24]

Nevertheless, Speaker Henry T. Rainey (D-Ill.) overruled the point of order, saying the special rule in question "does not mention the motion to recommit," and, therefore, that any motion to recommit could be made under the general rules of the House.

However, Rainey went on, since the general rules of the House prohibit instructions "that might not be proposed directly as an amendment," and since the rule prohibits amendments to Title II, "it would not be in order...to move to recommit the bill with instructions to incorporate an amendment in title II of the bill." Rainey thus concluded that the special rule "does not deprive the minority of it right to make a simple motion to recommit," but that a motion that includes instructions to incorporate a provision which would be in violation of the special rule...would not be in order.[25]

The precedent is incorporated in *Deschler's Precedents*, published in 1976, with the statement that while a special rule may not deny the minority a motion to recommit as provided by Rule XVI, clause 4, "such restriction does not apply to a special rule which may prevent a

motion to recommit with instructions to incorporate an amendment in a title to which the special rule precludes the offering of amendments."[26]

The same precedent also appears in the previous volume of *Deschler's* and includes the additional information that Speaker Rainey's ruling was appealed and upheld by a vote of 260 to 112. Moreover, a parliamentarian's footnote to the precedent contains the following further explanation:

> Normally, such resolutions only prohibit certain amendments during consideration in the Committee of the Whole, allowing a motion to recommit with instructions in the House to add such amendments. *This is apparently the only ruling by the Speaker on the authority of the Committee on Rules to limit, but not to prohibit the motion to recommit.*[27] [emphasis added]

Rainey's Ghost Rising

For whatever reason, Rainey's ruling did not open a floodgate of majority party abuses of the minority's right to recommit with instructions. Rainey was a one term Speaker, and his successor, William Bankhead of Alabama was not forced by the Rules Committee to test the limits of the Rainey ruling. According to House precedents, it was not until 1975 that Rainey's ghost resurfaced. A special rule for a tax reform bill had been reported from the Rules Committee which, with certain exceptions, prohibited amendments to the bill either in the House or the Committee of the Whole. A motion to recommit the bill was offered that would have sent the bill back to the Ways and Means Committee with the instructions that it not report the measure back to the House until an amendment was included that provided that any revenues raised by the bill could not exceed governing expenditures over a specified level-in effect, an attempt to impose a spending cap on government spending.

The precedent on this incident (published in a 1982 volume, Deschler-Brown's, *Procedure in the U.S. House of Representatives*) indicates that, "No point of order was made

against the motion," the implication being that one might have been raised on grounds that the motion was attempting to do indirectly that which the special rule had directly prohibited in the way of amendment.[28]

The same volume of Deschler-Brown cites several other instances in which the motion to recommit bill could not alter amendments already adopted by the House unless the special rules had specified that the motions to recommit could be "with or without instructions." And, in fact, it is as standing practice, whenever the Rules Committee makes in order a committee amendment in the nature of a substitute as an original bill for amendment purposes, for it to include in the special rule the guarantee of instructions which would otherwise be subject to a point of order for attempting to amend a bill that has already been amended in its entirety.[29]

However, the Deschler-Brown precedents also contain the first modern instances in which special rules have directly placed limits on motions to recommit. The first such instance occurred on April 1, 1976, in which a special rule mandated the precise form that the motion to recommit with instructions must take to a pending campaign reform bill (thus leaving the minority no leeway in offering a different motion of its choosing).[30]

The second instance cited occurred on April 4, 1977, and involved language in a special rule that permitted one motion to recommit "which may include instructions if the House has not previously agreed to an amendment in the nature of a substitute." The Parliamentarian's note to this latter precedent explains the "unique language" in the most positive and charitable light, saying that the provision, added by way of amendment in the Rules Committee, "was intended to allow a motion to recommit with instructions to amend a portion of the bill which had already been amended, except where an amendment in the nature of a substitute had been adopted. The rule thus permitted instructions to eliminate or amend certain amendments already agreed to."[31]

Presumably the provision was intended to prevent the minority from having two bites of the apple if its substitute had earlier prevailed.

The instances cited above, while minor and relatively innocuous, helped lay the groundwork for a more substantive chipping away at the minority's right, beginning in the 95th Congress (1977-79), the first term of Speaker Thomas P. "Tip" O'Neill, Jr. (D-Mass.). It was under O'Neill that the experimenting began with limiting the minority's recommittal motion. And, except for one instance in the 97th Congress (1981-83), the special rules involved only limited exceptions, but did not completely deny a motion to recommit with instructions. Table 2 below gives a comparison of special rules limiting and denying instructions in motions to recommit from the 95th Congress through the 103rd Congresses (1993-95).

Table 2.
Special Rules Limiting and Denying Recommittal Instructions
(95th-103rd Congresses, 1975-1995)[32]

Congress	Limiting Rules	Denying Rules	Total	Speaker
95th (1977-79)	3	0	3	O'Neill
96th (1979-81)	8	0	8	O'Neill.
97th (1981-83)	2	1	3	O'Neill
98th (1983-85)	1	0	1	O'Neill
99th (1985-87)	7	7	14	O'Neill
100th (1987-89)	9	15	24	Wright
101st (1989-91)	5	16	21	Wright/Foley
102nd (1991-93)	0	5	5	Foley
103rd (1993-95)	0	4	4	Foley

The three rules in the 95th Congress and four of the eight in the 96th Congress that limited motions to recommit with instructions only prohibited one or two specific types of amendments per bill. All seven were special rules for appropriations bills and prohibited amendments dealing

with such areas as abortion, Federal pay, and the Federal Trade Commission (relating to providing a congressional veto for regulations).

The turning point in the Democratic leadership's crackdown on amendments in motions to recommit came with the last four rules granted in the 96th Congress (three in October of 1979 alone and the fourth in 1980). The first two were special rules that provided for consideration of continuing appropriations resolutions in the House. The first rule specified that the only amendment allowed was one dealing with Federal pay; and the second rule only permitted one specified abortion amendment. Since consideration was in the House, the motion to recommit was also confined to the substance of the same amendments.

The third rule, for an FTC bill, allowed only three specified amendments, plus one substitute, "*in the House* and the Committee of the Whole," thereby confining any amendments in recomittal instructions (which is made *in the House*) to those already made in order in the Committee of the Whole. Yet, none of the three rules was contested.

That changed with the fourth and final special rule of the 96th Congress which provided for consideration of the first-ever budget reconciliation bill--a proposal backed by the Carter Administration. The Rules Committee reported a special rule that allowed for just three amendments "in the House and in the Committee of the Whole," one dealing with superfund, a second with trade adjustment assistance, and the third with cost-of-living adjustment reforms.

When Rules Committee Chairman Richard Bolling (D-Mo.) called up the rule, Representative Del Latta (R-Ohio) complained about the severe limitation on amendments, and argued for defeating the previous question on the rule so that he could make in order an additional amendment to eliminate a $3.1 billion spending increase in the bill as well as allow for a motion to recommit with instructions. "The way the motion is now, it is without

instructions."[33]

Bolling countered that "a motion to recommit with instructions enables the managers on that side to deal with all the political plums in town. Talk about politics, they could set up a Christmas tree alternative in either direction, either to save or to spend or a combination of the two that would be absolutely incredible."[34] Bolling prevailed on the previous question and the rule. But the battle set the stage for a series of future budget battles and rules restricting or denying minority rights of amendment and recommittal.

In 1981, the tables were turned on the Democrats as Republicans forged an alliance with "Boll Weevil" southern Democrats in support of President Reagan's budget plan. When the Rules Committee reported a special rule for the Budget Committee's reconciliation bill, it made in order only portions of the requested Republican substitute (the sour without the sweet), and broke it into six separate amendments. Moreover, the special rule provided for two motions to recommit, one which may not contain instructions, and the other which allowed only for instructions that were identical to the butchered, six-part Republican substitute already made in order during the regular amendment process.

When the special rule was called up on the House floor on June 25, 1981, Republican outrage at the procedural abuse was palpable. Following the heated debate, the previous question for the rule was voted down, shifting recognition to Republicans to offer a substitute rule. The substitute called for the en bloc consideration of amendments to be offered by Latta (who was the ranking Republican on the Budget Committee), and for one motion to recommit, "with or without instructions."

When the Latta substitute for the bill was about to come to a final vote, the Chair recognized a Republican member opposed to the package, Representative Claudine Schneider,

who sought to restore the twice-annual cost-of-living adjustments for Federal employees which had been deleted in the Latta package. At that point Budget Committee Chairman Jim Jones (D-Ok.) attempted to wrest control of the motion to recommit from Schneider by urging defeat of the previous question so that he could offer an alternative motion to recommit with instructions. But the House adopted the previous question on Schneider's's motion, 215 to 212, then rejected her motion by voice vote, and proceeded to pass the Reagan reconciliation bill.

The ironic postscript to this episode occurred on July 31, 1981, on a rule providing for consideration of the reconciliation conference report plus a bill to be called up by Bolling to restore minimum benefits under Social Security which had been reduced in the reconciliation bill. The rule provided that the motion to recommit on the Social Security bill "may not contain instructions." This was the first instance of an outright denial of instructions. But, because another Democrat was trying to defeat the previous question on the rule for purposes opposed by Republicans, Republicans supported the previous question and the rule. Nevertheless, that was the opening shot in what would lead to an escalation in special rules denying the minority's motion to recommit as table 2 reveals.

The Final Assaults

In the first four congresses listed in table 2, there was only one, the 97th Congress, in which a special rule barred any instructions (on the Bolling bill cited above). However, as the table then shows, the move to special rules which totally denied motions to recommit with amendatory instructions began to grow in the 99th Congress with seven such rules, and peaked in the 101st at 16 before declining to five and four in the 102nd and 103rd Congresses, respectively.

In the 99th Congress all seven rules that denied the minority's motion to recommit with a final amendment stated that the motion "may not contain instructions." Two of the seven rules were on trade and budget sequestration bills, and were adopted by voice vote. One was on a

drug bill, and was adopted by an overwhelming margin. The four other rules on Central America, reconciliation, and two on immigration, were contested, and one was defeated (the first immigration rule).

In Representative Jim Wrights's first (and only full) term as Speaker, the 100th Congress, 15 rules were reported that denied amendatory instructions. Of the 15, three were defeated, seven were adopted with substantial opposition, two were adopted by voice vote (one of which barred instructions on two bills), and two were tabled. Wright's speakership became a lightning rod for Republicans' resistance and protest over what they saw as innovative array of procedural abuses being visited upon the minority. The denials of motions to recommit were but a small part of a larger pattern of procedural manipulation by the Speaker.[35]

In October 1988 Republican Whip Trent Lott (R-Miss.), a member of the Rules Committee, inserted a special order in the *Congressional Record* titled, "Changing the Rules," in which he detailed the extent of procedural abuses, including comparative data on the increase in restrictive rules limiting the offering of amendments, self-executing rules, rules waiving the Budget Act, and rules prohibiting recommittal instructions. In discussing the motion to recommit, Lott said the history of the rule "makes clear that the intent was to permit the minority one final opportunity to get a vote on its position....And yet, despite this clear legislative history and intent...the Rules Committee has dictated on 18 occasions in this Congress alone that the motion be rendered futile by prohibiting instructions."[36]

In the 101st Congress, the procedural restrictions continued, even after Wright's departure under an ethics cloud in June 1989. All told, five special rules limited the motion to recommit with instructions while 16 denied recommittal instructions. Three of the denials were under Wright's speakership, but the remaining 13 fell on the shoulders of the new Speaker, Tom Foley.

Four of the denial rules were adopted by voice vote while six others had substantial opposition and one rule, for the crime bill, was defeated.

The rhetoric escalated on the Republican side as perceived procedural abuses mounted. On one bill, the Civil Rights Act of 1990, the special rule considered on August 2, 1990, allowed just one Republican substitute to be offered and denied a motion to recommit with instructions. Likewise a campaign reform rule in August 1990 allowed just one minority substitute and denied recomittal instructions. The omnibus crime bill rule in September 1990 allowed numerous amendments, but denied a major amendment on habeas corpus requested by ranking Judiciary Committee Member Henry Hyde (R-Ill.) The rule also denied a motion to recommit with instructions.

When Rules Committee ranking Republican Jimmy Quillen recounted how he had asked in the committee why a motion to recommit with instructions was being denied, "I was told that a motion to recommit with instructions could not be allowed because it might be used to give the House a chance to consider the Hyde amendment." "Listen to that," Quillen continued. "How do you gang up on somebody like a respected member of this House, the gentleman from Illinois (Mr. Hyde)?"[37] Although an attempt to defeat the previous question and make in order the Hyde amendment was defeated, the rule was subsequently rejected by the House, 166 to 258. A subsequent rule made in order Hyde and three other amendments, but still denied a motion to recommit with instructions. It was adopted by voice vote.

The final showdown in the 101st Congress came on a reconciliation rule in October 1990 that denied a requested Republican substitute and denied any instructions in a motion to recommit. When the rule was called up, House Republican Leader Bob Michel raised a point of order against the rule on grounds that it denied the minority a right to offer instructions in the

motion to recommit.

Michel argued that the key to the intent of the rule was Fitzgerald's rule that the motion to recommit could not be denied "as provided" by Rule 16 which was adopted solely to give opponents the opportunity to offer a final amendment.

The Speaker pro tempore, Representative John Murtha (D-Pa.), overruled the point of order, citing Speaker Rainey's 1934 ruling as "the only precedent directly relating to the question at issue." Murtha said that precedent makes clear that "the Committee on Rules is not precluded...from specifically limiting motions to recommit bills or joint resolutions...to specific types of instructions....Clause 4 of Rule XVI does not guarantee that a motion to recommit a bill may always include instructions. The Chair, therefore, overrules the point of order."[38] Representative Bob Walker (R-Pa.) immediately rose to appeal the ruling of the Chair, which Representative Butler Derrick moved to table. The appeal was tabled on a 251 to 171 party-line vote, with just one Democrat, Representative Charles Bennett of Florida, voting against tabling

Turning the Tide

Two significant things occurred in the 102nd Congress that began to turn the tide on the motion to recommit controversy. First, Representative Gerald B. Solomon (R-N.Y.), a second term member on the Rules Committee, was elevated to the ranking minority slot by Minority Leader Michel (and Representative Quillen became second chair). Solomon considered himself a "pit bull," a real fighter for minority party rights in the House, and made that his cause. One of his first acts as ranking member was to write a letter to Speaker Foley on the opening day of the new Congress and enclose a copy of a minority staff report (by this author) titled, "The Motion to Recommit in the House: The Rape of a Minority Right." In his letter Solomon summarized the document's history and arguments on the rule's original intent. He concluded his letter by

saying it was his hope, "in light of this evidence, [that] the majority leadership and the Rules Committee will consider their past restrictions and denials of this minority right in the 102nd Congress, and thereby avoid future confrontations and points of order over such a fundamental guarantee."[39]

Solomon sent copies of his letter and the paper to the House Republican Leadership and the chairman and members of the Rules Committee, making clear his intentions should the motion to recommit be denied in the future. Six months later, the Rules Committee issued a closed rule on a civil rights bill relating to employment discrimination. The rule also prohibited instructions on a motion to recommit, but Republicans did not challenge the rule because the GOP leadership and president supported the bill.

Less than three weeks later, however, the Rules Committee did report a special rule on campaign finance reform legislation which made in order three substitutes under a "king-of-the-hill" process (last substitute adopted wins), but failed to specify that instructions were permitted in the motion to recommit. That meant that if any substitute were adopted, as the majority's preferred substitute surely would be, then no further amendments would be in order in a recommit motion. As Michel had done before him, Solomon raised a point of order, repeating most of the same arguments. And, predictably, the Speaker overruled the point of order, citing the 1934 precedent. Unlike Walker, though, Solomon took a diplomatic tack to begin with: "Mr. Speaker, out of respect for you, I will not appeal the ruling of the Chair, but I would hope that perhaps our Republican leader and you could sit down and discuss the long-range plans that deal with this particular subject." Solomon concluded, "We feel very strongly about it, but I do understand the Chair's ruling."[40]

Notwithstanding the proffered olive branch, another procedural explosion, unrelated to

the recommit issue, occurred two weeks later on a foreign operations appropriations bill. The rule only made in order 11 amendments, even though the usual practice had been open rules on all appropriations measures. The outraged Republican reaction led to the threat of holding a series of dilatory votes. This in turn led to a bipartisan leadership summit meeting in the Speaker's office to which Solomon was invited. While the Republicans were not successful in changing the rule, they did extract a promise from Folely that the Rules Committee would reexamine procedures for considering appropriations bills as well as an examination of the minority's right to recommit.

This was the second major development in the new Congress on the recommittal issue. On July 22, 1991, Rules Committee Chairman Joe Moakley (D-Mass.), wrote a letter to Representative Tony Beilenson (D-Calif.), chairman of the Subcommittee on Rules of the House, asking that his subcommittee "initiate a review of the issues and I would like to discuss the matter with you in the future."[41] After considerable delay and foot-dragging that required a pointed reminder from the Speaker, Beilenson finally convened a "roundtable discussion" on the motion to recommit on May 6, 1992, at which three parliamentary experts presented their views on the topic, and the subcommittee engaged in a dialogue on the matter.

As any congressional veteran knows, promises of hearings and studies can be nothing more than a convenient excuse to delay and defer taking any meaningful action. It had already taken a year and a half from Solomon's first letter to the Speaker to move the issue to a subcommittee roundtable discussion.

In the meantime, two other special rules denying recommittal instructions were reported: one in February 1992 on the Economic Growth Tax Act, and the second, on in May (on the same day the roundtable discussion was taking place), on an omnibus rescissions bill. In both

instances, Solomon raised points of order against the rules on grounds they violated the intent of the motion to recommit rule. In both instances he was overruled, and in both he appealed the rulings of the Chair and lost on rollcall votes that tabled his appeals.

The final special rule of the 102nd Congress that denied recommittal instructions came in June 1992 on a voter registration bill from the Senate. Once again Solomon made his point of order and was overruled, forcing a vote on tabling his appeal of the Speaker's ruling. While the roundtable discussion had obviously not led to an immediate reconciliation between the parties on the issue, at least the number of denial rules had fallen to just five in the 102nd Congress--11 fewer than in the previous Congress.

The 103rd Congress (1993-95) would witness a further de-escalation of the recommittal wars, with only four special rules denying a motion to recommit with instructions. Rules Republicans challenged the first three with points of order (reconciliation, campaign finance reform, and an effective government bill), but did not appeal the Chair's ruling on any of the three. The fourth rule denying instructions on the legislative branch appropriations, was not challenged.

One of the main reasons for the new mood of accommodation was the prospect for real reform. Partially as a result of the procedural abuse protests in the preceding Congress, a Joint Committee on the Organization of Congress had been created in late 1992 to explore ways to improve the operations of the House and Senate. Representatives Lee Hamilton (D-Ind.) and David Dreier (R-Calif.) were the House co-chairs. While the joint committee did not actually organize and begin its work until early in 1993, it did hold out the promise of giving Republicans a more significant forum than a subcommittee roundtable to vent their grievances and hopefully even adopt some reforms they had long advocated.

Although Hamilton initially put forward only a bare-bones reform bill to begin the House markup process in November, he indicated an openness to including other reforms that had some bipartisan support. Since the House half of the joint committee was evenly divided with six Republicans and six Democrats, it would take at least one Democrat to adopt a Republican amendment, and vice versa.

On November 18, 1993, Solomon offered his amendment to the reform bill to prevent the Rules Committee from reporting any rule or special order "which would prevent the motion to recommit from being made by the minority leader (or his designee)...including a motion to recommit with amendatory instructions." Representative David Obey (D-Wisc.) questioned the need for such a minority right since they could now get recorded votes on their amendments in the Committee of the Whole–something that was prohibited prior to 1971. Solomon responded that,

> ...the Democratic Leadership does not agree with you at all, because Speaker Foley and Majority Leader Gephardt and your Majority Whip Bonior, in a meeting with our leadership, have agreed to give us our motion to recommit and all I'm trying to do is to firm that commitment so that we don't run into situations where under certain political pressures they try to renege on it. And they support the motion to recommit for the minority down the line.[42]

After further debate on the intent of some Democrats to link any concessions on minority rights in the House to changes in the Senate rules on holds and filibusters, the vote was postponed to a later date. Then, on November 21, after a perfunctory summation of arguments, Hamilton indicated that he intended to support the amendment. The vote was taken and the Solomon recommit amendment was adopted, 10 to 2, with only Representatives Obey and Sam

Gejdenson (D- Conn.) voting "no."

Although the House contingent reported their bill to the House the following day by an 8 to 4 vote, the matter would not come to a vote in the Rules Committee until 10 months later. Significantly, the Solomon amendment had been retained in a substitute mark put forward by Rules Committee Chairman Joe Moakley (D-Mass.), even though other provisions were omitted--a good indication that the leadership agreed with restoring the minority's right. Nevertheless, the bill was pulled by the leadership in the middle of markup when it appeared a proxy voting ban and a committee reorganization amendment might be adopted.[43]

A little over three months latter, on January 4, 1995, the new Republican majority called up its resolution to adopt rules for the 104th Congress. While most of the focus was on the first eight House reforms which had been promised in the "Opening Day Checklist" of the Contract With America, the second title of the resolution contained another 23 House rules changes that Republicans had developed over their years in the minority. Section 210 of House Resolution 6 was titled, "Affirming the Minority's Right on Motions to Recommit." The wording of the amendment added to the existing language prohibiting the Rules Committee from denying a motion to recommit with the words, "including a motion to recommit with instructions if offered by the minority leader (or a designee)...."[44] Title II was subsequently adopted by voice vote, and the minority's right to recommit with instructions was fully restored and enshrined in House rules by the new majority.

Postpartum Regression

The rebirth of the minority's right to recommit might be seen as analogous to the mythical bird, the phoenix, that burns, then rises from its own ashes to be born again. It would, that is, if we had ended the story on the opening day of the 104th Congress. However, viewed

with the hindsight of five Republican-controlled congresses, the rebirth of the minority right resembles more a "pyrrhic victory"[45] in the battle for institutional fairness. And therein lies the rest of the story.

One of the things that has most puzzled political scientists who subscribe to the rational choice theory that rules are made by the ruling party to achieve its preferences (something with which Thomas Reed obviously agreed), is this: Why would such a slim majority act contrary to its own self-interest by empowering the minority at one of the most critical stages in the legislative process, just prior to the final vote on a bill?

The simple and most accurate explanation of what motivated the majority Republicans *at the time* they adopted the rule change was that they genuinely believed it embodied a basic right of the minority that was so deeply embedded in institutional customs and values as to be practically sacrosanct in nature. To follow the Democratic majority's cynical manipulation of this right for narrow, partisan advantage, they reasoned, would be both hypocritical and wrong.

Looking back on the restoration of the minority's right *today*, however, nearly a decade later, yields a different explanation and justification for the majority's retention of the right, one that is more compatible with rational choice theory. As Republicans have become increasingly parsimonious in allocating floor amendments to Democratic members on important legislation, the motion to recommit has provided a convenient last bastion of institutional fairness in an otherwise unfair process.

The data on open versus restrictive amendment rules over the last several congresses bears this out (see table 3 below). In the 103rd Congress, the last and most amendment-restrictive of any Democratic Congress, only 44 percent of the special rules granted by the Rules Committee provided for a completely open amendment process; another 38 percent were

structured rules, meaning they allowed for only specified amendments; and 18 percent were equally divided between modified closed rules (usually allowing for only one minority substitute), or closed rules, allowing no amendments. By the 107th Congress (2001-2003), their fourth consecutive congress in power, the Republicans had far exceeded the Democrats' worst excesses in restricting floor amendments. Only 37 percent of the rules allowed an open amendment process, 19 percent were structured, and the remaining 44 percent, were equally divided between modified closed and closed. Modified closed rules, permitting just one minority substitute, were rapidly becoming the rule of choice for House Republicans.

Table 3. The Amendment Process Under Special Rules, 103rd - 107th Congresses[46]

Rule Type	103rd Congress (1993-94)		104th Congress (1995-96)		105th Congress (1997-98)		106th Congress (1999-2000)		107th Congress (2001-2002)	
	No.	%	No.	%	No.	%	No.	%	No.	%
Open/Modi- fied Open	46	44%	83	58%	74	53%	91	51%	40	37%
Structured	40	38%	20	14%	6	4%	32	18%	20	19%
Modified Closed	9	9%	20	14%	36	26%	17	9%	24	22%
Closed	9	9%	19	14%	24	17%	39	22%	23	22%
Totals	104	100%	142	100%	140	100%	179	100%	107	100%

As the first session of the 108th Congress (2003-04) drew to a close, the data was even more stark in its contrast between openness and restrictiveness. As of November 14, 2003, only 27 percent of the special rules were open, 29 percent were structured, 21 percent were modified closed, and 23 percent were closed.

At a November 12, 2003 Congressional Research Service symposium on, "The Changing Nature of the Speakership," House Speaker Dennis Hastert confirmed that the minority guarantee of a motion to recommit with instructions was now being used as the majority to

counter to protests against majority unfairness to the minority party. According to David Broder's account of Hastert's remarks:

> Hastert, whose personal qualities were praised by all of the Democrats, used the occasion to deliver his first extended response to complaints from Pelosi and other Democrats that they were routinely excluded from participating in House-Senate conference committees, are blocked from offering floor amendments, and are subjected to other restrictions on their legislative work.

Broder goes on to quote Hastert as saying, "We take the job of fairness very seriously," adding that even when the number of amendments is limited, "we guarantee the minority the right to recommit the bill with instructions, giving them one last chance to make their best arguments to amend the pending legislation.[47]

Conclusion

The modern day motion to recommit has its origins in a perceived abuse of power by the Speaker of the House who, among other things, had distorted the intent of the motion by recognizing members of his own party, rather than the minority, to offer the motion. The resulting House rules change of 1909 guaranteed the right of first recognition to offer the motion to opponents of a bill, and prohibited the Rules Committee from reporting special rules denying that right. The following year, House Rules were changed to remove the Speaker as chairman and member of the Rules Committee.

Seizing on a 1934 ruling by the Speaker that the Rules Committee could limit the type of amendments that could be offered in a motion to recommit, Democratic leaders began directing the Rules Committee in the late 1970s to limit the minority's right, and, by the 1980s, to selectively deny any amendments in motions to recommit on major bills of importance to the majority party.

This practice was reversed when the Republican minority became a majority in 1995, and

it fully restored the minority's right in House rules. Today that guarantee is the thin reed on which the majority often rests its case of fairness to the minority, while otherwise severely limiting or prohibiting other amendments. This development tends to reaffirm the rational choice explanation that rules are made to advance the preferences of the majority and to guard against threats by the minority to defeat or distort those preferences.

However, it remains to be seen how long any majority can sustain itself on such a strained concept of minority rights and fairness--especially in an institution which, for the better part of two centuries, has prided itself on honoring the rights of all members to participate in the legislative process. If the past is prologue, majorities so inclined always sow the seeds of their own destruction.

Endnotes

1. Clarence Cannon, *Cannon's Precedents of the House of Representatives* (Government Printing Office, 1936), Volume 8, sec. 2697.

2. *History of the United States House of Representatives, 1789-1994* (Washington, D.C.: U.S. Government Printing Office, 1994), House Document No. 103-324 (103rd Congress, 2d Session), 182. The quote is from Speaker Reed's ruling from the Chair in overruling a point of order against his decision to count for a quorum those members present but not responding to their names–thereby eliminating the minority's "disappearing quorum" tactic. *Congressional Record*, January 31, 1890, 999.

3. Randall Strahan, "Thomas Brackett Reed and the Rise of Party Government," in *Masters of the House: Congressional Leaders Over Two Centuries*, Roger H. Davidson, Susan Webb Hammond, and Raymond W. Smock, editors (Boulder, Colorado:Westview Press, 1998), 50-51.

4. Asher Hinds, *Hinds' Precedents of the House of Representatives* (Government Printing Office: 1907), volume 5, sec. 5545.

5. Rules of the House of Representatives, April 7, 1789, reprinted by the First Federal Congress Project at <http://www.gwu.edu/~ffcp/exhibit/p3/p3_1.html>, accessed on Nov. 8, 2003.

6. Hinds, Volume 5, sec. 5443.

7. Cannon, Volume 5, sec. 5545.

8. Hinds, Volume 2, sec. 1456.

9. Cannon, Volume 8, sec. 2762.

10. The source for this data is *Hinds' Precedents of the House of Representatives*, Volume 5, from selected precedents found between sections 5526-5592, covering the years 1881-1909. Not counted were election cases or instances in which a member was not recognized because the motion was not considered to be in order at that point in the process. Only instances in which the Speaker recognized a member to offer the motion are counted.

11. Hinds, Volume 5, secs. 5540, 5551, 5571, and 5541, respectively.

12. Hinds, Volume 5, sec. 5582.

13. Cannon, Volume 8, sec. 2757.

14. *Origins and Development of Congress*, Barbara R. de Boinville, editor (Washington: Congressional Quarterly, Inc., second edition, 1982), 126-27.

15. *Congressional Record*, March 15, 1909, 22.

16. Ibid, 31.

17. *Origins and Development of Congress*, 127.

18. *Congressional Record*, May 14, 1912, 6410.

19. Cannon, Volume 8, sec. 2759.

20. Cannon, volume 8, sec. 2727.

21. Ibid.

22. Ibid.

23. *Congressional Record*, January 11, 1934, 480.

24. Ibid, 481.

25. Ibid, 482-83.

26. Lewis Deschler, *Deschler's Precedents of the U.S. House of Representatives* (Washington: Government Printing Office, 1976), Volume 7, ch. 23, sec. 25.9.

27. Deschler, Volume 6, ch. 21, sec. 16.19.

28. Lewis Deschler and William Holmes Brown, *Procedure in the U.S. House of*

Representatives (Washington: Government Printing Office, 1982), ch. 23, sec. 14.13.

29. Ibid, sec. 15.3.

30. Ibid, sec. 15.8.

31. Ibid, sec. 15.9.

32. The data was compiled by the author from a rule by rule examination in each of the Congresses. An earlier version of the table was published in a paper written by the author while serving as the minority counsel on the House Rules Committee's Subcommittee on Legislative Process, "The Motion to Recommit in the House: The Rape of a Minority Right, November 12, 1990," and updated in an "Addendum to Motion to Recommit Paper," dated August 16, 1991. Both are included in, U.S. Congress. House, Committee on Rules, Subcommittee on Rules of the House, "Roundtable Discussion on the Motion to Recommit," May 6, 1992, 93-175.

33. *Congressional Record*, September 4, 1980, 24191.

34. Ibid, 24192.

35. See for instance, Rep. Richard B. Cheney, "An UnRuly House: A Republican View," *Public Opinion*, Jan./Feb., 1989, 41-44.

36. *Congressional Record*, October 21, 1988, E 3657.

37. *Congressional Record*, September 25, 1990, H 7999.

38. *Congressional Record*, October 16, 1990, H 9933-34.

39. For full text of Solomon letter, see *Congressional Record*, June 4, 1991, H 3813.

40. *Congressional Record*, June 4, 1991, H 3810-3811.

41. Letter from the Honorable John Joseph Moakley to the Honorable Anthony Beilenson, July 22, 1991, found in "Roundtable Discussion on the Motion to Recommit," op. cit., 176.

42. U.S. Congress. Senate, Joint Committee on the Organization of Congress. Business Meetings on Congressional Reform Legislation, Meetings of the Joint Committee on the Organization of Congress, 103rd Congress, 1st Session, Markup of Congressional Reform Legislation, November 18, 1993, 253-54.

43. For a fuller treatment of the Joint Committee and the Republican rules reforms on opening day, see Donald R. Wolfensberger, *Congress and the People: Deliberative Democracy on Trial* (Baltimore: Johns Hopkins University Press, 2000).

44. *Congressional Record*, January 4, 1995, H 29.

45. King Pyrrhus of Epirus, referring to the dearly bought victory at Asculum in 280 B.C., is said to have remarked on the battle: "Another such victory over the Romans, and we are undone." Hence the term, "pyrrhic victory. (From *Plutarch's Lives*, Pyrrhus, sec. 21)

46. The data for this table, and the 108th Congress, has been compiled by the author over the years based on a rule-by-rule examination. Only special rules providing for the initial consideration of bills, joint resolutions, and concurrent resolutions on the budget are counted.

47. David Broder, "Hastert Defends His Leadership," *The Washington Post*, Thursday, November 13, 2003, A-29.