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Chapter CCXXXIV.[1]

ELECTION OF COMMITTEES.

2171. The House elects the standing committees at the commencement of each Congress.

History of section 1 of Rule X.

Section 1 of Rule X provides for the election of the standing committees, enumerates them and fixes the number of Members composing each. The first clause of the rule, introductory to the enumeration, provides as follows:

> There shall be elected by the House, at the commencement of each Congress, the following standing committees, viz:

This rule was adopted in its present form April 5, 1911,[2] as a part of the general revision of that year, and transferred to the House the duty of naming the standing committees which had been uniformly exercised by the Speaker prior to the Sixty-second Congress.

2172. Motions for the election of Members to committees are debatable and are subject to amendment.

In making up nominations for committees the majority delegate to the minority, with certain reservations, the selection of minority representation on the committees.

Instances in which the majority declined to recognize minority recommendations for committee assignments.

A motion to fill vacancies on standing committees was offered as privileged.

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[1] Supplementary to Chapter CIV.

[2] First session Sixty-second Congress, Record, pp. 11, 80.

On January 11, 1912,[1] Mr. Oscar W. Underwood, the majority leader, in offering a privileged motion, said:

Mr. Speaker, at the request of the gentleman from Illinois, Mr. Mann, I move the election of the following gentlemen to fill the vacancies named in the list which I send to the desk and ask to have read, which vacancies belong to the minority side of the House.

The Clerk read as follows:

For election to minority places the following:
Committee on Rules, Philip P. Campbell, of Kansas.
Committee on Banking and Currency, William H. Heald, of Delaware.
Committee on Claims, W. D. B. Ainey, of Pennsylvania.
Committee on the Census, W. D. B. Ainey, of Pennsylvania.
Committee on Naval Affairs, William J. Browning, of New Jersey.
Committee on Coinage, Weights, and Measures, George Curry, of New Mexico.

Mr. George W. Norris, of Nebraska, inquired if the motion was subject to amendment, and the Speaker[2] having answered in the affirmative, moved to substitute the name of Mr. Victor Murdock, of Kansas, for that of Mr. Philip P. Campbell, of Kansas, for the Committee on Rules.

The Speaker announced:

The nomination which the gentleman from Nebraska makes is in the nature of a substitute for the nomination made by the gentleman from Alabama at the request of the gentleman from Illinois, Mr. Mann, the minority leader. Therefore the proposition of the gentleman from Nebraska will be voted on first as in the nature of a substitute.

In debating the motion, Mr. Underwood said:

Mr. Speaker, I want to explain our attitude in reference to this matter. For a number of years the Democratic Party has demanded in this House when the Republicans were in control of it that we should have the right to select and name our own committee places. When this House was organized we conceded to the Republican side of the House the right to name the committee places, subject to a general revision, so that we might balance the committee. At the direction of the Democratic caucus I notified the gentleman from Illinois that his side of the House could fill the committee places either by their caucus or in the manner they saw fit. The Republican caucus, instead of selecting their committee places by a committee on committees and ratifying them in the caucus, as we do, determined that they desired to have their selections made by their own leader as representing the Republican Party.

In the course of debate Mr. Joseph G. Cannon, of Illinois, said:

In have no apologies touching the action of a former Speaker of this House. Never before in the history of the Government did the minority have the same power that the minority had for three Congresses, under the leadership of the now Senator Williams and former minority leader of this House, in placing the minority membership on committees. It was well understood between Representative Williams and the then Speaker of the House that he should have his way about minority appointments, and as I recollect now there were not to exceed four cases where the minority leader did not have his way, and in those cases the limitation placed upon him was where the organization of the minority interfered with the organization of the majority for geographic reasons or as a matter of policy, and geographic reasons substantially made the exceptions.

I believe in a government through majorities, through party organization, with full power and full responsibility; and if I had again the power to organize this House as its Speaker I would

[1] Second session Sixty-second Congress, Record, p. 855.

[2] Champ Clark, of Missouri, Speaker.

conscientiously and fearlessly organize it according to my best judgment, after the fullest consultation with members of the majority, giving the minority substantially a free hand. In the Sixty-first Congress, the gentleman from Missouri, Mr. Clark, the leader then of the minority, notified me that he would not organize that minority unless his recommendations were accepted without the dotting of an "i" or the crossing of a "t." I declined to agree to that proposition because it conflicted with the policy that had been adopted by myself and by the House for the three former Congresses.

During the discussion Mr. Mann said:

Mr. Speaker, the Republican caucus which was called at the beginning of this Congress selected me as their candidate for Speaker, which, under the unwritten practice, made me the so-called minority leader. At the same time, following a communication from the Democratic caucus, the question was presented, and it was agreed by caucus action that the Republican candidate for Speaker—the minority leader—should make the recommendations for minority appointments upon committees. I understood in communications with the gentleman from Alabama, Mr. Underwood, that the Democratic caucus had taken the position that the Republican side of the House might select the minority members of the committees unofficially, subject to the approval of the Democratic members of the Committee on Ways and Means.

Of course, we all understand the rule that there shall be an election by the House, and the motion by way of amendment now offered by the gentleman from Nebraska, Mr. Norris, is entirely in order and is conformable to the rules of the House.

Let me say to the gentlemen on the other side of the aisle, I recognized the right, and believed it ought to be exercised, of the majority side of the House being responsible, because they were in control, and of the right on either side, either through the Ways and Means Committee or on the floor, to change designations made either by the minority leader, or the minority through caucus or otherwise.

At the conclusion of debate the substitute offered by Mr. Norris was rejected, yeas 106, nays 167. The original motion was then agreed to without division.

2173. On December 13, 1917,[1] Mr. Claude Kitchin, of North Carolina, the majority leader, offered a resolution for the election of majority members of a standing committee as follows:

Resolved, That the following-named gentlemen be, and they are hereby, elected members of the Committee on Woman Suffrage:

1. John E. Raker (chairman), of California.
2. Edward W. Saunders, of Virginia.
3. Frank Clark, of Florida.
4. Benjamin C. Hilliard, of Colorado.
5. James H. Mays, of Utah.
6. Christopher D. Sullivan, of New York.
7. Thomas L. Blanton, of Texas.

Mr. Frederick H. Gillett, of Massachusetts, the minority leader, then offered this amendment for the election of the minority members of the committee:

Resolved, That the following-named Members be, and hereby are, elected members of the Committee on Woman Suffrage:

8. Miss Rankin,
9. Mr. Mondell,
10. Mr. Carter, of Massachusetts,
11. Mr. Meeker,
12. Mr. Little, and
13. Mr. Elliott.

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[1] Second session Sixty-fifth Congress, Record, p. 258.

Mr. Meyer London, of New York, as a parliamentary inquiry, asked if amendments to the amendment were in order.

The Speaker replied in the affirmative, and Mr. London proposed, as an amendment to the amendment, to strike out the name of Christopher D. Sullivan and substitute the name of Meyer London.

The question being taken was decided in the negative. The amendment was then agreed to and the resolution as amended was adopted.

2174. It is in order to move the previous question on motions or resolutions providing for the election of Members to standing committees.

An instance in which the Speaker took a question under advisement and rendered a decision on a subsequent day.

On June 3, 1913,[1] Mr. Oscar W. Underwood, of Alabama, offered a motion electing the standing committees, when Mr. James R. Mann, of Illinois, submitted a parliamentary inquiry as to whether it would be in order to move the previous question on the motion.

The Speaker[2] said:

The Chair will take time to investigate it. The question is on the motion of the gentleman from Alabama that the list of Members who have been nominated for the committees be elected.

The question was taken and the motion was agreed to.

On June 6, during an interval in the business of the House, the Speaker said:

On Tuesday last the gentleman from Illinois, Mr. Mann, made a parliamentary inquiry of some importance, to which the circumstances at that particular moment did not necessitate an answer from the Chair, but upon which several prominent Members think the Chair should render an opinion for future guidance, and, it being a new question, the Chair concurs in their suggestion.

The parliamentary inquiry was this:

"When the floor leader submits to the House a list of nominations for membership on committees, has he or any other Member the right to move the previous question on the said list of nominations?"

After due consideration of the question, the Chair is of the opinion that under such circumstances the motion for the previous question is in order.

It so happened that on this particular occasion the floor leader of the majority, Mr. Underwood, simply moved that the list which he submitted be adopted, but it would have been in order for him to have offered a resolution for the same purpose. Had he offered a resolution, it is clear that he could have moved the previous question; and by analogy, it is equally clear that he could have moved the previous question on his motion. Otherwise we might be placed in the preposterous situation of spending days or even weeks or months in the election of committees. To say that the previous question can not be moved and ordered in such a posture of affairs would be to give the widest possible latitude for filibustering—a practice which the House frowns upon.

Of course, should the majority leader, as the mouthpiece of both the Committee on Ways and Means and of the majority party caucus, abuse the powers of said committee and of said caucus, the House has its remedy by voting down the motion for the previous question, thereby throwing the list of nominations, made by either motion or resolution, open to amendment.

It goes without saying that until the motion for the previous question is agreed to by the House the motion or resolution to adopt the nominations for committee assignments is open to debate or amendment.

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[1] First session Sixty-third Congress, Record, p. 1871.

[2] Champ Clark, of Missouri, Speaker.

It is within the knowledge of all that the uniform practice of the House under the rules is to elect the Clerk of the House and other officers by resolution, and it is also a matter of common knowledge that the general parliamentary practice of conventions throughout the land is to "move to close nominations," which is only another method of "moving the previous question," the two motions having precisely the same effect.

2175. A rule provides that motions or resolutions to elect members of the standing committees shall not be divisible.

Form and history of the proviso of section 6 of Rule XVI.

The proviso of section 6 of Rule XVI prohibits the division of motions for the election of standing committees as follows:

Provided, That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible.

This provision was adopted April 2, 1917,[1] on the occasion of the adoption of the rules at the organization of the House.

2176. Election of the majority members of a committee constitutes the committee which may then organize and proceed to business before minority members have been elected.

On May 19, 1919,[2] the House having organized, elected the majority members of the standing committees but in the absence of nominations failed to elect the minority members of the committees.

On the following day,[3] immediately after the reading of the Journal, Mr. James R. Mann, of Illinois, by direction of the Committee on Woman Suffrage, moved that the Committee on the Judiciary be discharged from the consideration of the joint resolutions (H. J. Res. 1) and (H. J. Res. 18) extending the right of suffrage to women, and that those resolutions be referred to the Committee on Woman Suffrage.

Mr. Joseph Walsh, of Massachusetts, made the point of order that until minority members were elected the committees could not organize and were not technically in existence and there was, therefore, no Committee on Woman Suffrage to which the joint resolutions could be referred as proposed in the motion of the gentleman from Illinois.

After debate,[4] the Speaker ruled:

The Chair is of the opinion that when a majority of a committee has been elected by the House that committee is duly constituted, and whether it is usual or ordinary or expedient is a matter for the House to judge. The gentleman from Illinois moves, by direction of the committee, the change of reference from the Committee on the Judiciary to the Committee on Woman Suffrage.

2177. An instance in which a committee report was delayed until minority members of the committee could be elected.

On April 15, 1921,[5] in discussing the legislative program for the following day, Mr. Frank W. Mondell, of Wyoming, the majority leader, announced that it would

[1] First session Sixty-fifth Congress, Record, p. 111.

[2] First session Sixty-sixth Congress, Record, p. 9.

[3] Record, p. 66.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] First session Sixty-seventh Congress, Record, p. 354.

be necessary for the House to meet to receive a report from the Committee on Immigration and Naturalization.

Mr. Finis J. Garrett, of Tennessee, objected:

Mr. Speaker, how can the Committee on Immigration and Naturalization report, when the making up of that committee has not been completed?

Mr. Speaker, the minority have moved with all diligence, as rapidly as they could, to complete the making up of this committee. It is not right, it is not proper, for that committee to report until the minority members have been appointed. I repeat, the minority committee which makes up the committees has moved as rapidly as it is possible, and faster, as far as I know, than it has ever done. We have met here repeatedly at special sessions and waited weeks and sometimes months for making up the committees. I protest now against any report being received.

Subsequently, Mr. Mondell said:

Mr. Speaker, in view of the fact that the minority have not appointed their members of the Committee on Immigration and Naturalization, and because they desire to have their members on that committee appointed before the bill is reported, that bill will not be reported to-morrow, as suggested. That being the case, there is no reason why the House should meet to-morrow.

2178. A rule provides that vacancies in standing committees shall be filled by election by the House.

Form and history of section 4 of Rule X.

Section 4 of Rule X provides for the filling of vacancies on committees as follows:

All vacancies in standing committees of the House shall be filled by election by the House.

This rule was adopted in 1911 [1] in connection with the rule providing for election of committees by the House.

2179. Motions and resolutions for the election of standing committees have been presented as privileged.

The House in electing committees designates the rank of Members in the order in which their names appear on the list.

An instance in which a party caucus ranked those nominated for membership on a committee in the order of the respective vote received.

On March 25, 1910,[2] Mr. Frank D. Currier, of New Hampshire, presented as a privileged matter, the following resolution:

Resolved, That the following-named Representatives be elected as members of the Committee on Rules:

Hon. John Dalzell, of Pennsylvania; Hon. Walter I. Smith, of Iowa; Hon. Henry S. Boutelle, of Illinois; Hon. George P. Lawrence, of Massachusetts; Hon. J. Sloat Fassett, of New York; Hon. Sylvester C. Smith, of California; Hon. Champ Clark, of Missouri; Hon. Oscar W. Underwood, of Alabama; Hon. Lincoln Dixon, of Indiana; and Hon. John J. Fitzgerald, of New York.

In explanation of the order in which the prospective members of the committees are ranked, Mr. Currier said:

Mr. Speaker, the resolution I have offered provides for the election of the Committee on Rules ordered by the House. The six gentlemen first named in the resolution were selected in the Republican caucus, and the rank given them on the committee is in accordance with a resolution

[1] First session Sixty-second Congress, Record, pp. 12, 80.

[2] Second session, Sixty-first Congress, Record, p. 3759.

adopted in that caucus. When it happened that two gentlemen had the same length of service, they agreed as to the rank they were to have.

The four other gentlemen named in the resolution were selected in the Democratic caucus, and they are ranked on the committee in accordance with a report of the proceedings of that caucus, a copy of which was handed me by its secretary, the gentleman from Arkansas, Mr. Robinson.

Mr. Henry D. Clayton, of Alabama, supplemented:

Mr. Speaker, the Democratic caucus was held last night and selected four candidates for members of the Committee on Rules. In pursuance of the action of that caucus I, together with the secretary of the caucus, signed a certificate and handed it to the gentleman from New Hampshire, Mr. Currier, this morning certifying that the Hon. Champ Clark, the Hon. Oscar W. Underwood, the Hon. Lincoln Dixon, and the Hon. John J. Fitzgerald were selected as the Democratic members of this committee. They have been elected as Democratic members of this committee. They have been ranked, Mr. Speaker, according to the votes which they received in the Democratic caucus, namely, Mr. Clark having received the highest vote, Mr. Underwood, the next highest vote, Mr. Dixon the next highest vote, and then came Mr. Fitzgerald. Without any instructions by the Democratic caucus on that subject at all, it occurred to me as chairman of that caucus that that was the proper way to rank the Democratic members of the committee, and hence I so certified them in the order to the distinguished gentleman from New Hampshire.

2180. On April 11, 1911,[1] Mr. Oscar W. Underwood, of Alabama, offered, as privileged, a motion for the election of members of the standing committees.

The motion was agreed to.

2181. On May 19, 1919,[2] Mr. Frank W. Mondell, of Wyoming, presented as a privileged matter a resolution naming the majority members of the standing committees.

The resolution was adopted and on May 26,[3] Mr. Claude Kitchin, of North Carolina, offered a resolution, naming the minority members of the committees, which was considered as privileged and agreed to.

2182. Resolutions providing for election of standing committees are privileged. On December 12, 1929,[4] Mr. John Q. Tilson, of Connecticut, sent to the Clerk's desk the resolution (H. Res. 92) for the election of the standing committees of the House, and requested immediate consideration.

Mr. John N. Garner, of Texas, as a parliamentary inquiry, questioned the privilege of the resolution.

The Speaker[5] ruled:

Rule X provides that "there shall be elected by the House at the commencement of each Congress the following standing committees." The Chair thinks it is a matter of the organization of the House and is privileged. The Clerk will report the resolution.

2183. General increases have been made in the standing committees from time to time.

A tabulation indicating changes in the size of the committees and the establishment and discontinuance of committees since the Fifty-ninth Congress.

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[1] First session Sixty-second Congress, Record, p. 161.

[2] First session Sixty-sixth Congress, Record, p. 9.

[3] Record, p. 247.

[4] Second session Seventy-first Congress, Record, p. 542.

[5] Nicholas Longworth, of Ohio, Speaker.

The successive changes in the size of the committees and in the list of the standing committees of the House from the Fifty-ninth to the Seventy-third Congresses are tabulated as follows:

Committee on—	60	61	62	63[1]	64[2]	65[3]	66[4]	67	68[5]	69[6]	70[7]	71	72	73[8]
Accounts	9	9	11	11	11	11	11	11	11	11	11	11	11	11
Agriculture	18	18	21	21	21	21	21	21	21	21	21	23	23	25
Alcohol Liquor Traffic	11	11	11	11	11	11	11	11	11	11	.....	.....	.....	.....
Appropriations	17	17	21	21	21	21	35	35	35	35	35	35	35	35
Banking and Currency	19	19	21	21	21	21	21	21	21	21	21	21	21	.....
Census	16	16	16	16	16	16	16	16	17	17	21	21	21	21
Reform in the Civil Service	13	13	13	13	13	13	13	13	.....	.....	.....	.....	.....	.....
Civil Service	.....	.....	.....	.....	.....	.....	.....	.....	13	13	21	21	21	21
Claims	.....	16	16	16	16	16	16	16	16	16	16	21	21	21
Coinage, Weights and Measures	18	18	18	18	18	18	18	18	18	18	18	18	18	21
Disposition of Executive Papers	.....	.....	2	2	2	2	2	2	2	2	2	2	2	2
District of Columbia	19	19	21	21	21	21	21	21	21	21	21	21	21	21
Education	15	15	15	15	15	15	15	15	15	15	21	21	21	21
Election of President, Vice President, and Representatives in Congress	13	13	31	13	13	13	13	13	13	13	13	13	13	13
Elections No. 1	9	9	9	9	9	9	9	9	9	9	9	9	9	9
Elections No. 2	9	9	9	9	9	9	9	9	9	9	9	9	9	9
Elections No. 3	9	9	9	9	9	9	9	9	9	9	9	9	9	9
Enrolled Bills	7	7	7	7	7	7	7	7	7	7	7	7	7	7
Expenditures in the State Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Treasury Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the War Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Navy Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Post Office Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Interior Department	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Department of Justice	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Department of Agriculture	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Departments of Commerce and Labor	7	7	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Expenditures in the Department of Commerce	.....	.....	.....	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Department of Labor	.....	.....	.....	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures on Public Buildings	7	7	7	7	7	7	7	7	7	7	.....	.....	.....	.....
Expenditures in the Executive Departments	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	21	21	21	21
Flood Control	.....	.....	.....	.....	15	15	15	15	15	15	21	21	21	21
Foreign Affairs	19	19	21	21	21	21	21	21	21	21	21	21	21	25
Immigration and Naturalization	15	15	15	15	15	15	15	15	17	17	21	21	21	21
Indian Affairs	19	19	19	21	21	21	21	21	21	21	21	21	21	21
Industrial Arts and Expositions	16	16	16	16	16	16	16	16	16	16				
Insular Affairs	19	19	21	21	21	21	21	21	21	21	21	21	21	21
Interstate and Foreign Commerce	18	18	21	21	21	21	21	21	21	23	21	23	23	25
Invalid Pensions	16	16	16	16	16	16	16	16	16	16	21	21	21	21
Irrigation of Arid Lands	13	13	13	15	15	15	15	15	.....	.....	.....	.....	.....	.....
Irrigation and Reclamation	.....	.....	.....	.....	.....	.....	.....	.....	17	17	17	17	17	21
Judiciary	18	18	21	21	21	21	21	21	21	23	23	23	23	25
Labor	13	13	13	13	14	14	14	14	15	15	21	21	21	21

See footnotes at end of table.

Committee on—	60	61	62	63[1]	64[2]	65[3]	66[4]	67	68[5]	69[6]	70[7]	71	72	73[8]
Levees and improvements of the Mississippi River	15	15	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
The Library	5	5	5	5	5	5	5	5	5	5	5	5	5	5
Manufactures	13	13	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Merchant Marine and Fisheries	19	19	21	21	21	21	21	21	21	21	21	21	21	21
Memorials	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3	3	3	3
Mileage	5	5	5	5	5	5	5	5	5	5	.....	.....	.....	.....
Military Affairs	19	19	21	21	21	21	21	21	21	21	21	21	21	25
Militia	15	15	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mines and Mining	14	14	14	14	14	14	14	14	15	16	16	16	16	21
Naval Affairs	19	19	21	21	21	21	21	21	21	21	21	21	21	25
Pacific Railroads	15	15	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Patents	14	14	14	14	14	14	14	14	14	14	21	21	21	21
Pensions	15	15	15	15	15	15	15	15	15	15	21	21	21	21
Post Office and Post Road	18	18	21	21	21	21	21	21	21	21	21	21	21	25
Printing	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Private Land Claims	13	13	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Public Buildings and Grounds	17	17	17	19	19	20	20	20	21	21	21	21	21	21
Public Lands	19	19	21	21	21	21	21	21	21	21	21	21	21	21
Railways and Canals	14	14	14	14	14	14	14	14	14	14	.....	.....	.....	.....
Revision of the Laws	13	13	13	13	13	13	13	13	13	13	13	13	13	13
Rivers and Harbors	20	20	21	21	21	21	21	21	21	21	21	23	23	25
Roads	.....	.....	.....	.....	21	21	21	21	21	21	21	21	21	21
Rules	5	5	11	11	11	11	12	12	12	12	12	12	12	12
Territories	16	16	16	16	16	17	17	17	17	17	21	21	21	21
Ventilation and Acoustics	7	7	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
War Claims	15	15	15	15	15	15	15	15	15	15	21	21	21	21
Ways and Means	19	19	21	21	22	22	25	25	26	25	25	25	25	25
World War Veterans' Legislation	.....	.....	.....	.....	.....	.....	.....	.....	21	21	21	21	21	21
Woman Suffrage	.....	.....	.....	.....	.....	13	13	13	13	13	.....	.....	.....	.....
Total	801	801	768	781	838	834	852	852	882	886	839	845	845	885

[1] First session, Sixty-third Congress, Record, p. 1783.
[2] First session, Sixty-fourth Congress, Record, p. 13
[3] H. Res. 3, first session, Sixty-fifth Congress, Record, p. 128, H. Res. 12, Record, p. 7369.
[4] First session, Sixty-sixth Congress, Record, p. 9.
[5] H. Res. 143, first session, Sixty-eighth Congress, Record, p. 943.
[6] H. Res. 6, first session, Sixty-ninth Congress, Record, p. 383.
[7] H. Res. 7, first session, Seventieth Congress, Record, p. 11.
[8] H. Res. 43, first session, Seventy-third Congress, Record, p. 37.

2184. In the allotment of committee assignments the party in control is termed the majority and all the other parties constitute the minority.

Committee assignments of all parties other than the controlling party are charged to the minority.

Discussion of the ratio of majority and minority representation on committees.

On April 11, 1911,[1] Mr. Oscar W. Underwood, of Alabama, offered, a motion naming the members of the standing committees, when Mr. N. E. Kendall, of Iowa, Victor L. Berger, of Wisconsin, elected as a member of the Socialist Party, had been charged to the minority, and if his assignment was to be deducted from the minority quota.

[1] First session Sixty-second Congress, Record, p. 162.

Mr. Underwood replied:

He is charged to the minority. It has always been that way.

Mr. Berger is not a member of the majority party. He belongs to a party that is not in control in this House, and all parties that are not in control in this House belong to the minority.

Mr. Speaker, this side of the House has been criticized because of the fact that it had increased some of the large committees of the House to 21 members, and of those members taken 14 and given 7 to the minority. I do not think it is a serious charge, but as I desire the Record to state our position in the matter, I have prepared a statement, which I send to the Clerk's desk and ask the Clerk to read in my time, so that it may appear in the Record.

The Clerk read as follows:

"Under a resolution of the Democratic caucus 15 committees of the House were increased to 21 members, to be divided 14 to the majority and 7 to the minority.

"The representation of the two parties on these committees in the last Congress and in the present one is as follows:

Committees.	Sixty-first Congress.		Sixty-second Congress.	
	Democrats.	Republicans.	Democrats.	Republicans.
1. Agriculture	7	12	14	7
2. Appropriations	6	11	14	7
3. Banking and Currency	7	12	14	7
4. District of Columbia	7	12	14	7
5. Foreign Affairs	7	12	14	7
6. Interstate and Foreign Commerce	6	12	14	7
7. Judiciary	6	12	14	7
8. Merchant Marine and Fisheries	7	12	14	7
9. Military Affairs	7	13	14	7
10. Naval Affairs	7	12	14	7
11. Insular Affairs	7	12	14	7
12. Post Offices and Post Roads	6	13	14	7
13. Public Lands	7	13	14	7
14. Rivers and Harbors	8	12	14	7
15. Ways and Means	7	12	14	7
Total	102	182	210	105

"In the Sixty-first Congress there were 215 Republicans and 176 Democrats and independents when the committees were made up. In the Sixty-second Congress (the present one) there are 227 Democrats and 164 Republicans and Independents.

"These 15 committees had an aggregate membership in the Sixty-first Congress of 284 members, and in this Congress of 315. The Democratic minority had 102 places in the last Congress, and the Republican minority has been given 105 places in this Congress, an increase of three places, but the total membership of these committees has been increased from 284 to 315, so to maintain the relative proportion of numbers the equation would be as 284, the total number in the Sixty-first Congress, is to 102, the representation accorded the Democrats by the Republicans, as would 315 be to the number the minority would be entitled to if they had maintained their relative number in the House. 284:102::315:x=113.

"The answer of course would be 113, but the Republicans came back with only 164 Members, as compared to 176 for the Democrats in the former Congress, so to ascertain what their relative strength on these committees should be, the equation would be to compare 164 Members with 113 committee places, as 176 Members would compare with the answer. 164:113::176:x=105.

"The resulting answer is 105 Members on the 15 committees that were increased in numbers, and this is exactly what the Democrats gave the Republicans minority on these committees.

"On the other committees in the House the Republicans were given the same representation that the Democrats had before in the same proportion of members to the relative size of the committees, notwithstanding the fact that the Republican minority is much smaller in members than was the Democratic minority in the last Congress. So that the Republicans have more places in

proportion to the number of places on the committees and their Members in the House than was accorded the Democrats in the last Congress by the Republicans.

"Six committees were abolished because they were a useless charge on the Treasury, the Democrats losing 44 and the Republicans 30 places, as they were apportioned in the last Congress.

"On these 15 committees when you work out the relative proportion of the membership of the two sides of this House you have got identically on these committees the same proportion to-day that we had in the last Congress. That proportion, if you work out the ratio in proportion to the membership, is 105 places and we have given 105 places. Now, more than that, on all the other committees of this House, many of them important committees, although we increase our majority we not only give as many places as we had before, but we have given a few additional places to what we had before on these committees. More than that, this is the first time in the history of this House, so far as the memory of man runs to it, when a majority of this House has allowed the minority leader to bring a list of committee assignments to their committee and accept his assignment of his own people to represent his own party without the dotting of an 'i' or the crossing of a 't.'

The tabulation amended and supplemented to include committee assignments in the Seventy-third Congress is as follows:

Congress.	63d		64th		65th		66th		67th		68th		69th		70th		71st		72d		73d	
	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican	Democratic	Republican
Democratic majority on floor	45	.....	19	.....	6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	11	.....	182	.....
Republican majority on floor	.....	.....	.....	.....	.....	.....	.....	41	.....	178	.....	16	.....	61	.....	38	.....	11	.....	.....	.....	.....
Committees:.																						
Agriculture	14	7	13	8	12	9	8	13	6	15	10	12	9	13	8	13	7	14	13	10	17	8
Appropriations	14	7	13	8	12	9	15	20	15	20	14	21	14	21	14	21	14	21	21	14	21	14
Banking and Currency	14	7	13	8	12	9	8	13	6	15	10	12	8	13	8	13	7	14	12	9	17	8
Foreign Affairs	14	7	13	8	12	9	9	13	6	15	9	12	8	13	8	13	8	14	12	9	17	8
Interstate and Foreign Commerce	14	7	13	8	12	9	8	13	6	15	9	12	9	14	9	14	7	14	13	10	17	8
Judiciary	14	7	13	8	12	9	8	14	6	15	9	12	9	14	9	14	8	15	13	10	17	8
Merchant Marine and Fisheries	14	7	13	8	12	9	8	13	7	14	9	12	8	13	8	14	7	14	12	9	15	6
Military Affairs	14	7	134	8	12	9	8	13	6	15	9	12	9	13	8	14	7	14	11	9	16	8
Naval Affairs	14	7	13	8	12	9	8	13	6	15	9	12	8	13	8	14	7	14	12	9	17	8
Post Office and Post Roads	14	7	13	8	13	9	8	13	6	15	10	12	9	13	8	13	7	14	12	9	16	8
Rivers and Harbors	14	7	13	8	12	9	8	13	6	15	9	12	8	13	8	13	7	14	13	10	17	8
Rules	7	4	7	4	8	4	4	8	4	8	4	8	4	8	4	8	4	8	8	4	8	4
Ways and Means	14	7	14	8	14	10	10	15	8	17	11	15	10	15	10	15	10	15	15	10	15	10
Totals	175	88	164	100	155	113	110	174	88	194	122	163	113	176	110	176	100	185	167	122	202	106

2185. On April 18, 1921,[1] John N. Garner, of Texas, offered a resolution providing for the election of minority representation on the standing committees, in the discussion of which he said, in referring to Mr. Meyer London, of New York, who had been elected to the House as a member of the Socialist Party:

May I make a statement touching the appointment of Mr. London? The minority found when it came to make up its list that Mr. London had not been appointed to committees by the majority and by looking over the precedents we found that both the Republican side and the

[1] First session Sixty-seventh Congress, Record, p. 408.

Democratic side heretofore had by custom insisted upon the minority taking care of all the elements that might be in the Congress other than the majority, and we found it necessary to assign Mr. London to the committees to which we have nominated him. I thought I owed it to the House to make that statement.

2186. The ratio of majority and minority representation on the committees is determined by the party majority on the floor.

The ratio of majority and minority members on committees naturally varies in proportion to the working majority of the controlling party on the floor.

The relation of the party majority to the ratios on the Ways and Means Committee in recent Congresses is indicated in the following summary:

Congress.	Party majority on floor.	Proportion on committee.	Congress.	Party majority on floor.	Proportion on committee.
Sixtieth	55	12 to 7	Sixty-seventh	178	17 to 8
Sixty-first	38	12 to 7	Sixty-eighth	16	15 to 11
Sixty-second	66	14 to 7	Sixty-ninth	61	15 to 10
Sixty-third	145	14 to 7	Seventieth	42	15 to 10
Sixty-fourth	19	14 to 8	Seventy-first	104	15 to 10
Sixty-fifth	[1]6	13 to 10	Seventy-second	9	15 to 10
Sixty-sixth	41	15 to 10	Seventy-third	197	15 to 10

[1] Based upon the vote for Speaker, first session Sixty-fifth Congress, Record, p. 107.

2187. The ratio between the majority and minority parties on the standing committees varies with the respective membership of the parties in the House, and is fixed by the majority committee on committees.

On December 7, 1923,[1] the minority caucus having been called to order, the chairman [2] directed the Clerk to read the following communication:

DECEMBER 7, 1923.

Hon. JOHN N. GARNER,
Minority Leader.

MY DEAR MR. GARNER: The committee on committees of the majority this morning fixed the ratio between the majority and minority on the committees of 21 members at 12 to 9; on the Appropriations Committee as at 21 to 14, and on the Ways and Means Committee at 15 to 11, the latter division to be for merely a temporary increase of that committee to 26, to continue no longer than the Sixth-eighth Congress.

Yours very truly,

CLIFFORD IRELAND, *Secretary.*

2188. An unwritten rule designates certain committees as "exclusive committees," election to any one of which precludes membership on any other committee.

The majority have at times placed restrictions upon the selection of minority representation on committees.

On April 18, 1921,[3] Mr. John Garner, of Texas, for the minority, offered a resolution to elect minority members of standing committees.

Mr. Frank W. Mondell, of Wyoming, inquired:

Has the minority followed the rule relative to the exclusive committees?

[1] Caucus Journal, December 1, 1923.

[2] Henry T. Rainey, of Illinois, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 408.

Mr. Henry Allen Cooper, of Wisconsin, asked to what rule the gentleman referred.

Mr. Garner said:

The gentleman from Wisconsin probably does not know that the majority in their conference passed a rule by which they provided for what is known as exclusive committees, naming 10, providing that any Member who served on one of those committees could not serve on another committee.[1]

Mr. Mondell added:

The majority did that in making up committees. Some six or seven gentlemen who were on some of the exclusive committees were taken from a second committee.

In participating in the discussion thus occasioned, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, when the rule was adopted providing for the election of committees by the House, instead of the appointment of committees by the Speaker, the Democrats were in control of the House. By their caucus they provided that the Democratic members of the Committee on Ways and Means, whom they selected in caucus, should be their committee on committees. Mr. Underwood, now the distinguished Senator from Alabama, was the former leader of the House and the chairman of the Committee on Ways and Means that was to be, and I was the minority leader. I was notified by the Democratic leadership that I could make up the list of the Republican members of the committees with certain restrictions, which were named to me, and submit it to Mr. Underwood, to be presented to the Democratic members of the Committee on Ways and Means. I was notified that certain appointments could not be made. The list was submitted and passed upon, I was told, by the Democratic members of the Committee on Ways and Means.

The same course was pursued in the next Congress. When the distinguished gentleman from North Carolina, Mr. Kitchin, became chairman, I submitted my list, or offered to submit my list to him—I do not remember whether I actually submitted it or not—but prior to that time the Democratic leader moved the selection of all members of committees, including vacancies. I was not given the opportunity or the right to move the election of any member of a committee, although, of course, I could have exercised that right; but I was told that in order to have a Republican Member elected on a committee the motion must come from the majority side of the House. I acquiesced in that. I believed it was right and proper. The majority of the House is responsible, in the end, even for the appointment of committees. When Mr. Kitchin became the leader on the Democratic side, as I recall, although my memory is not very fresh on the subject, I offered the resolution for the appointment of the Republican members of the committees. So that the history of the movement has been that the majority is responsible even for the selection of minority members of committees in the end.

Now, the majority this time, through its committee on committees, whose action was ratified in this particular by the Republican conference, provided that certain committees should be exclusive, and that no Member appointed on one of those committees should be appointed on any other committee. It may be proper to make an exception, but in my judgment the Republican conference having passed upon the question, if an exception is made, the exception should be passed upon by the Republican conference. But I supposed that when we notified the minority of the rule adopted that rule would be followed by the minority.

After further discussion, Mr. Garner said:

I understand the gentleman from Illinois, Mr. Mann, to say that in case the names of Mr. Sabath and Mr. Riordan were not withdrawn we would be compelled to make a motion to strike them from the list. Now, I am not in a position to speak for the Caucus but I am inclined to take

[1] The 10 committees referred to include: 1, Ways and Means; 2, Appropriations; 3, Judiciary; 4, Foreign Affairs; 5, Military Affairs; 6, Naval Affairs; 7, Interstate and Foreign Commerce; 8, Agriculture; 9, Rivers and Harbors; 10, Post Office and Post Roads.

the road that will accomplish the most good. The result will probably be the same as you gentlemen have the power, and might makes right, according to the philosophy of some gentlemen.

Whereupon, Mr. Garner, by unanimous consent, withdrew from the list of minority members proposed for election to committees the names of Mr. Adolph J. Sabath, of Illinois, proposed for membership on the Committee on Foreign Affairs and the Committee on Immigration and Naturalization, and the name of Mr. Daniel J. Riordan, of New York, proposed for membership on the Committee on Naval Affairs and the Committee on Rules, and proposed their election to the Committees on Foreign Affairs and Rules, respectively. The resolution as amended was then adopted.

2189. On April 9, 1921,[1] at a session of the minority caucus, on motion of Mr. Finis J. Garrett, of Tennessee, the following resolution was agreed to:

Whereas information has reached the Democratic caucus of the House of Representatives that the majority party in caucus has designated certain committees as "exclusive committees" and provided that no person appointed upon one of these shall be appointed to any other standing committee of the House; and

Whereas it is reported to the Democratic caucus that the majority provided that this rule should apply to the minority as well as to the majority members; and

Whereas the minority feel that they should have the right to determine all questions of policy as to their members for themselves: Therefore, be it

Resolved, That the Democratic caucus protests against this action of the majority in so far as it is proposed to apply the rule to the minority as being an unjust invasion of the rights of the minority.

At the following session, the chairman laid before the caucus a letter received in response to the resolution as follows:

APRIL 9, 1921.

Hon. SAM RAYBURN,

Chairman Democratic Caucus,

House of Representatives, Washington, D.C.

DEAR MR. RAYBURN: I acknowledge receipt of your letter of present date with the accompanying resolution of the Democratic caucus of the House.

During the proceedings of the Republican conference just adjourned the following proceedings were had:

As part of the report of the committee on committees the following resolution was placed before the conference:

"*Resolved,* That the following be exclusive committees and no Member assigned to any of said committees shall be assigned to any other standing committee except the Committee on the Disposition of Useless Executive Papers, and that this shall apply to the minority as well as to the majority."

Upon the chairman of the conference calling attention to the fact that the Democratic caucus has submitted a protest to the last clause of the resolution, a division was made of the resolution and the last clause, to wit, "That this shall apply to the minority as well as to the majority," was submitted as a separate proposition. Pending the consideration of this proposition your letter and the accompanying resolution were read by direction of the chairman of the conference. After debate the proposition as part of the report of the committee was adopted unanimously by the conference.

Respectfully yours,

H. M. TOWNER.

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[1] Caucus Journal, April 9, 1921.

2190. On December 7, 1923,[1] in the minority caucus, the following resolution proposed by Mr. John N. Garner, of Texas, was agreed to:

Resolved, That the following be considered exclusive House Committees, to wit:

Agriculture.
Appropriations.
Banking and Currency.
Foreign Affairs.
Interstate and Foreign Commerce.
Judiciary.
Merchant Marine and Fisheries.
Military Affairs.
Naval Affairs.
Post Office and Post Roads.
Rivers and Harbors.
Rules.
Ways and Means.

2191. On April 15, 1921,[2] after the majority members of the standing committees had been elected and before minority members had been nominated, Mr. Finis J. Garrett, of Tennessee, the minority leader, in objecting to the functioning of committees before the election of minority members, said:

You have undertaken to lay down the rules under which the minority members shall be appointed to committees, and now you undertake to say that you will report legislation before the minority has an opportunity to formulate its committee.

Mr. Mondell, of Wyoming, a majority leader, replied:

Mr. Speaker, the majority does not intend to be lectured by the gentleman from Tennessee. When his party was in the majority they compelled us to submit our committee lists for their inspection.

Mr. James R. Mann, of Illinois, corroborated:

That is true, because I submitted the list.

2192. Since 1880 the appointment of select committees has by rule rested solely with the Speaker.

Since 1890 the rule has provided that conference committees be appointed by the Speaker, although such has been the practice since the earliest days of the House.

History of section 2 of Rule X.

Section 2 of Rule X provides:

The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time.

With the exception of a slight amendment in phraseology affected in 1911,[3] in order to conform to amendments in other sections of the rule transferring from the Speaker to the House the power to appoint committees, this section has remained unchanged since 1890.[4]

2193. Motions to instruct the Speaker in the appointment of conference committees have not been entertained.

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[1] Caucus Journal, December 7, 1923.

[2] First session Sixty-seventh Congress, Record, p. 355.

[3] First session Sixty-second Congress, Record, pp. 12, 80.

[4] First session Fifty-first Congress, Report No. 23.

On December 20, 1913,[1] the House had agreed to send to conference the bill (H.R. 7837) the currency bill, and instructions to conferees had been given, when Mr. Thomas W. Hardwick, of Georgia, proposed to offer the following:

Resolved, That the Speaker name a conference committee composed of nine members of the Banking and Currency Committee to meet with a like committee of the Senate.

Mr. Oscar W. Underwood, of Alabama, raised a point of order against the resolution.

Mr. James R. Mann, of Illinois, said:

The rule is: "The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time."

It is absolute; not conditional.

The Speaker[2] sustained the point of order and appointed as conferees on the part of the House, Mr. Carter Glass, of Virginia; Mr. Charles A. Korbly, of Indiana; and Mr. Everis A. Hayes, of California.

2194. The fact that a Member's seat is contested is not necessarily taken into account in appointing him to committees.

Members whose seats were contested for various reasons have been appointed to committees while such contest were pending as follows:

In the Sixty-fourth Congress,[3] Mr. William J. Cary, of Wisconsin; Mr. Isaac Siegel, of New York; Mr. William Elza Williams, of Illinois, Mr. Ebenezer J. Hill, of Connecticut; Mr. George Holden Tinkham, of Massachusetts; Mr. Richard S. Whaley, of South Carolina; and Mr. Frederick C. Hicks, of New York.

In the Sixty-seventh Congress,[4] Mr. Guy L. Shaw, of Illinois; Mr. Adolph J. Sabath, of Illinois; Mr. Stanley H. Kunz, of Illinois; Mr. Harry B. Hawes, of Missouri; Mr. Lilius B. Rainey, of Alabama; Mr. Robert L. Doughton, of North Carolina; and Mr. Thomas W.Harrison, of Virginia.

In the Sixty-eighth Congress,[5] Mr. Edward E. Miller, of Illinois; Mr. Sol Bloom, of New York; Mr. R. Lee Moore, of Georgia; Mr. James R. Buckley, of Illinois; Mr. Royal H. Weller, of New York; and Mr. Fiorello H. LaGuardia, of New York.

2195. Rank on committees is fixed by the order in which elected, and, in event of simultaneous election by the order in which named in the nomination resolution.

On April 18, 1921,[6] Mr. John N. Garner, of Texas, offered a resolution designating members of the standing committees. While debate on the resolution was in progress Mr. Garner withdrew the names of Mr. Daniel J. Riordan, of New York, and Mr. Adolph J. Sabath, of Illinois. The resolution was then agreed to.

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[1] Second session Sixth-third Congress, Record, p. 1316.

[2] Champ Clark, of Missouri, Speaker.

[3] First Session Sixty-fourth Congress, Record, p. 241.

[4] First session Sixty-seventh Congress, Record, pp. 85, 407.

[5] First session Sixty-eighth Congress, Record, pp. 331, 334.

[6] First session Sixty-seventh Congress, Record, p. 408.

On the following day,[1] Mr. Garner offered a further resolution electing to standing committees certain minority Members, including Mr. Riordan and Mr. Sabath.

Mr. James R. Mann, of Illinois, suggested:

In reference to the two Members whose names were withdrawn temporarily on yesterday, the resolution does not indicate where they would be placed upon these committees. I assume the intention was to place them in the rank they held before?

Thereupon Mr. Garner proposed:

Mr. Speaker, the gentleman from Illinois, Mr. Mann, has called my attention to the fact that the resolution does not provide the position and rank that these gentlemen shall take. I ask unanimous consent that the rank of these gentlemen, should this resolution pass, be the same as if their names had been included in the resolution of yesterday and in accord with their service in the House.

There was no objection and, the resolution having been agreed to, Mr. Riordan and Mr. Sabath were accorded the rank on their respective committees indicated in the original resolution from which their names had been withdrawn.

2196 Instance wherein a Member who had been seated by the House in a contested-election case was restored to original rank on committees.

On February 15, 1930,[2] following the decision[3] of the contested-election case of Wurzbach *v.* McCloskey, seating Mr. Harry M. Wurzbach, of Texas, the House agreed to the following resolution:

Resolved, That Harry M. Wurzbach, of Texas, be, and he is hereby, elected a member of the standing Committee of the House on Military Affairs at the position on said committee where he would have been placed had he been seated at the opening of this Congress.

2197. A Member may decline to serve upon a committee only with permission of the House.

Forms of resignations from committees.

On March 1, 1910,[4] the Speaker[5] laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
Washington, February 28, 1910.

Hon. JOSEPH G. CANNON,
Speaker House of Representatives.

Mr. SPEAKER: I beg respectfully to hereby resign from the House Committee on Public Buildings and Grounds.

I am, very truly, yours,

W. G. BRANTLEY.

The Speaker put the question:

Without objection, the gentleman from Georgia will be relieved from service on the Committee on Public Buildings and Grounds.

There was no objection, and the Speaker announced the appointment of Mr. S. A. Roddenbery, of Georgia, to fill the vacancy.

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[1] Record, p. 451.

[2] Second session Seventy-first Congress, Record, p. 3736.

[3] See sec. 7492p of this work.

[4] Second session Sixty-first Congress, Record, p. 2555.

[5] Joseph G. Cannon, of Illinois, Speaker.

2198. On April 19, 1921,[1] during the disposition of business on the Speaker's table, the Speaker directed the Clerk to read the following communication:

WASHINGTON, *April 19, 1921.*

Hon. FREDERICK H. GILLETT,

Speaker of the House of Representatives.

DEAR MR. SPEAKER: I hereby respectfully tender my resignation from the following committees: Merchant Marine and Fisheries, Flood Control, Railways and Canals.

Yours, very truly,

HERBERT J. DRANE.

The Speaker submitted:

Without objection, the resignation is accepted.

There was no objection, and the House thereupon elected Mr. Drane a member of the Committee on Naval Affairs.

2199. Instances wherein Members have not been appointed on committees.

In recent years it has become the custom to excuse the floor leaders from committee duties and their names frequently have been omitted in making up the committee assignments. Mr. James R. Mann, of Illinois, minority leader in the Sixty-second Congress, was charged by his party organization with the duty of assignment of minority Members to committees,[2] and provided no assignment for himself. In later Congresses when this responsibility was transferred to a committee on committees, the exemption was continued during the term of Mr. Mann's leadership.[3]

Likewise Mr. Champ Clark, of Missouri, on his accession to the minority leadership in the Sixty-sixth[4] Congress was not assigned to committee duty. Mr. Frank W. Mondell, of Wyoming, as majority leader in the Sixty-sixty Congress,[5] and Mr. Nicholas Longworth, of Ohio, and Mr. John Q. Tilson, of Connecticut, majority leaders in the Sixty-eight[6] and Sixty-ninth[7] Congresses, respectively, do not appear on the rolls of the committees of the Houses for these sessions.

On the contrary, Mr. Oscar W. Underwood, of Alabama, majority leader in the Sixty-second Congress,[8] and Mr. Claude Kitchen,[9] of North Carolina, his successor, retained membership on the Committee on Ways and Means, and Mr. Finis J. Garrett, minority leader in the Sixty-eighth and Sixty-ninth Congresses,[10] served as a member of the Committee on Rules.

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[1] First session Sixty-seventh Congress, Record, p. 451.

[2] First session Sixty-seventh Congress, Record, p. 409.

[3] First session Sixty-third Congress, Record, p. 1871; First Session Sixty-fourth Congress, Record, p. 240; First session Sixty-fifth Congress, Record, p. 796.

[4] First session Sixty-sixth Congress, Record, p. 247.

[5] First session Sixty-sixty Congress, Record, p. 11.

[6] First session Sixty-eight Congress, Record, p. 331.

[7] First session Sixty-ninth Congress, Record p. 930.

[8] First session Sixty-second Congress, Record, p.161.

[9] First session Sixty-third Congress, Record, p. 1871; First session Sixty-fourth Congress, Record, p. 240; First session Sixty-fifth Congress, Record, p. 113.

[10] First session Sixty-eighth Congress, Record, p. 334; First session Sixty-ninth Congress, Record, p. 932.

2200. A Senator having resigned from all committee assignments, the Senate accepted his resignation and elected successors to the vacancies thus created.

On April 29, 1932,[1] in the Senate, Mr. Huey P. Long, of Louisiana, in the course of his remarks in debate, said:

I send to the desk, Mr. President, my resignation from every committee in the United States Senate that has been given to me by the Democratic leadership since I have been here. I ask that it be read by the clerk.

The Chief Clerk read as follows:

To the PRESIDENT OF THE SENATE:

I hereby resign as a member of the Committees on Naval Affairs, Manufactures, Commerce, and Interoceanic Canals.

HUEY P. LONG,

United States Senator from Louisiana.

The Vice President[2] announced that the letter of resignation would like on the table, and on May 3,[3] Mr. Joseph T. Robinson, of Arkansas, requested:

Mr. President, I ask that the resignation of the Senator from Louisiana, Mr. Long, from the following committees be accepted: Commerce, Naval Affairs, Manufactures, and Interoceanic Canals.

The Vice President put the question:

Without objection, the Senator from Louisiana will be excused from further attendance upon the committees named.

There was no objection.

Thereupon, on motion of Mr. Robinson, by unanimous consent, it was—

Ordered, That the junior Senator from Arkansas, Mrs. Caraway, be assigned to service upon the Committee on Commerce; that the senior Senator from North Carolina, Mr. Morrison, be assigned to service upon the Committee on Naval Affairs; that the junior Senator from Georgia, Mr. Cohen, be assigned to service upon the Committee on Naval Affairs; that the junior Senator from Georgia Mr. Cohen, be assigned to service upon the Committee on Manufactures; that the senior Senator from Missouri, Mr. Hawes, be assigned to service upon the Committee on Interoceanic Canals; and that the junior Senator from North Carolina, Mr. Bailey, be assigned to service upon the Committee on Military Affairs.

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[1] First session Seventy-second Congress, Record, p. 9214.

[2] Charles Curtis, Vice President.

[3] Record, p. 9453.

Chapter CCXXXV.[1]

ORGANIZATION AND PROCEDURE OF COMMITTEES.

2201. The House elects as chairman of each standing committee one of the members thereof at the commencement of each Congress.

In the temporary absence of the chairman the member next in rank in the order named in the election of the committee serves as acting chairman.

In event of a permanent vacancy in the chairmanship of a committee the House elects a successor.

History and form of section 3 of Rule X.

Section 3 of Rule X provides:

> At the commencement of each Congress the House shall elect as chairman of each standing committee one of the members thereof; in the temporary absence of the chairman the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

Prior to the Sixty-second Congress the chairmanship of a committee was determined by seniority, by election by the committee, or, in case of the death of the chairman, by appointment by the Speaker.[2]

The present form of the rule was adopted in 1911,[3] as a part of the revision transferring from the Speaker to the House the power to name committees and chairmen of committees.

2202. In filling vacancies in chairmanships of committees the House has usually, but not invariably, followed the rule of seniority and elected the next ranking member of the committee.

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[1] Supplementary to Chapter CV.

[2] Sec. 4513 of Vol. IV of Hinds' Precedents.

[3] First session Sixty-second Congress, Record, pp. 12, 80.

On May 19, 1917,[1] following disposition of business on the Speaker's table, Mr. Claude Kitchen, of North Carolina, majority leader, being recognized, said:

Mr. Speaker, I nominate as chairman of the Committee on Railways and Canals the Hon. Clement Brumbaugh to fill a vacancy.

The question being taken was decided in the affirmative, and Mr. Brumbaugh, the ranking majority member of the committee, was elected chairman.

2203. On January 6, 1925,[2] following the approval of the Journal, Mr. Nicholas Longworth, of Ohio, majority leader, said:

Mr. Speaker, I move the election of the gentleman from Illinois, Mr. McKenzie, as chairman of the Committee on Military Affairs.

The motion was agreed to and Mr. McKenzie, the majority member next in rank on the committee, was elected.

2204. In the temporary absence of the chairman the member next in rank acts as chairman without special authorization from the committee.

On Friday, March 14, 1924,[3] a day devoted to business on the Private Calendar, Mr. John M. Robsion, of Kentucky, ranking majority member of the Committee on Pensions, in the absence of Mr. Harold Knutson, of Minnesota, chairman of the committee, called up the bill H. R. 6426, an omnibus pension bill.

Mr. Thomas L. Blanton, of Texas, made the point of order that Mr. Robsion had not been specifically authorized by the committee to call up the bill.

After brief debate, the Speaker[4] overruled the point of order.

2205. Prior to adjudication by the courts, the House took no note of criminal proceedings brought against a Member, and retained him in his position as chairman of a committee.

A member under criminal indictment retained his position as chairman of a committee but refrained from active participation in legislative proceedings pending judicial determination.

On December 12, 1929,[5] Mr. Frederick N. Zihlman, of Maryland, who had been indicted December 10 by the grand jury of the Supreme Court of the District of Columbia, was reelected as chairman of the Committee on the District of Columbia.

However, in compliance with an unwritten rule of the House, Mr. Zihlman refrained from active participation in the proceedings of the House, and the committee was represented[6] on the floor by the ranking member, Mr. Clarence J. McLeod, of Michigan.

2206. Clerks and other employees of committees are appointed by the chairman, with the approval of the committee, and are paid at the public expense.

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[1] First session Sixty-fifth Congress, Record, p. 2601.

[2] Second session Sixty-eighth Congress, Record, p. 1320.

[3] First session Sixty-eighth Congress, Record, p. 4167.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Seventy-first Congress, Record, p. 542.

[6] Record, pp. 2370, 9599, 10077, 11544, 4993, 8707, 9520, 10442.

Form and history of section 5 of Rule X.

Section 5 of rule X provides:

The chairman shall appoint the clerk or clerks or other employees of his committee, subject to its approval, who shall be paid at the public expense, the House having first provided therefor.

The present form of this rule is the form adopted in the revision of 1880 [1] with an amendment added in 1911 [2] including other employees of the committees.

2207. The chairman of the temporary committee on accounts is authorized to appoint and dismiss clerks or other employees of his committee.

On March 9, 1917,[3] the Comptroller of the Treasury decided that the chairman of the temporary Committee on Accounts, appointed under authority of the act of March 2, 1895, is authorized, with the approval of the committee, to appoint or discharge a clerk or other employee of that committee.

The decision reads in part:

That a chairman of the temporary Committee on Accounts is a chairman of a committee entitled to a clerk was recognized in the decision of this office of April 19, 1895 (1 Comp. Dec. 383), and as no special provision has been made for a clerk to the temporary Committee on Accounts it must be held that the clerk provided for in the annual appropriation act for the accounts committee is to be the clerk for the temporary committee as well as for the regular committee.

The rules of the House provide that the chairman shall appoint the clerk or clerks or other employees of his committee, subject to its approval.

That the authority to appoint carries with it the authority to remove is well established, and the appointment of a successor operates as a removal of the incumbent, if any, at the time the appointment is made.

It appears that the authority of the chairman of the temporary Committee on Accounts to appoint a clerk with the approval of the committee, was exercised in March, 1897, and again in March, 1899. In view of these precedents I am of opinion that any doubt that might otherwise exist as to the authority of the present temporary Committee on Accounts to appoint a clerk, assistant clerk, and janitor, thereby removing the persons who held such positions during the last Congress, should be resolved in favor of such authority.

You are advised therefore that payment of the salaries in question can be made only to the employees appointed by Chairman Park with the approval of his committee.

2208. The standing committees meet on days selected by the committee, or on call of the chairman, or conditionally on the signed request of a majority of the committee.

It is the duty of the clerk to notify members of the committee of called meetings.

Form and history of paragraph 48 of Rule XI.

Paragraph 48 of Rule XI provides:

A standing committee of the House shall meet to consider any bill or resolution pending before it: (1) On all regular meeting days selected by the committee; (2) upon the call of the chairman of the committee; (3) if the chairman of the committee, after three days' consideration, refuses or fails, upon the request of at least three members of the committee, to call a special meeting of the committee within seven calendar days from the date of said request, then, upon the filing with the clerk of the committee of the written and signed request of a majority of the

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[1] Second session Forty-sixth Congress, Record, p. 205.

[2] First session Sixty-second Congress, Record, pp. 12, 80.

[3] Decisions of the Comptroller of the Treasury (Warwick) vol. 23, p. 505.

committee for a called special meeting of the committee, the committee shall meet on the day and hour specified in said written request. It shall be the duty of the clerk of the committee to notify all members of the committee in the usual way of such called special meeting.

Formerly committees met when and where they pleased,[1] the time and place being largely determined by the chairman. The failure of chairmen to take action responsive to the wishes of committees occasioned discussion[2] in later Congresses, and on December 8, 1931,[3] this rule was adopted, the first provision on the subject to be incorporated in the rules of the House.

2209. Action of a committee is valid only when taken at a formal meeting of the committee actually assembled.

On May 5, 1910,[4] Mr. Henry M. Goldfogle, of New York, immediately after the reading and approval of the Journal, asked recognition for the purpose of moving a change of reference from the Committee on the Judiciary to the Committee on Expenditures in the Department of Justice, of the resolution (H. Res. 556) requesting certain information from the Attorney General.

The Speaker[5] inquired if the action was taken by authority of the committee.

Mr. Goldfogle replied:

I have the authority of the committee now—the Committee on Expenditures in the Department of Justice. A majority of the committee authorizes me to make that motion.

The Speaker further asked if the action was taken at a meeting of the committee and being answered in the negative, declined recognition.

Mr. Goldfogle, as a parliamentary inquiry, asked:

If a majority of a committee authorize a member of that committee to perform an act concerning the duties of that committee, is not that sufficient authority? I want to say in connection with the inquiry I have just submitted, that a majority of the committee authorized the making of this motion; that they authorized the Member now upon the floor to make that motion.

The Speaker said:

The gentleman rises in his place and says that by authority of a majority of the members composing a committee he makes a motion to discharge another committee from consideration of a bill and to have it committed to his committee. The Chair reads from Jefferson's Manual, which is adopted as a part of the rules of the House and is a part of the rules of the House:

"A committee meet when and where they please, if the House has not ordered time and place for them; but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled."

The Chair declines to recognize the gentleman.

2210. A committee may act when together only, but having convened at a regularly constituted meeting may delegate to its chairman or to members of the committee duties to be performed within their discretion.

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[1] Jefferson's Manual, section xxvi.

[2] Second session Sixty-seventh Congress, Record, p. 7741; first session Sixty-eighth Congress, Record, p. 962; third session Seventy-first Congress, Record, p. 2375.

[3] First session Seventy-second Congress, Record, p. 10, 83.

[4] Second session Sixty-first Congress, Record, p. 5838.

[5] Joseph G. Cannon, of Illinois, Speaker.

On July 18, 1921,[1] the bill H. R. 7456, the tariff bill, was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Nicholas Longworth, of Ohio, being recognized said:

By direction of the Committee on Ways and Means I offer the following committee amendment to the tariff bill:

"Page 2, line 13, after the word 'acid' strike out the figure '10' and insert in lieu thereof the figure '12.'"

Mr. John N. Garner, of Texas, made the point of order that there had been no meeting of the Committee on Ways and Means to authorize submission of such amendment, and that while the majority members of the committee may have met and taken action on the matter, the minority members had not been requested to attend, and any action taken under the circumstances was without validity.

The Chairman[2] ruled:

The gentleman from Ohio, Mr. Longworth, sent to the Clerk's desk, and the Chair directed that there be read, what purported to be a committee amendment from the Committee on Ways and Means. The paper read at the desk as a committee amendment was objected to by the gentleman from Texas, Mr. Garner, as not being a committee amendment and stated as his reason for making the point of order that the Committee on Ways and Means had not met and had not considered the amendment in question. The gentleman from Ohio concedes that the gentleman from Texas stated the facts with reference to the matter. The gentleman from Ohio further stated that the majority members of the committee had met informally and agreed upon the amendment in question.

There are 17 majority members on the Committee on Ways and Means. That would constitute, if they were all present, a majority of the committee. But can 17 members of the committee of 25 assemble informally and constitute a committee in session and act for the committee? That is the question which is presented. The Chair thinks the question is fundamentally important in its relation to the proceedings of the House.

In the limited time the Chair has had in which to investigate the matter he finds that informal reports have frequently been presented by committees of the House. Back as far as 1846 an informal report was presented by a committee. Objection was made that it did not represent committee action. That question was submitted to the House for its consideration. Recently informal action was taken by one of the committees of the House. A majority of the members of that committee, a numerical majority, signed what purported to be a report of the committee and what purported to be the action of the committee. A point of order was made, when that action was brought up for consideration in the House, that the purported report was not the report of the committee such as is contemplated by the rules for the guidance of committees in the House of Representatives. Speaker Clark made a decision in that case in which he held:

"That the authority of a committee to call up a bill from the Speaker's table must be given at a formal meeting of the committee."

The Chair in this case can not hold, though it would do but little harm to do so in itself, that a majority of the members of the committee really acted. But the Chair is of the opinion that the committees of this House can only act when they meet formally with such notice as advises the members of the committees of the proposed meeting, and that the amendment offered was not authorized by the Committee on Ways and Means at such a meeting of the committee, and therefore sustains the point of order.

Mr. Longworth inquired:

Mr. Chairman, in view of the decision of the Chair, with which I am in hearty concurrence, would the Chair be prepared now to state what constitutes the necessary formality? Does it consist of a written notice to the members of the committee?

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[1] First session Sixty-seventh Congress, Record, p. 4016.

[2] Philip P. Campbell, of Kansas, Chairman.

The Chairman said:

The Chair thinks that if the chairman of the Ways and Means Committee would say that there was to be a meeting of the Committee on Ways and Means at 3.50 this afternoon, that would be sufficient notice.

Thereupon, Mr. Joseph W. Fordney, of Michigan, chairman of the Committee on Ways and Means, announced that committee would meet in its rooms at 10 o'clock the next day.

On the following day,[1] the House being again in the Committee of the Whole House on the state of the Union for the consideration of the tariff bill, Mr. William R. Green, of Iowa, offered, as a committee amendment, a new paragraph.

Mr. Garner made the point of order that the amendment had not been authorized by the committee and said:

I state to the Chair that this amendment was not considered by the Committee on Ways and Means, was not read to the Committee on Ways and Means, that the Committee on Ways and Means did not consider the amendment. The gentleman from Iowa agrees to that statement, but he also contends that this amendment is in order because the Ways and Means Committee passed a resolution authorizing the Ways and Means Committee or any member of it to offer any amendment that the majority might see proper to offer outside of the committee.

If it is to be a committee amendment authorized by the Committee on Ways and Means, it certainly must have been considered by that committee. The Chair had yesterday before it a very clear case, and, I thought, made a very proper ruling, and it was to the effect that the integrity of the House and the proceedings of its committee made it necessary for bills and resolutions to be considered by the entire committee.

If the Chair in this instance holds this point of order not well taken, then in the future any committee of this House can meet and pass a similar resolution, in the identical words of this resolution, and apply it to bills and resolutions, because this committee report has equal dignity. The rule requires a committee to report an amendment as it requires the committee to pass bills and resolutions, and you can pass this identical resolution, changing the word "amendment" to "bills and resolutions" and there would be no necessity for another meeting of the committee during the entire Congress. I submit to the Chair that to make this ruling will open the door, as the Chair very justly and wisely said yesterday, to all kinds of proceedings in the House of Representatives without the knowledge of the minority and an opportunity to act.

The Chairman ruled:

The Committee of the Whole House on the state of the Union is considering the bill (H. R. 7456) under a special rule in which there appears the following:

"Thereafter the bill shall be considered for amendment under the 5-minute rule, but committee amendments to any part of the bill shall be in order at any time, as shall also amendments to paragraphs—"

Enumerating a number of paragraphs. Under that authority the gentleman from Iowa, Mr. Green, offered an amendment, on page 114, line 10, separating the subject matter and making a new paragraph. To that amendment the gentleman from Texas, Mr. Garner, made a point of order that the amendment offered was not authorized by the Committee on Ways and Means, and could not therefore be offered as a committee amendment. The gentleman form Iowa in reply states that the Committee on Ways and Means gave authority for offering the amendment. The gentleman from Texas has sent to the Clerk's desk and had read a resolution, which the Chair has and which reads as follows:

"That the Chairman of the Ways and Means Committee be authorized, and in conjunction with such members of the committee as he may select, to report as committee amendments such

[1] Record, p. 4069.

amendments as are found by a majority of the committee advisable or necessary to perfect the bill (H.R. 7456), and to appoint members of the committee to offer each and all of said amendments in the Committee of the Whole House on the state of the Union."

The Chair is informed that there are probably 200 amendments to be offered as committee amendments. The gentleman from Texas has sent to the Chair 25 of those amendments which are certified by the Clerk to be committee amendments agreed upon by the committee. Upon yesterday a point of order was made, when an amendment was offered by the gentleman from Ohio, Mr. Longworth, that the committee had not authorized the amendment which the gentleman from Ohio submitted. It was disclosed in the discussion that a political majority of the Committee on Ways and Means had considered the amendment offered by the gentleman from Ohio together with other amendments, but that a formal meeting of the Committee on Ways and Means had not considered the amendment. The gentleman from Texas, the gentleman from Tennessee, and the gentleman from Georgia urge that the decision rendered yesterday holding that the political majority of a committee of the House could not meet informally and act for the committee—that was the holding of the Chair—is similar to the question raised now which is whether a committee acting in a formal meeting upon a matter can authorize the action that has been undertaken by the gentleman from Iowa is submitting his amendment. The Chair sees a very great distinction between the question raised yesterday and the question raised to-day. On yesterday the question was whether or not a political minority—and we are governed by parties—could be entirely kept from knowledge of and denied the right to participate in the consideration of matters that a political majority thought proper to submit to the Committee of the Whole House on the state of the Union or to the House for consideration. To-day there is no question raised that the Committee on Ways and Means was not properly in session, with notice to the minority, and the minority it is assumed, being present, while in such session the committee adopted this resolution that has been read by the Clerk heretofore and just now read by the Chair, providing for the offering of committee amendments. The Chair sees a very great difference. The Chair has been unable to find a precedent for the point of order made by the gentleman from Texas. The Chair has knowledge, as he is sure the gentleman from Texas has, that in the conduct of business of committees, matters proceed informally. Judgments are matured, and finally two or more members of the committee are directed by the motion of the committee to perfect a paragraph, or to prepare an amendment or amendments and submit them thus perfected or thus prepared, to the House. This is the practice. The Chair has been unable to find any authority whatever for the statement that is made that this is in violation of the rules of the House. It is in keeping with the rules of the House, otherwise the work of the House would not progress.

We advance step by step with the work that is finally acted upon in the House of Representatives: First, in informal action of the committee, then whatever formal action may be necessary in the committee, then the submission of the matter, as in this case, to the Committee of the Whole House on the state of the Union, and, finally, submission of the matter by the Committee of the Whole House on the state of the Union to the House for its action. The action taken informally by the Committee on Ways and Means was one of the steps in the progress toward the final conclusion of the business in question. The formal meeting of the Committee on Ways and Means on yesterday was another step, in which the action that had informally been discussed was accepted formally by the committee. The gentleman from Texas says this matter was not considered by the committee. The Chair thinks that goes rather to the weight that the Committee of the Whole House on the state of the Union shall give to the judgment of the committee rather than to the validity of the action of the committee. But the Chair is of the opinion that the Committee on Ways and Means sitting formally had full authority to adopt the resolution which it did adopt authorizing the designation of several members of the committee to submit the motions and the amendments which were to be offered by the committee as committee amendments to the Committee of the Whole House on the state of the Union, and overrules the point of order made by the gentleman from Texas.

Mr. Garner having appealed from the decision of the Chair, on a division, the decision was sustained, yeas 114, nays 90.

2211. Action of a committee is recognized by the House only when taken with a quorum actually assembled and meeting as a committee.

On August 20, 1912,[1] Mr. J. Thomas Heflin, of Alabama, asked to take from the Speaker's table the bill (S. 7343) to authorize a dam across the Coosa River, a bill of similar tenor being on the House Calendar, when Mr. Martin D. Foster, of Illinois, made the point of order that the motion had not been authorized by the Committee on Interstate and Foreign Commerce, having jurisdiction.

Mr. Heflin sent to the Clerk's desk a paper signed by 11 members of the committee, a quorum, authorizing him to call up the bill.

The Speaker[2] said:

The case is this: The gentleman from Alabama, Mr. Heflin, asks to take from the Speaker's table Senate bill No. 7343 and to have it considered.

The gentleman from Illinois, Mr. Foster, raised the point of order that it can not be considered, because its consideration has not been authorized by the committee having jurisdiction thereof.

The gentleman from Alabama presents the following paper, which he argues is a sufficient authorization under the rule:

WASHINGTON, D.C., *August 19, 1912.*

We, the undersigned members of the Committee on Interstate and Foreign Commerce, do hereby authorize the Hon. J. T. Heflin to call up or move to take from the Speaker's desk for immediate consideration Senate bill 7343.

W.C. Adamson; Wm. Richardson (telegram to chairman); J. Harry Covington; Michael E. Driscoll; T.W. Sims; J.H. Goeke; W.R. Smith; John A. Martin; E.L. Hamilton; Frank E. Doremus; W.A. Cullop.

There are 21 members of the Interstate and Foreign Commerce Committee. Eleven of them—a majority, therefore a sufficient number to constitute a quorum—signed this paper, as individual members but not as a committee, as it is not claimed that these 11 ever met as a committee to give the necessary authorization. That is the case as presented.

If the Chair exercised his own personal feelings about this matter, he would rule in favor of the gentleman from Alabama, but the Chair's personal feelings have nothing to do with it. The business of the Speaker is to rule in such a way as to preserve the integrity of the proceedings of the House. The last part of subdivision of Rule 24 runs as follows:

"But House bills with Senate amendments which do not require reconsideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills also favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee."

What is a committee? It has been held, and the present occupant of the Chair has now held two or three times, backed by ample authorities, that the House consists of a quorum of the Members elected and qualified, excepting those who have died or resigned or who have been expelled from the House. What is a committee? A committee consists of a quorum of the membership of that committee, in this case 11 members, meeting together as a committee. Mr. Speaker Cannon ruled on a question not exactly parallel to this but very near it.

Jefferson's Manual in section 26 provides:

"A committee meet when and where they please, if the House has not ordered time and place for them (6 Grey, 370); but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled."

That means a quorum of the committee. The Chair has read from section 4583 of Hinds' Precedents, volume 4, section 4584, which in the syllabus says:

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[1] Second session Sixty-second Congress, Record p. 11398.

[2] Champ Clark, of Missouri, Speaker.

"Committees can only agree to a report acting together."

Then Mr. Hinds goes on to say:

"4584. Committees can only agree to a report acting together.—On January 9, 1905, Mr. John S. Williams, of Mississippi, asked unanimous consent for the present consideration of House Resolution No. 415, relating to the statistics of the ginning of cotton, and the following paper was presented, Mr. Williams speaking of it as 'a unanimous report' from the Committee on the Census:

"COMMITTEE ON THE CENSUS, *January 9, 1905.*

"We, the undersigned members of the Committee on the Census, agree to a favorable report on House Resolution No. 415, and further agree that its author, Mr. Williams, of Mississippi, may call up same when the opportunity presents itself.

"E. D. CRUMPACKER
Chairman
"JAMES KENNEDY
"F. M. GRIFFITH
"G. B. PATTERSON.
"A. S. BURLESON.
"JOE T. TOBINSON.
"JAMES HAY.

"Mr. Speaker Cannon said:

"The Chair understands that, in point of fact, the formal report has not been made from the Committee on the Census, although there is a paper on the Clerk's desk signed by a majority of the members of that committee."

To make a ruling that would cover one bill and let this one in would not do very much harm, but to rule that this kind of a paper may take the place of a report or authorization from a committee at an authorized meeting—because the Speaker does not rule in one case only, for the rule is made for all similar cases—would open the doors so wide to a proceeding not authorized by the House that the Chair must hold, in order to preserve the integrity of the proceedings of the House, that the point of order made by the gentleman from Illinois, Mr. Foster, against this paper which the gentleman from Alabama, Mr. Heflin, presents, is well taken. A proper authorization to call up a Senate bill under the rule cited can be given only by a committee, as herein defined. To decide the other way would be practically to do away with committee meetings.

2212. Action taken by a committee in the absence of a quorum was held to be invalid when reported in the House.

On May 17, 1918,[1] Mr. William C. Houston, of Tennessee, chairman of the Committee on the Territories, proposed to call up from the Speaker's table the bill (S. 3935) to prohibit the sale of intoxicating liquor in the Territory of Hawaii during the war, a similar bill being on the House Calendar.

Mr. William H. Stafford, of Wisconsin, raised a question of order and inquired if the motion was made by authorization of the Committee on the Territories.

Mr. Houston said:

The committee was called and met, and six or seven members were in the room at a time—I am not sure of just the number. It requires nine to make a quorum. There were not nine present in the room at any given time, but they came into the room, cast their vote, told how they wanted to be recorded, and went to attend to other business. There was an attendance of a quorum; they were not all present in the room at any one time, but they came in and told the chairman how they wanted to vote and asked to be recorded by the clerk.

The Speaker[2] ruled:

The Chair thinks the gentleman by his own statement puts himself out of court. Now, it may be true—and I have no sort of doubt it is absolutely true, as the gentleman states it—that this process of one coming in and another dropping out goes on in these committees. That is all right as long as nobody raises the point, but when the point is raised you have to consider it according to the rule. Now, I have seen the point of no quorum raised here time and again,

[1] Second session Sixty-fifth Congress, Record. p. 6690.

[2] Champ Clark, of Missouri, Speaker.

when the roll would be called, and gentlemen would come in with their hats and their overcoats in their hands, and stand here just long enough to answer, and then out they would go. But that does not affect the question. When the point is raised you have to have a quorum acting as a quorum.

According to my recollection, the particular question that is up here to-day has not been raised since the 20th day of August, 1912. It was raised then, and the Chair ruled elaborately, after thorough consideration, and decided that a committee means a majority of the members of that committee present. The two-thirds of these things that are done otherwise do not amount to anything unless somebody raises the point; but when the point is raised it must be decided. If two opposing statements of fact are made by two different members of the committee, the Chair would have the committee record produced. I suppose that since I rendered that decision in 1912 there have been a hundred bills passed under precisely the same circumstances as these, except that the point was not raised. The Chair holds that the gentleman from Tennessee can not bring up this bill under the circumstances which he describes.

2213. Standing committees fix the time and place of their meetings, and in the absence of such provision meet on the call of the chairman.

A committee scheduled to meet on stated days, when convened on such days with a quorum present, may proceed to the transaction of business regardless of the absence of the chairman.

A committee having adjourned on a stated day of meeting for lack of a quorum, subsequent sessions of the same day, even when attended by a quorum, are not competent for the transaction of business.

Procedure in committees, where not otherwise provided, is governed by the rules of the House.

The motion to reconsider is in order in the procedure of standing committees, and may be made on the same day on which the action is taken to which it is proposed to be applied, or on the next day thereafter on which the committee convenes with a quorum present.

A session of a committee, adjourned without having secured a quorum, is a dies non and not to be counted in determining the admissibility of a motion to reconsider.

On February 16, 1929,[1] Mr. Carroll Reece, of Tennessee, rising to a question of privilege, submitted a statement of recent proceedings in the Committee on Military Affairs.

He quoted from the minutes of the committee recording the motion to report to the House the bill (H.R. 8305) authorizing disposition of Muscle Shoals, and asked for a ruling on the integrity of the proceedings on that occasion.

The Speaker[2] passed on the questions submitted as follows:

The Chair has given a great deal of thought to this question, and he has had the advice and cooperation of a number of the leading parliamentarians of the House.

It seems rather extraordinary that we have been unable to find any precedent directly in point. Apparently, this situation has not occurred in the last 100 years. There are some conflicting decisions, but none of them touch precisely the point raised here.

On Thursday of last week, at a meeting of the Military Affairs Committee, the legality of which is not in dispute, a motion was made to report the so-called Muscle Shoals bill to the House without recommendation; that motion failed. Now it becomes significant, in view of the motion

[1] Second session Seventieth Congress, Journal, p. 401; Record, p. 3606.

[2] Nicholas Longworth, of Ohio, Speaker.

to reconsider made on Thursday of this week, as to whether that motion was legal or not. First, however, the Chair wants to lay down what he thinks is a sane and sensible rule—there being none in existence that the Chair knows of—as to the legal status of a meeting of a committee. The gentleman states that in his recollection there have been no meetings of the Committee on Military Affairs except those called by the Chairman. The Chair would be very loath, though, to hold that it is necessary for any legal meeting of a committee that it should be called by the chairman. The Chair believes there must be some other method of securing legality. Therefore the Chair would not want to take the extreme position of holding that a meeting of a committee to be legal must have been held at the call of the chairman; on the other hand, he would not want to accept the other horn of the dilemma as laid down in section 26 of Jefferson's Manual, which provides

"A committee meet when and where they please, if the House has not ordered time and place for them, but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled."

The Chair would not want to hold that a committee might meet and transact business at any time or place.

In this case the Chair understands it to have been for many years, at least 20, the practice to carry this language in the Congressional Directory, under the heading:

"Meetings days of House committees: Committees other than those mentioned meet upon call of the chairman."

And there, among other committees, it is stated that the meeting days of the Committee on Military Affairs are Tuesdays and Thursdays. In the pamphlet containing the subcommittees of the Committee on Military Affairs it appears, on the first page:

"Regular meetings, Tuesdays and Thursdays, at 10:30 a.m., and on call of the chairman."

Query: If a majority of the committee assembled at 10:30, approximately, on Tuesday or Thursday morning and acted together as a committee—a quorum always being present—is their action legal or otherwise? There is no question in the Chair's mind about the legality of the proceedings of the Committee on Military Affairs on last Tuesday. It appears that the chairman of the committee came to the committee room at approximately 10:30 a.m. He found only two other members present, and in about a quarter of an hour, having waited for a quorum, adjourned the meeting on the ground that there was no quorum present.

The rest of the proceedings taken from that point on, in the opinion of the Chair, are entirely illegal, whether a quorum was in fact present or not. The Chair would think from the facts that a quorum was not present until the time when action was taken by that committee, but whether that be true or not, in the opinion of the Chair there could be no legal meeting of the committee following the adjournment for lack of a quorum.

Now, we come to Thursday of this week. It seems to be undisputed that 12 members of that committee assembled in the regular committee room at 10:30, the time noted as being the regular time for a meeting on Thursday, and proceeded to do business. Query: Was their action legal or not? Now, another question comes in there, which is a little perplexing. Was the motion to reconsider the vote by which the Muscle Shoals bill failed to be approved in order on Thursday, a regular meeting day having occurred between? There is no rule the Chair can find governing the motion to reconsider in committees, and yet it can be conceived that it might be of very great importance. The Chair thinks that there being no rule the rule of the House should apply as to motions to reconsider in committees, and we all know that a motion in the House to reconsider must be entered either upon the day or the day following the legislation to which it refers. The Chair would think, applying by analogy to that, a motion to reconsider must be made on the day of the committee meeting or the next committee meeting in order to be valid. Now, was Tuesday a day which should be counted in determining the days elapsing since the action by the committee?

The Chair is not absolutely certain whether a motion to reconsider in this case was necessary and does not feel it incumbent upon him to decide the point; but for the purposes of the argument, the Chair proposes to assume that that motion was necessary in order to make in order the next proposition to report a bill favorably, as the committee did, a quorum being present all in legal form.

The Chair thinks that, so far as a business meeting was concerned, the meeting on Tuesday was on a dies non—that it meant nothing. Had anybody been present who desired to make a motion to reconsider, he could not have done it, because there was not a quorum present.

Therefore the Chair is of the opinion that Tuesday must not be counted as a day, according to the Rules in the House, but the motion to reconsider was valid on Thursday, although a meeting had been held between.

Now, that motion having been legal, was the action taken by the committee, under those circumstances in reporting the Muscle Shoals bill and other bills, legal? In the opinion of the Chair it was, as applied to last Thursday, of course.

The precedents are conflicting. The decision cited by the gentleman from Tennessee was specifically overruled some years later by Chairman Campbell, who held, on July 18, 1931, Record, 4016, that the majority members of a standing committee having met informally, a quorum of the committee having been present and authorized certain committee amendments, that since the meeting had not been regularly called, the action taken by the informal meeting was invalid.

The Chair does not think that this is a sensible and sane way of solving the question of the legality of committee meetings of the House. The Chair does not think it is necessary that the meetings should be called by the chairman provided the custom of that committee has been for many years to fix a definite day or days for meeting and a time for meeting.

The Chair would prefer to follow in this case the decision of Speaker Cannon, who overruled a motion to outlaw proceedings taken under those circumstances. He would prefer to follow this decision rather than the decision of Mr. Campbell, and the Chair is not quite certain that that decision is in direct point, because it occurred during the consideration of a tariff bill where the Ways and Means Committee was in perpetual session practically and was offering something like 200 committee amendments to the bill.

So the Chair thinks that 12 members of the committee having assembled on a regular day at the regular time stated, were competent to act in this instance.

Under the circumstances the Chair will refer the bills reported on Thursday, the Muscle Shoals bill and the other bills, to the appropriate calendar, but the Chair will hold that all proceedings had on Tuesday were illegal and will not refer any of those bills to the calendar.

Subsequently on the same day,[1] in response to an inquiry from Mr. John E. Rankin, of Mississippi, the Speaker further elaborated on his decision:

The Chair limited his ruling to cases of committees which had fixed days for meeting and had had for many years so it was known by the House that that was its regular custom, a quorum always being present to transact business. Where there is no meeting day fixed the Chair thinks the committee could only meet by the call of the chairman unless the committee should decide upon some other form of procedure.

The Chair would rather think that if a majority of the committee desired to have a meeting for the purpose of determining its mode of procedure, the chairman would call the committee together.

2214. In the absence of direction by the House, committees designate the time and place of their meetings.[2]

Where not otherwise provided, committees meet at the call of the chairman, and in his absence, or inability to serve, at the call of the ranking member acting under his authorization.[3]

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[1] Record, p. 3668.

[2] The busier committees at their first meetings ordinarily designate the days of the week and the hour of such days when stated meetings will be held through the session.

[3] Where no regular time of meeting has been fixed, the committee meets at the call of the chairman, and when there is occasion for meeting in his absence or incapacity, it is customary for the members of the committee to request the chairman to delegate to the ranking member authority to issue the call.

A committee may fix a date of meeting and adopt rules under which it will exercise its functions.

Where a committee has a fixed date of meeting, a quorum of the committee may convene on such date without call of the chairman and transact business regardless of his absence.

In event of refusal by the chairman to call a meeting, it is in order to offer a resolution in the House providing for such meeting.

On January 16, 1931,[1] Mr. John E. Rankin, of Mississippi, being recognized to submit a parliamentary inquiry, asked what steps could be taken to secure a meeting of a standing committee of the House during the absence or indisposition of the chairman.

The Speaker[2] said:

> The general rule is that a committee may establish such rules as it pleases with regard to its meetings. The present occupant of the chair about a year ago ruled that where a committee had a fixed date of meeting, then with or without the call of the chairman, and whether or not the chairman was present, if a quorum of the committee was present on that date, which was the announced date for meeting of that committee, that quorum could transact such business as was before the committee. It is, therefore, within the power of any committee to fix a regular meeting day, and if a majority of the committee is present at that time, that majority can transact business.
>
> The committee has the power to fix a date of meeting, and if that be done, the committee may assemble without the call or the chairman.
>
> Where the chairman of a committee is ill, the Chair thinks that the committee should request the chairman that a meeting be called by the next ranking member. The Chair thinks that would be entirely proper. Or if a situation arose where a chairman refused to call a meeting, there being no fixed date of meeting, it would be in order to introduce a resolution in the House providing for such a contingency and for the fixing of a date of meeting.
>
> The Chair thinks that under the rules of the House, that have been in force for more than a hundred years, that would be the case, but the Chair suggests that it is always within the power of a committee to fix a meeting date or to provide rules under which it shall exercise its functions.

2215. In so far as applicable the rules of the House are the rules of the standing committees.

Contrary to the procedure of the House, the motion to adjourn from day to day is of high privilege in the committees.

Form and history of paragraph 49 of Rule XI.

Paragraph 49 of rule XI provides:

> The rules of the House are hereby made the rules of its standing committees so far as applicable, except that a motion to recess from day to day is hereby made a motion of high privilege in said committees.

This rule dates from December 8, 1931,[3] when the long-established practice of the committees in adapting the rules of the House to committee procedure in so far as practicable was enjoined in the rules.

2216. While questions of privilege rising in the committee should properly be noted there and reported by the committee to the House, they may subsequently be raised in the House itself if authenticated by official documents or committee publications.

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[1] Third session Seventy-first Congress, Record, p. 2374.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Seventy-second Congress, Record, p. 83.

An exception to the rule prohibiting reference on the floor to proceedings of a committee not formally reported to the House.

Statements in published hearings of a committee attributing unworthy motives to a Member for acts in representative capacity give rise to a question of privilege even though not noted at the time nor reported by the committee.

The charge that a Member introduced a resolution for the purpose of gratifying revenge was held to present a question of privilege.

On May 7, 1910,[1] Mr. Dorsey W. Shackleford, of Missouri, rose to a question of personal privilege and submitted as the basis therefore, a letter which was read by the Clerk as follows:

UNITED STATES CUSTOMS SERVICE,
OFFICE OF THE SURVEYOR,
Port of St Louis, December 18, 1909.

Hon. RICHARD BARTHOLDT, M. C.,

Care of House of Representatives, Washington, D.C.

MY DEAR BARTHOLDT: No doubt you have seen the resolution offered by Mr. Shackleford requesting an investigation of this office in conjunction with the subtreasury. * * *

* * * Mr. Shackleford charges that clerks in this office were permitted to issue duebills, etc., with my consent, and that the matter was covered up for the time so as not to injure chances for reappointment.

This language sounds very familiar to me because shortly after Mr. Shriner's return from the penitentiary he offered to issue a statement, giving the same facts almost verbatim as stated in this resolution, and in addition thereto he stated that he was obliged to plead guilty for the purpose of shielding others and that immediate pardon was promised him by the district attorney, or words to that effect, all of which is as false as the other statement. This statement he offered to publish in the Globe-Democrat, Republic, Post-Dispatch, Star, and the Times, I guess, at least practically all of the papers in the city, but, after an investigation, they refused to publish it. The reporters connected with the various papers know Mr. Shriner and Mrs. Shriner, and know what profound liars both are. (For that reason I expected that something of this sort would be done, but had no idea that a man of Mr. Shackleford's standing and the position he holds would lend himself to carry out the revenge of a self-confessed felon, and for political purposes only.) * * *

(But facts are not what Mr. Shackleford wanted. He would rather aid Mr. Shriner in his effort to defeat my reappointment.) * * *

Yours, very truly,

CHAS. F. GALLENKAMP.

Mr. Ebenezer J. Hill of Connecticut, made the point of order that the matter did not give rise to a question of privilege, and even if so, such question should have been noted in the committee, and it was not now competent to raise it in the House.

After debate, the Speaker[2] ruled:

Ordinarily it has been the practice of the House to bring matters, where they are developed before a committee, that affect the reputation of a Member in his official capacity, before the House by a resolution. It would bring a report from that committee, or, rather, the committee making a report upon its own motion; but in this case the gentleman from Missouri rose in his place and proceeded to read a matter which he claims to present a question of personal privilege and presents the evidence as taken before the committee, which has all the earmarks of an official document and is confessed to be or agreed to be the evidence by the chairman of the committee and also by the

[1] Second session Sixty-first Congress, Record, p. 5918.

[2] Joseph G. Cannon, of Illinois, Speaker.

gentleman from Missouri, so that while, strictly speaking, a different proceeding, so far as precedents are concerned, has been resorted to, yet it comes before the House, having been read to the House, there being no controversy of what it is, being an official document, or that it purports to be an official document, and that such evidence was given.

The language having been read to the House, the Chair will not read it in full again, but only in part:

"For that reason I expected that something of this sort would be done—"

That refers to a resolution introduced by the gentleman from Missouri—

"but had no idea that a man of Mr. Shackleford's standing and the position he holds would lend himself to carry out the revenge of a self-confessed felon, and for political purposes only."

Again, in another place, which was read to the House:

"But facts are not what Mr. Shackleford wanted. He would rather aid Mr. Shriner in his efforts to defeat my reappointment."

Taking the matter read by the gentleman from Missouri, the Chair is inclined to the belief that he does present a question of personal privilege, and overrules the point of order.

2217. Authorization by a committee "to use all parliamentary means to bring the bill before the House" was held to authorize the calling up of a bill on Calendar Wednesday.[1]

On May 4, 1922, a day devoted to the consideration of Calendar Wednesday business, Mr. William R. Green, of Iowa, from the Committee on Ways and Means, called up the joint resolution (H. J. Res. 314) proposing an amendment to the Constitution prohibiting issuance of tax exempt securities.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the committee had not authorized the calling up of the bill.

Inquiry by the Speaker[2] developed that the fact that the Committee on Ways and Means had authorized Mr. Green "to use all parliamentary means to bring the bill before the House."

The Speaker held this to be sufficient authorization and overruled the point of order.

2218. A bill on the calendar is not subject to further consideration by the committee which reported it, and is no longer open to hearings.

On January 16, 1929,[3] Mr. Jeff Busby, of Mississippi, rising to a parliamentary inquiry, submitted the following question:

On April 2 last year the bill H. R. 8913 was reported favorably to the House from the Committee on Patents. It was placed upon the Consent Calendar on two occasions and stricken from the calendar on objections made. The inquiry I want to now propose is whether or not, the bill being on the House Calendar at the present time, the Patent Committee has any authority to proceed with additional hearings on that bill?

The Speaker[4] replied:

The committee could not hold hearings unless the bill was referred to the committee for that purpose.

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[1] Second session Sixty-seventh Congress, Record, p. 6343.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventieth Congress, Record, p. 1781.

[4] Nicholas Longworth, of Ohio, Speaker.

2219. Recognition of voting proxies by standing committees is a matter to be respectively determined by each committee for itself, but proxies may not be counted to make a quorum.

On February 16, 1929,[1] Mr. B. Carroll Reece, of Tennessee, in debating a question of privilege, referred to the use of voting proxies in committee procedure.

Mr. Henry Allen Cooper, of Wisconsin, asked him to yield for a question and inquired what was meant by the term "proxy."

Mr. Reece replied:

> Only one member was present by proxy, and in accordance with the rules of the committee he had submitted a proxy in writing and handed it to one of the members, the proxy stating how his vote should be cast. The member holding the proxy submitted it to the acting chairman to have it properly recorded before the committee.

Mr. L. C. Dyer, of Missouri, volunteered:

> That can only be done by the unanimous consent of the committee, under the rules of the House.

After further discussion, Mr. Edward E. Denison, of Illinois, submitted the question to the Speaker and inquired if it was proper for members of committees to authorize other members of the committee to vote for them in the transaction of committee business.

The Speaker[2] said:

> Only by unanimous consent of the committee itself. When the Chair was a member of the Ways and Means Committee that was very often done, because it was rather necessary to have record votes on various matters that came up, but no member was permitted to cast his vote in the form of a proxy except by unanimous consent of the committee itself.
>
> The custom in the Ways and Means Committee was for some member of the committee to ask unanimous consent that another member who was absent might be permitted to vote by proxy.
>
> Of course, a proxy could not be counted in making up a quorum.

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[1] Second session on Seventieth Congress, Record, p. 3607.

[2] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXXXVI.[1]

REPORTS OF COMMITTEES.

1. Committee act together on the report. Sections 2220, 2221.
2. Majority vote, a quorum being present, authorizes report. Sections 2222, 2223.
3. Doubt as to authorization of a report. Sections 2224, 2225.
4. Minority views. Sections 2226–2229.
5. Rule as to presenting reports. Sections 2230–2233.
6. Requirement that reports indicate proposed changes in law. Sections 2234–2250.
7. Privileged reports from certain committees. Sections 2251–2252.
8. Privilege of the Committee on Rules. Sections 2253–2259.
9. Limitations on privilege of the Committee on Rules. Sections 2260–2267.
10. Committee on Rules shall present reports within three days. Sections 2268, 2269.
11. Report from Committee on Rules not subject to recommitment. Section 2270.
12. Division of question on report from Committee on Rules. Sections 2271–2275.
13. Privilege of the Committees on Elections. Sections 2276, 2277.
14. Privilege of Ways and Means Committee. Sections 2278–2281.
15. Privilege of the Committee on Appropriations. Sections 2282–2285.
16. Privilege of the Committee on Rivers and Harbors. Sections 2286, 2287.
17. Privilege of the Committee on Public Lands. Sections 2288–2290.
18. Privilege of the Committee on Invalid Pensions. Sections 2291–2293.
19. Privilege of the Committee on Printing. Sections 2294–2298.
20. Privilege of the Committee on Accounts. Sections 2299–2306.
21. The requirement that reports be printed. Sections 2307–2309.
22. General decisions. Sections 2310–2313.
23. Process of authorization. Sections 2314, 2315.
24. Discharging a committee. Section 2316.
25. Reports of commissions. Section 2317.

2220. Committees can only agree to a report acting together.

On May 4, 1912,[2] Mr. Robert L. Henry, of Texas, from the Committee on Rules, proposed to report the resolution (H. Res. 521) making certain amendments in order in the consideration of a general appropriation bill.

Mr. Irvine L. Lenroot, of Wisconsin, made the point of order that the committee had not authorized the report.

[1] Supplementary to Chapter CVI.

[2] Second session Sixty-second Congress, Record, p. 5889.

Mr. Henry conceded that while 9 out of the 11 members of the Committee on Rules had been consulted on the floor of the House and had agreed to report the resolution, the committee had not assembled for that purpose in the committee room.

The point of order being insisted upon, Mr. Henry withdrew the resolution.

2221. A bill having been recommitted because of a defective report, further proceedings are de novo and all committee formalities accompanying the first report are necessary to authorize a second report.

A report may be authorized by a committee only when a quorum is present and acting together at a duly authorized meeting.

On June 25, 1930,[1] during the consideration of business in order on Wednesday, Mr. Fred A. Britten of Illinois, by direction of the Committee on Naval Affairs, with which the call rested on that day, called up the bill (H. R. 1190) to regulate the distribution and promotion of commissioned officers of the line of the Navy.

Mr. Ross A. Collins, of Mississippi, made the point of order that the report on the bill had not been authorized by the committee.

From the debate it appeared that the bill had been called up for consideration on the previous Wednesday, but had been recommitted on the point of order that the report failed to comply with the rule requiring indication of proposed changes in law; that the chairman of the committee had informally consulted a quorum of the committee at various times and places and had again filed a supplemental report without authorization given at a formal session of the committee.

The Speaker[2] said:

The question with the Chair is whether the committee at one of its regular meetings authorized the report on the bill H. R. 1190.

Even though the committee was regularly and properly called, or met on one of the regular meeting days, the question would then arise as to whether the committee, a quorum being present, by a majority vote authorized the report on the bill. That is the question.

In the opinion of the Chair, the bill having been recommitted to the committee, the same formalities are required on a new report as on the first report; and if the formalities are not complied with in this case, the rule has not been complied with. Of course, the Chair has no knowledge as to what happened.

Mr. Britten conceded:

I admit that no formal action was taken on the recommitted bill. The bill itself did not go to the committee, but the report did.

The Speaker ruled:

Under those circumstances, the bill is again recommitted to the committee.

The bill itself must be rereported in order that when the committee authorizes the second report it shall be final.

2222. No report is valid unless authorized with a quorum of the committee present.

Discussion of distinction as to requirement of quorum in House and committee procedure.

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[1] Second session Seventy-first Congress, Record, p. 11705.

[2] Nicholas Longworth, of Ohio, Speaker.

On June 17, 1922,[1] Mr. Philip P. Campbell, of Kansas, ffrom the Committee on Rules, proposed to report a resolution providing for the consideration of the bill (S. 3425) to continue certain land offices.

Mr. Louis C. Cramton, of Michigan, made the point of order that the report was invalid because authorized without a quorum of the committee present.

In the course of the debate on the point of order, Mr. James r. Mann, of Illinois, said:

The House does business on the theory of a quorum being present, but it has always been my understanding since I have been a Member of this House that a committee must develop a quorum before it can transact any business. And it is the practice, at least in most of the committees, to call the roll of the committee—a matter which is never called in the House at the meeting of the House to ascertain whether a quorum is present before the House can commence business—to ascertain whether a quorum is present. I was chairman of two committees of this House for a number of years and never acted upon any proposition or reported any matter to the House until a quorum was developed in the committee and a quorum acted upon the matter to be reported to the House. I think myself that in the interest of good parliamentary procedure, in the interest of orderly legislation, it would be wise for the Speaker to hold that when the chairman of a committee or a member of the committee reporting to the House did not state when the question was asked that a quorum of the committee was present when the order was made, that order would be held invalid, and that no committee had the right to report to the House without a quorum of the committee being present. The custom has always been of the House, where a question of that sort was raised, for the Speaker to ask the man reporting the bill what action was taken by the committee or whether a quorum was present, and his answer was considered final.

After further debate, the Speaker[2] decided:

The ruling of the Chair has been very much simplified by the frank admission of the chairman of the committee that there was no quorum present. Otherwise it would have raised a different question as to what evidence was necessary to contradict the official minutes or record of the meeting. But it is admitted that there was no quorum present, and therefore it seems to the Chair that the conclusion is very clear.

The Chair was for many years a member of the Committee on Appropriations, and it is the recollection of the Chair that that committee was scrupulous that there should always be a quorum present. That, of course, does not mean—and it has occurred to the Chair that it might have happened in this present instance—that a quorum of the committee was present every minute. Men would go in, and would go out, and come back. But the roll call must disclose that a quorum was present, and the Chair thinks that is the practice of most of the committees. But inasmuch as it is admitted here that there was no quorum present, the Chair sustains the point of order.

2223. While the presence of a quorum at the session of the committee at which authorized is essential to the validity of a report, it is too late to raise that question after consideration has begun in the House.

On October 9, 1919,[3] Mr. Simeon D. Fess, of Ohio, by direction of the Committee on Rules, presented a report on the resolution (H. Res. 327) for the consideration of the vocational rehabilitation bill.

After consideration of the resolution had proceeded for several minutes, Mr. Edward W. Saunders, of Virginia, made the point of order that the report was invalid because authorized in the absence of a quorum of the committee reporting it.

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[1] Second session Sixty-seventh Congress, Record, p. 8928.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 6652.

After debate the Speaker [1] held:

The gentleman from Virginia raises the point of order that the resolution is not in order. It is not a question of the propriety of the action of the committee. It is simply a plain question of the duty of the Chair to decide that it is now out of order. It is well established that a committee can act only with a quorum present, and the Chair is disposed to recognize that there is a difference between the Committee of the Whole House and the ordinary committees of the House. The Chair has served on a great many committees and does not recollect a single instance when any committee on which he served took action without a quorum of the committee being present. On the contrary, his recollection is that the committees were always scrupulous to see to it that a quorum was present.

The gentleman from Illinois, Mr. Cannon, was the first one to raise the point which has been repeated a number of times during this discussion, and which certainly is impressive, that if you say that a committee can report without a quorum, unless the point is raised in the committee, then a chairman can have a meeting by himself, can report a bill, and it can not be questioned, because there is no one present to raise the point of no quorum, and nobody but himself would know whether there was a quorum present or not. That might lead, naturally, to great abuse, and, of course, of itself it would be a great abuse; but that does not determine the validity of the point of order. It seems to the Chair that this discussion has illustrated the wisdom of the rule that what takes place in a committee is not to be divulged in public.

The Chair has been shown two precedents on this subject, one by Mr. Speaker Reed and one further back. As far as the Chair can see, from a cursory reading, the earlier precedent is directly in point, that such action by a committee without a quorum does not make the report of the committee subject to the point of order on the floor of the House after its consideration has commenced. As Mr. Speaker Reed said, the line must be drawn somewhere when irregularities can not be questioned, and it seems to the Chair, according to these precedents, that after consideration has begun the question of a quorum in the committee can not be raised.

The Chair, therefore, overrules the point of order.

2224. The Speaker being satisfied that a committee had not exceeded its jurisdiction in authorizing a report decided it should be received.

Direction to a committee to investigate and report "with such recommendations as it may care to make" was held to warrant direct and specific recommendations for final disposition of a Government project under investigation.

On May 18, 1920,[2] Mr. William J. Graham, of Illinois, chairman of the Select Committee on Expenditures, announced that in pursuance with an agreement with minority members, he would file through the basket a report from that committee on nitrates and nitrate plants.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the select committee had both exceeded its authority and infringed upon the jurisdiction of another committee in authorizing the report, and said:

I direct the attention of the Chair to finding No. 30 of the report of the select committee now before us. Finding No. 30 of the majority report says:

"It would be unwise and contrary to the Government's best interests for the War Department or any agency of the Government acting under or through such department to build and operate a plant in conjunction with Nitrate Plant No. 2 at Muscle Shoals for the manufacture of ammonium sulphate and other nitrogenous compounds for commercial purposes."

In other words, Mr. Speaker, that is a direct, specific recommendation leveled at the very heart of a bill now pending, and which has been for some time pending, before the Committee on

[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 7236.

Military Affairs of the House, and upon which that committee has, I am informed, held hearings. Therefore, although it does not mention the bill by name, since it involves the legislative proposition, and the only legislative proposition that is pending anywhere before any committee of the House, it infringes upon the jurisdiction of the Committee on Military Affairs.

I submit that under the resolution appointing this select committee its jurisdiction may be tersely stated as follows. It has authority—

First. To investigate contracts and expenditures by the War Department.

Second. To exercise the power and authority granted the Committee on Expenditures in the War Department, to which I shall hereafter refer.

Third. To send for persons and papers.

Fourth. To administer oaths. It probably has that authority without express statements in the resolution.

Fifth. To take testimony.

Sixth. To sit during sessions of the House.

Seventh. To appoint subcommittees.

Eighth. To report in one or more reports with recommendations.

Those recommendations must, I take it, be within the scope of the committee's powers and jurisdiction.

Under the second item which I have mentioned the committee may exercise the power and authority of the Committee on Expenditures in the War Department. We must go to the general rules of the House to see what that authority is. I submit that the jurisdiction is limited under the general rules of the House so that the committee has authority merely to inquire into and report upon the justness, the correctness, and economy of expenditures and into the proper application of public moneys, and into the economy and accountability of public officials. I think by no possible stretch of the general rules of the House defining the jurisdiction of the standing Committee on Expenditures in the War Department can its powers go beyond those I have just enumerated.

To this argument Mr. James R. Mann, of Illinois, replied:

Mr. Speaker, this committee was created, as I understand it, June 4, 1919. The power given to the committee is as follows: "Which said committee is hereby authorized to fully investigate all contracts and expenditures made by the War Department or under its direction during the present war," and in addition, and so forth, power is conferred by the rules of the House upon an expenditure committee, but the rules do not extend the power of the committee as to making investigation. The language in the bill gave them authority to investigate all contracts and expenditures made by the War Department. Then the rules further provide:

"That said select committee shall report to the House, in one or more reports as it may deem advisable, the result of its investigations, with such recommendation as it may care to make."

It would clearly include any recommendation which in any way related to the expenditures of the War Department, either as to the past or as to the future, relating to the matters for which expenditures had been made in the past. This committee had the power to investigate the expenditures and to report its recommendation as to whether those expenditures were made for a purpose which was wise, and whether additional expenditures ought to be made to complete a project for which the past expenditures were made, or whether the Government ought to proceed to utilize the expenditures which were made, or whether the Government ought to dispose of the things that were created by the expenditures already made. The committee would have had that power, in my judgment, even if there had been no provision made giving them the power to make recommendation. But here is an express direction to the committee that it not only report the results of its investigations, but make recommendations based upon those investigations. If all the committee could do was to report upon the investigation which was made, what is the object in saying that it shall have the power to make recommendations? It is already given the power to make the report of its investigation.

Now, Mr. Speaker, in justice to myself, I doubt whether I am in consonance with the recommendations of this committee as to the nitrate plant, but as to the power of the committee to recommend, I do not think there is a particle of question that, having investigated the expenditures

for the nitrate plant, they could recommend that it be dismantled, abandoned, and torn down; that it be used by the Government; that it be leased by the Government; or that the Government exercise such power as it pleased in various directions. That is what the committee was for, namely, to recommend to Congress, after it made its investigation, the best course that might be pursued by Congress, making utilization of the immense sums of money which have been expended by the War Department.

The Speaker [1] ruled:

The gentleman from Tennessee was so courteous as to notify the Chair in advance of this point of order, so the Chair has had some opportunity to study the report and the point of order. On that account the Chair is peculiarly desirous that the case which the gentleman from Tennessee presents shall have his impartial consideration. And, of course, the statement of the gentleman that he does not intend to appeal increases the desire of the Chair to give the gentleman every benefit of doubt.

But it seems to the Chair very clear that this point of order is not valid.

It seems to the Chair very clear that the rule which gives the Committee on Expenditures its authority does cover this case. It says that the committee shall report to the House the result of its investigations.

Now, there can be no question that this investigation of a nitrate plant was directly within the sphere intended by this rule. The rule also says that the committee shall make recommendations.

The resolution gave the committee authority to do certain things in addition to the authority which the ordinary Committee on Expenditures had, and among these is "the security of the Government against unjust and extravagant demands" and "retrenchment." So this committee has the power, among other things, of retrenchment. That is within the strict scope of their duty. It seems to the Chair that if the committee in investigating the subject entirely within its sphere finds as it did in this case that there is a certain course of action by the War Department which it thinks would bring about retrenchment, that to recommend that course is a proper function of the committee.

It seems to the Chair very clear that they had a right to make a recommendation in the line of retrenchment as to the further prosecution of this project. The fact that another committee had control of a bill which would continue the operation of this plant which they are investigating in no way limits the scope of the authority of this committee. The report of this committee does not take away the jurisdiction of that committee. That committee can still consider the bill and report it to the House, which could if it desired adopt it.

So it seems to the chair that this report is strictly within the scope of the committee's authority, and the Chair overrules the point of order.

2225. The validity of a committee's action in reporting a bill may not be questioned after actual consideration of the bill has begun in the House.

It is not the duty of the Speaker to construe the Constitution as affecting proposed legislation.

On May 21, 1930,[2] the joint resolution (H. J. Res. 331) relative to the Hague Conference on the Codification of International Law was being considered by the House as in the Committee of the Whole.

After debate had proceeded for some time, Mr. John J. O'Connor, of New York, raised a question of order against the bill on the ground that it related to treaties and was therefore not within the constitutional jurisdiction of the House.

The Speaker [3] overruled the point of order and said:

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Seventy-first Congress, Record, p. 9320.

[3] Nicholas Longworth, of Ohio, Speaker.

It is very well known in the House that the Chair refuses to rule on questions of constitutionality.

Whereupon, Mr. O'Connor made the further point of order that the Committee on Foreign Affairs was not authorized to present the report.

The Speaker ruled:

If the gentleman from New York had made his point of order earlier, before the House undertook the consideration of the resolution, the Chair would have ruled on the question; but the resolution has been debated, and the House has taken jurisdiction, and the question of the jurisdiction of the committee to report it would now come too late.

2226. Views of the minority, although customarily printed in connection with the report of a committee, are in fact no part of such report.

On February 19, 1912,[1] in the Senate, Mr. Nathan P. Bryan, of Florida, presented his individual views on the bill (H.R. 1) granting a service pension to Civil War veterans, which were ordered printed in connection with the majority report and other minority views.

Mr. Weldon Brinton Heyburn, of Idaho, inquired:

Mr. President, I rise to a question of views. I inquire whether or not a minority report is any part of the report of a committee. We are falling into a habit of treating it as though it were a part of the report of a committee. I understand that it is not. There is but one report, and that should be the only report. The other might be denominated views of certain members, naming them; but I think we fall into an error by treating it as a part of the report.

The Vice President[2] said:

Really it is not a report at all; it is the views of certain minority members of the committee. The Chair thinks the customer has been to print such matters as are now presented as parts 1, 2, and 3, whatever the case may be, of the report.

2227. A committee having been given the right by special order to report from the floor, members of the committee are entitled to the same privilege in presenting minority views.

On March 3, 1919,[3] Mr. Ben Johnson, of Kentucky, from the select committee to investigate the National Security League, pursuant to authority "to report at any time" granted in the resolution[4] creating the committee, presented the report[5] of the majority of the committee from the floor.

The reading of the report having been concluded, Mr. Joseph Walsh, of Massachusetts, demanded recognition to present minority views.

Mr. J. Thomas Heflin, of Alabama, made the point of order that Mr. Walsh was not entitled to the floor for the presentation of individual views.

The Speaker[6] held that special authorization to present the report of a committee included authorization for the presentation of minority views, and overruled the point of order.

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[1] Second session Sixty-second Congress, Record, p. 2188.

[2] James S. Sherman, of New York, Vice President.

[3] Third session Sixty-fifth Congress, Record, p. 4925.

[4] H. Res. 469, Record, p. 258.

[5] Report No. 1173.

[6] Champ Clark, of Missouri, Speaker.

2228. A "Report" of the minority may properly include excerpts and citations quoted in the nature of argument and as sustaining the minority contention.

On July 29, 1919,[1] Mr. William J. Graham, of Illinois, from the Select Committee on Expenditures in the War Department, called up the report of that committee.

The report having been read, Mr. Henry D. Flood, of Virginia, asked for the reading of the minority views.

During the reading Mr. Joseph Walsh, of Massachusetts, raised a question of order and said:

The gentlemen submitting the minority views have not conformed to the rules of the House, in that they have included excerpts from testimony and from documents and letters which are not the views of the minority. The minority report is not a report; simply an opportunity for the minority members of the committee to express their views. If the Chair will consult Hinds' Precedents, section 4607, he will see that where the question was raised before during the consideration of the Coeur d'Alene investigation, the Speaker ordered expunged from the Record extraneous matters which were not in the nature of the views of the minority.

Now, we have letters here from various officials. We have on page 12 excerpts from the testimony had at a hearing; we have quotations in various matters added to the report as appendices. Clearly they are not the views of the minority, and those matters are proper matters to be presented to the House during the consideration of the matter upon which the report is made but are not proper matters to be included in the report made upon the measure if submitted by the minority to express their views.

And I submit, Mr. Speaker, to the Chair, that the minority report is not in accordance with the practice of the House nor with the precedent laid down under the rule.

The Speaker[2] rules:

This is a new question to the Chair, and apparently there has been only one decision upon it, made by Speaker Henderson. That precedent exactly sustains the point of order made by the gentleman from Massachusetts. But Speaker Henderson apparently bases his decision on the distinction between the term "views" and the term "report." The distinction is very technical, and the Chair thinks that on such a question the technicalities should be observed equally on both sides. The point made by the gentleman from Virginia that the House by unanimous consent gave the minority the right to file a report instead of views is no more technical than the point decided by Speaker Henderson, and the Chair accordingly is disposed to think that, inasmuch as the excerpts and arguments which are cited in the minority views or the minority report appear to be relevant and such as would be used in argument on the floor of the House, they should be allowed unless the rules of the House clearly exclude them. But from the decision as quoted in Hinds' Precedents the Chair is disposed to think it reasonable and in the interest of expedition to overrule the point of order. The general purpose of filing minority views is to give them an opportunity to express their reasons against the majority report, and this is the report of a select committee appointed only for the purpose of investigation; and the Chair thinks the minority's right should not be more narrowly limited than the strict interpretation of the precedent requires. The Chair overrules the point of order.

2229. While committee reports are ordinarily submitted without signature and minority views require signature by those subscribing thereto, there have been exceptional instances in which the former were signed and the latter submitted without signature.

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[1] First session Sixty-sixth Congress, Record, p. 3331.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

On August 20, 1921,[1] the bill (H. R. 8245), the revenue bill, was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Nicholas Longworth, of Ohio, referring to the minority views, asked:

The gentleman did not sign this report. Is this the minority report, or what is it?

After interruption, he continued:

Mr. Chairman, I hold in my hand perhaps the most remarkable document that has ever been submitted to a Congress of the United States. It purports to be the views of the minority on this revenue bill. It is signed by but one member of the Committee on Ways and Means.

In reply Mr. James W. Collier, of Mississippi, inquired:

Do the gentleman and his colleagues on the committee approve and indorse the majority report of the Ways and Means Committee as presented to this House?

Mr. Longworth answered:

The gentleman from Mississippi is unmindful of the rules of the House. The majority report is not signed by members. Is not the gentleman aware of that fact? Did he ever see a majority report signed by members of the committee?

To which Mr. William A. Oldfield, of Arkansas, rejoined:

The gentleman said that a majority report was not signed by the majority members of the Ways and Means Committee. I hold in my hand a report, Tariff Reports, Miscellaneous, 1911–12, on this excise tax bill, reported March 14, 1912, signed by Oscar Underwood and all the majority members of the Ways and Means Committee. That is the report. You made a statement that we did not sign it. It was an error.

During the discussion, Mr. James R. Mann, of Illinois, explained:

A majority report is the report of the committee, and the minority report contains the views of those who sign it. There is no difficulty about the parliamentary law. The report of the committee is not usually signed at all. It is presented by a member of the committee. Sometimes it is signed. Minority views are not a report of the committee. They are only the views of the gentlemen who sign. Under the rules those minority views can be dropped into the basket and printed as a supplement to the report, so that the minority views only represent the views of those who sign.

2230. Privileged reports may not be submitted by filing with the Clerk through the basket but must be presented from the floor.

On May 16, 1911,[2] Mr. Robert L. Henry, of Texas, by direction of the Committee on Rules, proposed to call up a report from that committee on the resolution (H. Res 148) providing for an investigation of the United States Steel Corporation.

It then appeared that the report had been filed with the Clerk through the basket and placed on the calendar.

Mr. James R. Mann, of Illinois, raised the question of order that reports privileged under the rules must be submitted from the floor and could not be presented by dropping in the basket on the Clerk's desk.

The Speaker[3] sustained the point of order.

2231. Minority views accompany reports of committees as a matter of right, but unless filed simultaneously with the report, may be presented only by consent of the House.

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[1] First session Sixty-seventh Congress, Record, p. 5343.

[2] First session Sixty-second Congress, Record, p. 1229.

[3] Champ Clark, of Missouri, Speaker.

On December 10, 1929,[1] Mr. Willis C. Hawley, of Oregon, from the Committee on Ways and Means, announced that that Committee had directed a favorable report on the bill (H. R. 6585) to authorize the settlement of the indebtedness of the French Republic to the United States, and that it would be taken up for consideration on the following Thursday.

Mr. John N. Garner, of Texas, asked unanimous consent that the minority be permitted to file views in connection with the report.

Mr. C. William Ramseyer, of Iowa, suggested that the request was unnecessary, as minority views were filed with the majority reports as a matter of right, and that the consent of the House was necessary only when minority views were filed subsequent to the filing of the report of the committee.

The Speaker[2] said:

> The minority has the right to file its views as a part of the majority report.
>
> The Chair would assume that the minority views will be ready at the time the majority files its report. Ordinarily, the request put to the House is that the minority may have until a certain time to file its views.
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> The rule on the subject is as follows:
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> "All reports of committees, except as provided in clause 45 of Rule 11, together with the views of the minority, shall be delivered to the Clerk for printing"——
>
> And so forth.
>
> The Chair thinks a proper interpretation of the rule would give the minority the right to file minority views with the report, provided they were ready at the same time.
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> Minority views would have to be filed in time for the printer to be able to incorporate them along with the majority report; in other words, except by unanimous consent, minority views could not hold up presentation of the printed report.

2232. On April 14, 1914,[3] when the Journal was read, Mr. James R. Mann, of Illinois, called attention to the fact that it recorded the Committee on Foreign Affairs as having reported by delivery to the Clerk, through the basket, the bill (H. R. 15762) the diplomatic and consular appropriation bill. Mr. Mann made the point of order that the bill being privileged could not be so reported, but must be presented from the floor and opportunity given for the reservation of points of order.

The Speaker[4] sustained the point of order and directed that the Journal be corrected and that the bill be stricken from the calendar until reported from the floor.

2233. While a privileged bill reported by delivery to the Clerk through the basket thereby forfeits its privilege, it may be at any time reported from the floor and is then privileged for immediate consideration.

A bill relating to the number of internal-revenue collectors and collection districts was held to be a revenue bill within the meaning of the rule giving such bills privilege.

On May 4, 1922,[5] business in order on Calendar Wednesday having been transferred to that day from the preceding Wednesday, Mr. Thomas A. Chandler, of Oklahoma, from the Committee on Ways and Means, proposed to call up the bill (H. R. 10877) to increase the number of collectors of internal revenue.

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[1] Second session Sixty-first Congress, Record, p. 429.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Sixty-third Congress, Record, p. 6680.

[4] Champ Clark, of Missouri, Speaker.

[5] Second session Sixty-seventh Congress, Record, p. 6342.

Mr. Finis J. Garrett, of Tennessee, objected that the bill was privileged and therefore not in order on Calendar Wednesday.

The Speaker [1] held:

The question in the Chair's mind is—this bill having been reported not from the floor but through the basket and put on the calendar—whether it is now in control of the committee to report from the floor. It is on the Union Calendar, and the question is whether it ought not to be referred back to the Committee on Ways and Means and reported. It has now been concluded, and the Chair thinks correctly, that it is a privileged bill. The question arises whether it is still in the hands of the committee to rereport, inasmuch as it has already been once reported through the basket and is now on the Union Calendar. It seems to the Chair logically that the bill is not now in the possession of the committee, but the Chair finds an express decision by Mr. Speaker Reed on that point, holding that it can be immediately reported where it has been once reported through the basket. The Chair therefore refers the bill to the Committee of the Whole House on the state of the Union.

2234 Committee reports on measures repealing or amending a statute shall include the text of such statute and a comparative print of the measure showing by typographical devices the omissions or insertions proposed.

Present form and history of paragraph 2a of Rule XIII.

Section 2a of Rule XIII provides:

Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—

(1) The text of the statute or part thereof which is proposed to be repealed; and

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices, the omissions and insertions proposed to be made.

This section was first incorporated in the rules by a resolution adopted January 28, 1929,[2] and has been continued without modification in subsequent revisions. The resolution proposing the amendment was offered by Mr. C. William Ramseyer, of Iowa, and for that reason the section is frequently referred to as the "Ramseyer rule."

2235. In order to fall within the purview of the rule requiring indication of proposed changes in existing law by typographical device, a bill must repeal or amend a statute in terms, and general reference to the subject treated in a statute without proposing specific amendment is not sufficient.

On February 7, 1931,[3] during the consideration of bills reported by the Committee on the District of Columbia, Mr. Frederick N. Zihlman, of Maryland, by direction of that committee, called up the bill (H. R. 16045) to authorize the Commissioners of the District of Columbia to close streets in the District of Columbia rendered useless and unnecessary.

Mr. William H. Stafford, of Wisconsin, made the point of order that the report on the bill failed to comply with the provisions of the rule requiring indication of changes in existing law by typographical device.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Seventieth Congress, Record, p. 2371.

[3] Third session Seventy-first Congress, Record, p. 4259.

Mr. Zihlman submitted that the bill was not amendatory of existing law and merely provided a method of closing streets which under existing conditions could be done only be special act of Congress.

The Speaker pro tempore [1] ruled:

It has been generally held that section 2a of Rule XIII is applicable where a bill seeks to repeal or amend specifically an existing law; but when it applies to a general proposition or a general amendment of an entire statute, it does not come under the rule. It must amend the law directly and refer to the specific section of the statute that it seeks to amend or repeal.

The Chair does not think that this bill comes within the provision of the rule and, therefore, overrules the point of order.

2236. Although a bill proposed but one minor and obvious change in existing law, the failure of the report on the bill to indicate this change by typographical device, was held to be in violation of the rule.

On Monday, February 3, 1930,[2] the House was considering bills on the Consent Calendar, when the bill (H. R. 8156) to change the limit of cost for the construction of the Coast Guard Academy was reached.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the change proposed in the law was not properly indicated in the report.

The Speaker [3] sustained the point of order and said:

It is perfectly apparent to anyone reading the bill that its language is not exactly in the form prescribed by the Ramseyer rule, which provides that—

"Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—

"(1) The text of the statute or part thereof which is proposed to be repealed; and

"(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices, the omissions and insertions proposed to be made."

The Chair does not think that rule has been complied with. What is required under the second part has not been done. Of course the rule is intended to make it evident just what change in a bill or resolution is intended. It is to make this change apparent to anybody without consulting the statute which it is intended to amend.

After debate, the Speaker pro tempore [4] ruled:

Section 64 of the bill provides:

"The provisions of this act apply to existing copyrights save as expressly indicated by this act. All other acts or parts of acts relating to copyrights are hereby repealed, as well as all other laws or parts of laws in conflict with the provisions of this act."

The gentleman from Indiana argues well that it would be a task of considerable magnitude to do what is proposed here, and yet that seems to be the purpose of the rule that the Member making the report of the committee shall do the work of investigation and submit to the House the information as to what statutes are to be repealed.

On March 17, 1930, a point of order was made against a bill in very much the same situation as this bill, that did not conform to section 2a of Rule XIII. In that case the Speaker pro tempore

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[1] Bertrand H. Snell, of New York, Speaker pro tempore.

[2] Second session Seventy-first Congress, Record, p. 2982.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] John Q. Tilson, of Connecticut, Speaker pro tempore.

who happened to be the gentleman from New York, Mr. Snell, chairman of the Rules Committee, that reports this rule, sustained the point of order. It seems clear to the Chair that the ruling then made was correct and that no other ruling can be made here than to sustain the point of order and send the bill back to the committee for a report in accordance with the rule. The Chair therefore sustains the point of order.

2237. Under clause 2a of Rule XIII the committee report on a bill amending existing law by the addition of a proviso should quote in full the section immediately preceding the proposed amendment.

Bills reported without indication of changes proposed in existing law are automatically recommitted to the respective committees reporting them.

On June 16, 1930,[1] during the call of the Consent Calendar, the joint resolution (H. J. Res. 303) proposing an amendment in the nature of a proviso to a public resolution relating to the payment of certain claims of grain elevators and grain firms was reached.

Mr. William H. Stafford, of Wisconsin, made the point of order that the public resolution proposed to be amended was not incorporated in the report.

The Speaker pro tempore [2] held:

Under a strict application of paragraph 2a, Rule XIII, the Chair thinks the immediate section of law preceding the proposed amendment should have been printed in the report.

The point of order is sustained and the bill is recommitted to the Committee on War Claims.

2238. Under the rule requiring committee reports to indicate proposed changes in existing law, the statute proposed to be amended must be quoted in the report and it is not sufficient that it is incorporated in the bill.—On June 18, 1930,[3] it being Calendar Wednesday, Mr. Fred A. Britten, of Illinois, when the Committee on Naval Affairs was reached, called up the bill (H. R. 1190) to regulate the promotion of commissioned officers of the Navy.

Mr. Ross A. Collins, of Mississippi, made the point of order that the report did not include the statute sought to be amended.

Mr. Britten submitted that while the statute was not quoted in the report it was incorporated in the bill itself and that such incorporation was sufficient compliance with the requirements of the rule.

The Speaker pro tempore [4] dissented from this view and said:

Section 9 of the bill provides:

"The provision in the act approved August 29, 1916, prescribing maximum age limits for the promotion of captains, commanders, and lieutenant commanders is hereby repealed."

The fact that the provision just read is not set out in the report violates the rule to such an extent that the Chair is obliged to sustain the point of order.

The Chair sustains the point of order, and the bill automatically is referred to the committee for a report in accordance with the rules.

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[1] Second session Seventy-first Congress, Journal, p. 16; Record, p. 10933.

[2] John Q. Tilson, of Connecticut, Speaker pro tempore.

[3] Second session Seventy-first Congress, Record, p. 11105.

[4] John Q. Tilson, of Connecticut, Speaker pro tempore.

2239. The rule requiring reports to show proposed changes in existing law by typographical device applies to bills amending statutory law only and is not applicable to bills amending public resolutions.

On April 21, 1930,[1] a Monday devoted to business on the Consent Calendar, the Clerk read the title of the bill (H. R. 10818) to extend the provisions of Public Resolution No. 47.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the report on the bill failed to comply with the requirements of the rule providing for indication of proposed changes in existing law.

The Speaker pro tempore[2] overruled the point of order on the ground that the rule applied to existing law only and did not extend to public resolutions.

2240. A bill is not subject to the rule requiring comparative prints unless it specifically amends existing law.

On April 13, 1932,[3] in the course of the call of the committees under the Calendar Wednesday rule, Mr. Edgar Howard, of Nebraska, called up the bill (H. R. 8898), to defer collection of construction costs against Indian lands in irrigation projects.

Mr. Edward W. Goss, of Connecticut, made the point of order that the rule requiring comparative prints of proposed changes in law had not been complied with.

The Speaker pro tempore[4] held:

Under the rule a bill must specifically amend existing law. This bill (H. R. 8898) does not purport to amend any law, and the point of order is overruled. This bill is on the Union Calendar, and the House automatically resolves itself into the Committee of the Whole House on the state of the Union.

2241. The rule requiring comparative prints in reports on measures repealing existing law, while effective as to substantive legislative provisions reported in general appropriation bills, is not otherwise applicable to reports from the Committee on Appropriations and does not extend to changes in paragraphs merely carrying stated appropriations.

On January 9, 1930, Mr.[5] Henry E. Barbour, of California, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the War Department appropriation bill.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the bill had not been properly reported in that it failed to comply with the provisions of clause 2a of Rule XIII by including the text of laws proposed to be repealed and a comparative print showing by appropriate typographical devices the omissions and insertions proposed to be made.

After exhaustive debate the Speaker[6] ruled:

In view of the fact that this is the first time that the Chair or the House has been called upon to construe this rule, it becomes a matter of considerable importance, because it will apply to all

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[1] Second session Seventy-first Congress, Record, p. 7363.

[2] Bertrand H. Snell, of New York, Speaker pro tempore.

[3] First session Seventy-second Congress, Record, p. 8144.

[4] John J. O'Connor, of New York, Speaker pro tempore.

[5] Second session Seventy-first Congress, Journal, p. 803; Record, p. 1328.

[6] Nicholas Longworth, of Ohio, Speaker.

appropriation bills to be considered in the House in the future. The rule which was adopted January 28, 1929, Rule XIII, clause 2a, commonly called the Ramseyer rule, is as follows:

"Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document—

"(1) The text of the statute or part thereof which is proposed to be repealed; and

"(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italics, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made.

The point of order made by the gentleman from New York raises the question whether the Ramseyer rule applies to the Committee on Appropriations as well as to the legislative committees of the House. When this rule was discussed on the day it was passed, January 28, 1929, the gentleman from Iowa, Mr. Ramseyer, the author of the rule, in explaining it, said:

"The proposal in this new rule is simply this: Many bills which are introduced are to amend statutes. Such bills are reported back to the House, and there is nothing, either in the bill or in the report accompanying the bill, to advise Members of the House just what specific changes the bill proposes to make in the statute under consideration. If this amendment to rule XIII is adopted, then hereafter a committee which reports a bill to amend an existing statute must show in the report just what changes are proposed."

Evidently the primary purpose of this rule applies only to legislative committees, because only legislative committees have the right to legislate. However, further on in the discussion the gentleman from Texas, Mr. Blanton, asked the gentleman from New York, the chairman of the Committee on Rules:

"Will this rule apply to appropriation bills?"

The gentleman from New York replied:

"It will apply to all bills carrying any legislation. Appropriation bills are not supposed to carry any legislation."

It occurs to the Chair that if it were not for the existence of the Holman rule, as the gentleman from Georgia indicated, it might be very debatable whether this rule would apply to appropriation bills at all, because the Appropriations Committee is not permitted to legislate by the rules of the House except in the case of the Holman rule. Now, it becomes a question whether when the committee frankly admits that it proposes to change existing law, it then becomes bound by the provisions of the Ramseyer rule. In this case, and in the case of all appropriation bills that have been recently reported, there is a frank admission in some part of the report that the committee recommends a change of existing law. The chair finds on page 26 of the report the following:

"LIMITATIONS AND LEGISLATIVE PROVISIONS

"The following limitations on expenditure or legislative provisions, not heretofore enacted in connection with any appropriation bill, are recommended."

And then follow three recommendations specifying changes in existing law.

The Chair understands that those are the only cases in this bill where recommendations are made for a change of existing statutes and that therefore the Ramseyer rule was complied with.

The query now comes, that being admitted, whether the mere change of a paragraph indicating how the money for this year is to be spent, applying only for a year as the appropriations do in all appropriation bills, the committee then is bound to indicate what those changes are in the same way they are bound in the matters of change of existing statutes.

The Chair thinks such a construction of the rule would cause endless confusion, an immense amount of trouble, and does not think that the House intended, when it passed the Ramseyer rule, to cover mere changes in annual appropriations, because, after all, an appropriation is a mere direction as to how the money for one year is to be spent—no direction as to the future and no change of the legislation of the past.

The Chair therefore holds that the Committee on Appropriations in reporting a bill is always bound by the provisions of the Ramseyer rule relating to changes in existing law, but it not bound

by that rule to indicate every change in every paragraph containing an appropriation. The Chair therefore overrules the point of order.

2242. In construing the rule requiring reports to show proposed changes in existing law, the bill as originally introduced governs, and committee amendments striking out such proposals are not considered.

A bill is not exempted from the operation of the rule under which reports are required to show proposed amendments of existing law by committee recommendations eliminating such proposed amendments.

On June 23, 1930,[1] the bill (H. R. 10676) to prohibit the handling of certain mail matter where contractual conditions are inadequate, was reached in the call of the Unanimous Consent Calendar.

Mr. Fiorello H. LaGuardia, of New York, submitted the point of order that the report of the bill failed to show proposed changes in existing law.

Mr. Clyde Kelly, of Pennsylvania, argued that the requirements of the rules in that respect were abrogated by the fact that the report carried an amendment recommended by the Committee on the Post Office and Post Roads eliminating the clause proposing such changes.

The Speaker pro tempore[2] held, however, that committee amendments could not exempt the bill as originally drawn from the operation of the rule and said:

What is before the House is the bill, H. R. 10676, as originally introduced and as amended. As originally introduced, the bill does undertake to change existing statutes, and in that respect it is a violation of rule 13, paragraph 2 (a). The Chair sustains the point of order. The bill is recommitted to the Committee on the Post Office and Post Roads.

2243. The point of order that a report fails to comply with the requirement that proposed changes in law be indicated typographically is properly made when the bill is called up in the House and comes too late after the House has resolved into the Committee on the Whole for the consideration of the bill.

On April 13, 1932,[3] it being Calendar Wednesday, Mr. Wilburn Cartwright, of Oklahoma, by direction of the Committee on Indian Affairs, when that committee was called, proposed to take up the bill (H. R. 9071) to pay certain Indian claims.

Mr. William H. Stafford, of Wisconsin, rising to a point of order, called attention to the failure of the committee to set out typographically the changes in the act of June 7, 1924, proposed by the bill, and inquired whether the question of order should be raised against the bill in the House or in the Committee of the Whole.

The Speaker pro tempore[4] ruled:

The point of order should be raised when the bill is called up in the House.

2244. The point of order that a report violates the rule requiring typographical specification of proposed changes in existing law may not be raised against a special order providing for consideration.

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[1] Second session Seventy-first Congress, Record, p. 11539.

[2] C. William Ramseyer, of Iowa, Speaker pro tempore.

[3] First session Seventy-second Congress, Record, p. 8142.

[4] John J. O'Connor, of New York, Speaker pro tempore.

On March 11, 1933,[1] Mr. Joseph W. Byrns, of Tennessee, offered a resolution providing a special order for the consideration of the bill (H. R. 2820), to maintain the credit of the United States Government.

Mr. John E. Rankin, of Mississippi, made the point of order that the resolution failed to comply with the requirement that reports on measures proposing changes in existing law indicate such changes typographically.

The Speaker[2] overruled the point of order on the ground that the requirement applied to the bills proposing such changes of law and not to resolutions for their considerations.

The resolution having been agreed to, Mr. Rankin further inquired when it would be in order to submit the point of order.

The Speaker said:

The gentleman can make the point when the bill is called up.

2245. Special orders providing for consideration of bills, unless making specific exemption, do not preclude the point of order that reports on such bills fail to indicate proposed changes in existing law.

When a bill is considered under a special resolution, the point of order that the report does not indicate proposed changes in law is properly raised when the motion is made to resolve into the Committee of the Whole.

Under a decision of the Chair sustaining a point of order that a report failed to indicate proposed amendments of statutory law, the bill reported was automatically recommitted to the committee reporting it.

On June 12, 1930,[3] the House agreed to a resolution making in order a motion to resolve into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 12549) to amend the copyright law and permit the United States to enter the International Copyright Union.

Under this authorization, Mr. Albert H. Vestal, of Indiana, moved to go into the Committee of the Whole for the purpose of considering the bill, when Mr. Jeff Busby, of Mississippi, made the point of order that the report on the bill failed to comply with the provisions of clause 2a of Rule XIII in that it did not indicate changes proposed in existing law.

After debate, the Speaker pro tempore[4] ruled:

Section 64 of the bill provides:

"The provisions of this act apply to existing copyrights save as expressly indicated by this act. All other acts or parts of acts relating to copyrights are hereby repealed, as well as all other laws or parts of laws in conflict with the provisions of this act."

The gentleman from Indiana well argues that it would be a task of considerable magnitude to do what is proposed here, and yet that seems to be the purpose of the rule that the Member making the report of the committee shall do the work of investigation and submit to the House the information as to what statutes are to be repealed.

On March 17, 1930, a point of order was made against a bill in very much the same situation as this bill, that it did not conform to section 2a of Rule XIII. In that case the Speaker

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[1] First session Seventy-third Congress, Record, p. 198.

[2] Henry T. Rainey, of Illinois, Speaker.

[3] Second session Seventy-first Congress, Journal; p. 15, Record, p. 10595.

[4] John Q. Tilson, of Connecticut, Speaker pro tempore.

pro tempore, who happened to be the gentleman from New York, Mr. Snell, Chairman of the Rule Committee, that reports this rule, sustained the point of order. It seems clear to the Chair that the ruling then made was correct and that no other ruling can be made here than to sustain the point of order and send the bill back to the committee for a report in accordance with the rule. The Chair therefore sustains the point of order.

2246. When a point of order is raised that a report is in violation of the rule providing for the quotation of statutes sought to be amended, and requiring indication of proposed changes in existing law. It is incumbent on the proponent to cite the specific statute which will be amended by the pending bill.

Objection being made that a report failed to comply with the rule requiring indication of proposed changes in existing law, the Chair, in the absence of any citation to statutes which would be amended by the pending bill, overruled the point of order.

On Wednesday, June 18, 1930,[1] under the Calendar Wednesday rule, Mr. Fred A. Britten, of Illinois, by direction of the Committee on Naval Affairs, called up the bill (H. R. 10380) adjusting salaries of the Naval Academy band.

Mr. William H. Stafford, of Wisconsin, objected that the report failed to include the statues proposed for amendment.

In the absence of citation to specific statues which would be amended or repealed by the pending bill, the speaker pro tempo[2] overruled the point of order and said:

The Chair does not find in this bill a repeal or amendment of any statute whatever. Therefore the Chair repeals that the Ramseyer ruled does not apply in this case.

2247. Failure of a committee report to comply with the rule requiring indication of statutory amendments by typographical device may be remedied by supplemental report.

On February 16, 1931,[3] when the bill (H. R. 14560) to amend the organic act of Port Rico, was reached in the call of the Consent Calendar, Mr. Thomas L. Blanton, of Texas, made the point of order that the report on the bill failed to indicate the proposed changes in the act.

In rebuttal of the point of order it was explained that a supplemental report had been filed by the committee setting forth the proposed changes in the statute.

On that ground the Speaker[4] overruled the point of order.

2248. Supplement reports may be filed only by consent of the House.

On March 27, 1928,[5] Mr. Theodore E. Burton, of Ohio, by direction of the Committee on Foreign Affairs, presented for filing a supplemental report on the bill (H. R. 10167) to authorize the President to accept the invitation of the Cuba Government to appoint delegates to the Second International Emigration and Immigration Conference to be held at Habana commencing March 13, 1928.

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[1] Second session Seventy-first Congress, Record, p. 11105.

[2] John Q. Tilson, of Connecticut, Speaker pro tempore.

[3] Third session Seventy-first Congress, Record, p. 5049.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] First session Seventieth Congress, Record, p. 5446.

The Speaker [1] found no provision in the rules authorizing the proceedings and submitted the matter to the House in the form of a request for unanimous consent.

2249. A bill having been recommitted for failure to comply with the rule requiring indication of proposed changes in existing law, further proceedings are de novo and the bill must again be considered and reported by the committee as if no previous report had been made.

Committee reports are admissible only when authorized by a majority vote taken at a formal meeting of the committee with a quorum present.

On June 25, 1930,[2] it being Calendar Wednesday, Mr. Fred A. Britten, of Illinois, proposed to call up for the Committee on Naval Affairs the bill (H. R. 1190) to regulate the promotion of commissioned officers of the line of the Navy.

Mr. Ross A. Collins, of Mississippi, objected on the ground that the report had not been authorized at an actual meeting of the Committee on Naval Affairs with a quorum present.

Mr. Britten explained that on the previous Wednesday the bill when called up had been recommitted for the reason that it failed to comply with the rules requiring reports to show proposed changes in existing law, and contended that after such recommitment further authorization by the committee was not necessary, and it was sufficient that the report had been revised to conform to the requirements of the rule.

The Speaker,[3] however, sustained the point of order and said:

Even though the committee was regularly and properly called, or met on one of the regular meeting days, the question would then arise as to whether the committee, a quorum being present, by a majority vote authorized the report on the bill. That is the question.

In the opinion of the Chair, the bill having been recommitted to the committee, the same formalities are required on a new report as on the first report.

The new report must be authorized by the committee in the same manner as the original report. The bill was recommitted, and the committee must conform to the same formality as in the case of the first report.

2250. Reports of committees failing to conform to the requirements of clause 2a of Rule XIII are automatically recommitted by a ruling of the Speaker that they do not comply with the provisions of the rule.

On March 17, 1930,[4] during a call of the Consent Calendar, the bill (H. R. 7585) providing for Federal aid in the construction of rural post roads was reached.

The Clerk having read the title of the bill, Mr. Fiorello H. LaGuardia, of New York, made the point of order that the bill had not been properly reported in that it failed to comply with the requirements of the rule providing for a comparative print showing omissions and insertions of the existing law which it proposed to amend.

The Speaker pro tempore [5] sustained the point of order and said:

The Chair is of the opinion that the report does not carry out the provisions of the Ramseyer rule. Therefore, the point of order is sustained, and the bill will be recommitted to the Committee

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-first Congress, Record, p. 11705.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Seventy-first Congress, Journal, p. 804; Record, p. 5457.

[5] Bertrand H. Snell, of New York, Speaker pro tempore.

on Public Lands in order that the committee may make a report in conformity with the Ramseyer rule.

2251. The Committees on Rules, Elections, Ways and Means, Appropriations, Rivers and Harbors, Public Lands, Territories, Enrolled Bills, Invalid Pensions, Printing, and Accounts may report at any time on certain matters.

Revenue and general appropriation bills, river and harbor bills, certain bills relating to the public lands, for the admission of new States, and general pension bills may be reported at any time.

The privilege of the Committee on Printing is confined to printing for the two Houses, and of the Committee on Accounts to expenditures from the contingent fund.

Form and history of the first paragraph of section 56 of Rule XI.

The first paragraph of section 56 of Rule XI provides:

> The following-named committees shall have leave to report at any time on the matters herein stated, viz: The Committee on Rules, on rules, joint rules, and order of business; the Committee on Elections, on the right of a Member to his seat; the Committee on Ways and Means, on bills raising revenue; the committees having jurisdiction of appropriations, the general appropriation bills; the Committee on Rivers and Harbors, bills for the improvement of rivers and harbors; the Committee on the Public Lands, bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers; the Committee on the Territories, bills for the admission of new States; the Committee on Enrolled Bills, enrolled bills; the Committee on Invalid Pensions, general pension bills; the Committee on Printing, on all matters referred to them of printing for the use of the House or two Houses; and the Committee on Accounts, on all matters of expenditure of the contingent fund of the House.

Two amendments in this rule were made necessary in 1920 [1] when jurisdiction of the general appropriation bills was concentrated in one committee. The Committee on Appropriations was given the right formerly exercised by the committees having jurisdiction of appropriations to report the general appropriation bills. And the right of the Committee on Rivers and Harbors to report bills for the improvement of rivers and harbors was transferred to bills authorizing such improvements. With these exceptions, this portion of the rule retains the form adopted in 1890.

2252. Leave having been given to file a report while the House is not in session a point of order that the bill so reported is not privileged is properly raised when the motion is made to go into Committee of the Whole for its consideration.

Leave to file a report or to file minority views while the House is not in session is granted by unanimous consent.

On December 4, 1929,[2] Mr. Willis C. Hawley, of Oregon, asked unanimous consent to file a report after the adjournment of the House for the day on the joint resolution (H. J. Res. 133) proposing a reduction of income taxes for the year 1929 payable in 1930. To this proposal Mr. C. William Ramseyer, of Iowa, coupled a

[1] Second session Sixty-sixth Congress, Record, p. 8121.

[2] Second session Seventy-first Congress, Record, p. 97.

request that permission also be given to file minority views on the bill after adjournment.

There being no objection to either request, Mr. Ramseyer asked when a point of order could be properly raised against the privilege of the bill, and in the debate which followed took the position that the constitutional privilege conferred on bills "raising" revenue did not extend to a bill reducing rates of taxation.

The Speaker [1] replied.

The Chair is inclined to think that if it is not a privileged matter, a point of order could be made at the time the gentleman from Oregon moves to go into the Committee of the Whole House on the state of the Union.

The Chair is inclined to think that a point of order would lie at that time, because the point of order then would be against the method of considering the resolution. If it can not be considered as a privileged resolution, it must be considered in another way.

2253. A report by the Committee on Rules on matters within its jurisdiction is in order at any time.

On January 26, 1920,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported as privileged the following:

Resolved, That during the further consideration of the bill (H.R. 11960) making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921, in Committee of the Whole House on the state of the Union it shall be in order to consider, without the intervention of a point of order, any section of the bill as reported; and, upon motion authorized by the Committee on Foreign Affairs, it shall be in order to insert in any part of the bill any provision reported as part of the bill and heretofore ruled out on a point of order.

Mr. Thomas L. Blanton, of Texas, objected:

After a bill has been submitted to the House, the House has resolved itself into Committee of the Whole House on the state of the Union for the purpose of considering that bill, general debate has been had on the bill, the bill has been read for amendment under the five-minute rule, various provisions of the bill have been adopted, and there are still remaining portions of the bill left for consideration, I make the point of order, Mr. Speaker, that it is not in order and not the province of the Rules Committee to come in at this stage of the legislation and make in order provisions of the bill which have gone out on points of order in Committee of the Whole, which is sought to be done in this case by the Rules Committee.

The Speaker [3] ruled:

The Chair thinks that the Committee on Rules has that privilege before the House acts on the bill. The point of order is overruled.

2254. The right of the Committee on Rules to report at any time is confined strictly to reports pertaining to the rules, joint rules, and order of business.

On February 24, 1908,[4] the Committee on Rules, through Mr. John Dalzell, of Pennsylvania, presented as privileged the following report:

Resolved, That the Immigration Commission be requested to make an investigation into the treatment and conditions of work of immigrants on the cotton plantations of the Mississippi Delta, in the State of Mississippi and Arkansas, and upon the turpentine farms, lumber camps, and railway camps in the States of Florida, Mississippi, Louisiana, and other Southern States; and to report thereon at as early a date as possible.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 2063.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixtieth Congress, Record, p. 2395.

Mr. James R. Mann, of Illinois, submitted that the report was not privileged and said:

Mr. Speaker, the Committee on Rules has no jurisdiction of these resolutions. The rules provide that there shall be referred to the Committee on Rules all proposed actions touching the rules, joint rules, and order of business. Anything else that is referred to the Committee on Rules is not properly referred to that committee, and is certainly not referred under the rules, and certainly can not be privileged matter. Here is a resolution to give to an outside commission, entirely foreign to the House—created by an act of Congress and not by the House—jurisdiction over matters that the House has nothing to do with. There might as well have come from the Committee on Rules a resolution directing the Secretary of War to make certain investigations or creating an outside commission or committee to make certain investigations. I take it that is not within the province of the Committee on Rules. The Committee on Rules has jurisdiction over the order of the business of the House. They can bring in a rule relating to the order of business of the House, but they have no jurisdiction to report upon the actual business of the House. They can not report an appropriation bill; they can not report upon any bills that come before the House except as to the order of business. Now, here is a proposition reported from the Committee on Rules to confer jurisdiction, not upon a regular committee of the House, nor upon a select committee, but upon an outside committee entirely, with which the House has nothing to do.

The Speaker [1] held:

Rule XI provides that—

"The following named committees shall have leave to report at any time on the matters herein stated:

"The Committee on Rules—on rules, joint rules, and order of business."

So the Chair is of the opinion that privileged reports from the Committee on Rules are reports on rules, joint rules, and order of business.

Now, undoubtedly, if this report had covered the creation of a special committee of the House, or had designated any committee of the House to perform this investigation, in the opinion of the Chair it would have been privileged; or, perchance, even if it had designated a joint committee of the two Houses. But the commission referred to is one created by law, and consists of three Members of the last House of the Fifty-ninth Congress, three Members of the Senate of the Fifty-ninth Congress, and three others, not Members of Congress, but appointed by the President. This is a continuing commission. It has passed beyond the jurisdiction of the House or the jurisdiction of the Senate as such.

The Chair is of the opinion, on examination, that the point of order taken by the gentleman from Illinois is well taken.

2255. The privilege of the Committee on Rules to report at any time is restricted to specified subjects, and reports on subjects other than the rules, joint rules, and order of business do not come within the privilege.

On August 15, 1912,[2] Mr. Robert L. Henry, of Texas, reported from the Committee on Rules as privileged:

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate be, and is hereby authorized to appoint a committee of five members of the Senate, to act in cooperation with a similar committee to be appointed by the Speaker of the House of Representatives, to inquire into the wisdom and ascertain the cost of acquiring Monticello, the home of Thomas Jefferson, as the property of the United States, that it may be preserved for all time in its entirety for the American people.

Mr. James R. Mann, of Illinois, in raising a question of order, argued:

Mr. Speaker, the Committee on Rules is privileged to make a privileged report on the rules of the House or joint rules or order of business. I do not think this is any one of the three.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-second Congress, Record, p. 11017.

The Speaker has held heretofore that unless the matter was privileged, although it might be referred to the committee and the committee might have authority to report it, it could not come in as a privileged matter. That ruling was made by the Speaker when the Committee on Rules reported a resolution introduced by the gentleman from Alabama, Mr. Underwood, concerning a good-roads commission. While the committee had the authority to report the resolution, because it had been referred to them, they had no authority to bring it up as a privileged matter. Any resolution which is referred to the Committee on Rules is a resolution on which the committee has the right to report, but the Committee on Rules has the right to report at any time only those matters which relate to the order of business or the rules.

Mr. Speaker, it is quite true that the Committee on Rules may report a rule for the consideration of any bill pending in the House. As far as that matter goes, they can report a resolution to consider a bill that was never introduced; they can report a rule for the consideration of anything, but all they can do is to report the rule. It has no vitality until the House has passed upon it.

Now, the Committee on Rules could have reported a rule to consider the Underwood resolution for the appointment of a good-roads commission. I have wondered on numerous occasions why they did not report such a rule, but they have not, although they reported the resolution as privileged, and the Speaker held that it was not privileged, and it went on the calendar, where it remains until the Rules Committee is reached on Calendar Wednesday or until they get it up in some other manner. This is in the same category.

Mr. Speaker, will the chair allow me to refer to a precedent before he rules? In the preceding Congress the gentleman from Pennsylvania, Mr. Dalzell, then a member of the committee on Rules, reported to the House a resolution, and the then Speaker of the House, my colleague, the gentleman from Illinois, Mr. Cannon, was on the Committee on rules and helped to order that resolution reported. The gentleman from Pennsylvania made the report, and I made the point of order that the report was not privileged; that while the committee could make the report, they could not call it up except as any other bill was called up.

The gentleman from Pennsylvania read to Speaker Cannon the same rule which the gentleman from Texas has now read:

"It shall always be in order to call up from consideration a report from the Committee on Rules."

He read this, I remember, with considerable glee, just as the gentleman from Texas has read it with some glee, thinking that that settled the question. But the Speaker ruled, and not only the Speaker ruled, but he was advised by the best parliamentarian that has ever been near this Chamber, that the report of the Committee on Rules, in order to make it privileged, must be privileged report under the rules, and that it had no right to call up at any time a report from that committee except it be a privileged report.

Mr. Speaker,[1] ruled:

The Chair rules that the point of order of the gentleman from Illinois, Mr. Mann, is well taken, and will give the reason for the ruling. In subdivision 56 of Rule XI, on page 357 of the Manual and Digest, the matters which are privileged in reports of committees are set out:

"The following-named committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Rules is privileged to report rules, joint rules, and order of business."

That is all the Committee on Rules is privileged to report on at any time. The Chair will give an illustration. There are certain committees which have the right to report at any time on certain things. For instance, the Committee on Appropriations is privileged to report general appropriation bills, but it is not privileged to report a special appropriation bill, and, as a matter of fact, the chairman of that committee. Mr. Fitzgerald, has asked several times unanimous consent to consider bills from his committee, because he knew that they were not privileged, and so did the Chair.

The Committee on Ways and Means is privileged to report revenue bills, but every bill that it reports is not privileged. While the present occupant of the chair was a member of that

[1] Champ Clark, of Missouri, Speaker.

committee the committee must have reported 50 bills into the House which were not privileged, such as making a port of entry out of some place or abolishing a port of entry, which latter, however, we never succeeded in doing. The course of procedure in cases of this sort is for these reports to go into the box. The gentleman from Texas, Mr. Henry, can do exactly what he said he can do. He can get this committee together and bring in a rule to pass this bill, and, as he said himself, it is nearly as broad as it is long; but, nevertheless and notwithstanding, the Chair must enforce the rules of the House.

2256. Reports form the Committee on Rules are privileged only when on matters touching to rules, joint rules, and order of business.

Authorization to appoint a clerk is a subject within the jurisdiction of the Committee on Accounts and not the Committee on Rules, and its inclusion by the latter committee in a resolution providing for an order of business renders the resolution ineligible for report under the rule giving that committee the right to report at any time.

On January 11, 1918,[1] Mr. Edward W. Pou, of North Carolina, by direction of the Committee on Rules, reported the following resolution as privileged:

Resolved, That the Speaker of the House be, and he is hereby, authorized and directed to appoint a special committee of 18 members to whom all bills and resolutions hereafter introduced during the Sixty-fifth Congress pertaining to the development or utilization of water power shall be referred (notwithstanding any general rule of the House to the contrary), except, however, bills and resolutions of which the Committee on Foreign Affairs has jurisdiction under the general rules of the House.

Resolved further, That the Committee on Interstate and Foreign Commerce be, and it is hereby, discharged from further consideration of H.R. 3808, H.R. 7695, H.R. 8005, and S. 1419, and said bills are hereby referred to the special committee herein provided for; that the Committee on Public Lands is discharged from further consideration of H. R. 7227, and the same is hereby referred to the special committee aforesaid; that the chairman of said special committee be, and he is hereby, empowered to appoint a clerk subject to its approval.

Mr. Rollin B. Sanford, of New York, made the point of order that the provision for appointment of a clerk was a subject within the jurisdiction of the Committee on Accounts and destroyed the privilege of the resolution.

Mr. Speaker,[2] sustained the point of order.

2257. The right of the Committee on Rules to report at any time is limited to reports on subjects within its jurisdiction and the incorporation of extraneous matter destroys the privilege.

On May 3, 1933,[3] Mr. Howard W. Smith, of Virginia, by direction of the Committee on Rules, called up the resolution (H. Res. 110) providing in part as follows:

Resolved, That, when in its judgment such investigations are justified,the Judiciary Committee of the House of Representatives be, and it is hereby, authorized to inquire into and investigate the matter of appointments, conduct, proceedings, and acts of receivers, trustees, referees in bankruptcy, and receivers in equity causes for the conservation of assets within the jurisdiction of the United States district courts.

Sec. 5 The said committee, or any subcommittee thereof, is authorized to sit and act at such times and places within the United States, whether or not the House is sitting, has recessed.

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[1] Second session Sixty-fifth Congress, Record, P. 833.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Seventy-third Congress, Record, p. 3498.

or has adjourned, to hold such hearings, to employ suitable counsel, assistants, and investigators in aid of its investigation, as well as such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpoena or otherwise, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems necessary; and all such expenses thereof shall be paid on vouches ordered by said committee and approved by the chairman thereof. Subpoenas shall be issued under the signature of the chairman of the Judiciary Committee or of the chairman of any subcommittee and shall be served by any person designated by any of them. The chairman of the committee or any member thereof may administer oaths to witnesses.

Mr. Thomas L. Blanton, of Texas, made the point of order that the resolution was not privileged for the reason that it authorized the committee to sit elsewhere than in Washington, to employ legal and clerical assistants, and to have printing done, all of which involved expenditures and were foreign to the jurisdiction of the Committee on Rules.

Mr. John J. O'Connor, of New York, in opposing the point of order, took the position that the committee had been exceeded its jurisdiction, since specific amounts were not appropriated by the resolution and further action by the House on reports from the Committee on Accounts or the Committee on Appropriations would be required in order to effectuate these provisions.

After further debate, the Speaker [1] sustained the point of order and said:

The Chair thinks that the provision incorporated in section 5 of the resolution authorizing the committee to employ suitable counsel, assistants, and investigators in the aid of its investigation, and also the provision authorizing all necessary expenses of the investigation to be paid on vouchers approved by the chairman of the committee, is a matter properly within the jurisdiction of the Committee on Accounts. It has been held that where the Committee on Rules reports a resolution of this kind and there is incorporated therein matter which is within the jurisdiction of another committee the matter so included destroys the privilege of the resolution in so far as it prevents consideration at any time by the mere calling up of the report by the Committee on Rules. For this reason the Chair thinks that the point of order is well taken.

2258. A resolution authorizing the offering of an amendment otherwise not in order during consideration of a bill pending in Committee of the Whole was held to be privileged when reported by the Committee on Rules.

On April 28, 1924,[2] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, reported this resolution:

Resolved, That when the House proceeds in Committee of the Whole to the further consideration of H. R. 7962, entitled, "A bill to create and establish a commission as an independent establishment of the Federal Government to regulate rents of the District of Columbia," it shall be in order at any time to offer the following as a substitute for the text of the bill:

"Strike out all after the enacting clause and insert in lieu thereof the following:

"'That it is hereby declared that the emergency described in Title II of the food control and District rents act still exists and continues in the District of Columbia, and that the present housing and rental conditions therein require the further extension of the provisions of much title.

"SEC. 2. That Title II of the food control and the District of Columbia rents act, as amended, is reenacted, extended, and continued, as hereinafter amended, until the 22d day of May, 1926. Notwithstanding the provisions of section 2 of the act entitled "An act of extend for the period of two years the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, as amended," approved May 22, 1922.

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[1] Henry T. Rainey, of Illinois, Speaker.

[2] First session Sixty-eighth Congress Record, p. 7373.

"'SEC. 3. That subdivision (a) of section 102 of the food control and the District of Columbia rents act, as amended by section 4 of such act of May 22, 1922, is hereby amended by striking out the figures "1924" in said subdivision and inserting in lieu thereof the figures "1926",'"

Upon the offering of the substitute there shall be not to exceed two hours general debate one-half to be controlled by those favoring the substitute and one-half by those opposing.

At the conclusion of the general debate the substitute shall be considered under the five-minute rule and during that consideration it shall be in order to offer an amendment to the substitute providing for the reduction of the number of commissioners provided for in said bill.

At the hour of 4 o'clock, if the consideration of the substitute shall not have been sooner completed, the committee shall vote upon the substitute as amended, if any amendments have been adopted, and immediately upon the conclusion of that vote the committee shall automatically rise and report the bill and any amendments, or the substitute and any amendments, to the House; and the previous question shall be considered as ordered on the bill and amendments for final passage.

Mr. J. N. Tincher, of Kansas, made the point of order that the resolution was not privileged, and Mr. Thomas L. Blanton, in support of the point of order, said:

Mr. Speaker, I have spent quite a lot of time looking up this question. The rules prescribe the jurisdiction of every committee of this House. They give to the District of Columbia Committee jurisdiction over all matters affecting the District of Columbia and prescribe the limitations and jurisdiction of the Rules Committee. The Chair will note that section 56 of Rule XI prescribes that the only jurisdiction which the Committee on Rules has is on rules, joint rules, and procedures; in other words, it fixes the procedure of the House.

This is the point: Part of this resolution is privileged in that it fixes the order of procedures of the House. The first seven or eight lines of the resolution as privileged, and the latter part of the resolution is privileged under the rules because it fixes procedures, but the past of the resolution which sets up three different sections as a proposed substitute is legislative matter and is not privileged because the Committee on Rules has no authority under its jurisdiction, under the rules, to propose to the House legislation. The Committee on Rules attempts to make in order a three-selection bill of its own prescribing as a substitute for the Lampert measure. It has no right to make in order legislation of this nature.

Applying this present rule, here is the Lampert measure of 35 pages which has been considered by the Committee on the District of Columbia, and the Committee on Rules attempts by this resolution not only to prescribe procedure for the Lampert bill, which it has the right to do, but it does not stop there. It attempts to provide a substitute for the Lampert bill, an entirely new piece of legislation, and legislation that is foreign to the provisions of the Lampert bill, and clearly that is legislation. It is legislation that properly belong to another committee. It goes beyond the jurisdiction that the House has conferred upon the Committee on Rules. Mr. Speaker, if we were to permit the Committee on Rules to offer this as a substitute for the Lampert bill, it could come in and offer a substitute for every bill that comes from every committee on this House. It would destroy the integrity and the stability of the jurisdiction of every committee of this House, and I submit that this Committee on Rules should be held within its jurisdiction and not be permitted to report as privileged of its own to this House.

The Speaker [1] ruled:

It seems to the Chair that this is one of the functions which the Rules Committee is constituted to exercise. It is preparing the way for the House to express its will on the pending bill. The Rules Committee very often makes provisions in order which otherwise would not be in order, it sends bills to conference, and provides for legislation, and the Chair overrules that point of order.

2259. A special rule providing for the consideration of a bill is not invalidated by the fact that at the time the rule was reported the bill was not on the calendar.

[1] Frederick H. Gilbert, of Massachusetts, Speaker.

The privilege conferred on a bill by a special rule making in order a motion to resolve into the Committee of the Whole for its consideration is equivalent to that enjoyed by revenue and appropriation bills under clause 9 of Rule XVI.

On June 28, 1930,[1] Mr. Fred S. Purnell, of Indiana, by direction of the Committee on Rules, called up the resolution (H. Res. 264), reported on June 20, 1930, making it in order to move to resolve into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 12549), reported on June 24, 1930, to amend and consolidate the copyright laws.

Mr. Carl R. Chindblom, of Illinois, objected that the resolution was not in order for the reason that it provided for the consideration of a bill which had not been reported and was not on the calendar at the time the resolution was reported to the House, and said:

> The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

The Speaker[2] overruled the point of order and held:

> As the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:
>
> "At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills."
>
> Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

2260. A report from the Committee on Rules has a special and high privilege, and one motion to adjourn, but no other dilatory motion may be entertained during its consideration.

Unless agreed to by a two-thirds vote, a report from the Committee on Rules shall not be called up on the same day on which presented except on the last three days of the session.

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[1] Second session Seventy-first Congress, Record, p. 11995.

[2] Nicholas Longworth, of Ohio, Speaker.

No resolution shall be reported by the Committee on Rules to set aside Calendar Wednesday by a vote of less than two-thirds of the Members voting.

The Committee on Rules shall report no provision excluding the motion to recommit after the previous question has been ordered on the passage of a bill or joint resolution.

Form and history of the second paragraph of section 56 of Rule XI.

The second paragraph of section 45 of Rule XI provides:

It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.

That portion of the paragraph relating to reports from the Committee on Rules and dilatory motions during the consideration thereof dates from February 4, 1892.[1]

The limitations prohibiting the committee from reporting provisions dispensing with Calendar Wednesday and the motion to recommit after the ordering of the previous question were added March 15, 1909,[2] as a result of the parliamentary revolution of that session.

The parenthetical exception requiring reports from the committee to lie over for a day unless agreed to by a two-thirds vote was adopted January 18, 1924.[3]

2261. Consideration of a report from the Committee on Rules on the day on which reported is not in order until the House has by a two-thirds vote authorized consideration.

On July 15, 1932,[4] Mr. John J. O'Connor, of New York, from the Committee on Rules, by direction of that committee, presented as privileged the following resolution:

Resolved, That all Members of the House shall have leave to extend their own remarks in the Congressional Record until the last issue of the Record of the present session.

Mr. Carl E. Mapes, of Michigan, raised the question of order that the resolution could not be considered except by unanimous consent or by a two-thirds vote of the House, until it had been on the calendar one day.

The Speaker[5] said:

The Chair thinks he could recognize any member of the Committee on Rules to call up any resolution reported by that committee; and if two-thirds of the Members voted for its consideration, it would become the order of the House.

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[1] First session Fifty-second Congress, Record, pp. 734, 862.

[2] First session Sixty-first Congress, Record, p. 22.

[3] First session Sixty-eighth Congress, Record, p. 1143.

[4] First session Seventy-second Congress, Record, p. 15468.

[5] John N. Garner, of Texas, Speaker.

Mr. Mapes submitted:

The rule provides that it shall not be called up unless two-thirds of the House determine that it shall be. Now, my point is that the Speaker himself is determining that it shall be called up when he puts the question before the House and that the House and that the House ought to determine in advance whether it is to be called up or not.

The Speaker agreed:

The Chair is on the same opinion. The question is, Shall the House consider this resolution?

2262. The Committee on Rules may report orders of procedure subject to two limitations only: it may not provide for abrogation of the Calendar Wednesday rule except by two-thirds vote or for denial of the motion to recommit while the previous question is pending on final passage.

While a question as to jurisdiction of a committee over a public bill is not in order after the bill is under consideration in the Committee of the Whole the question as to the right of a committee to report a private bill may be raised at any time prior to passage.

On January 8, 1991,[1] Mr. Edward C. Little, of Kansas, made a point of order against the following resolution reported by Edward W. Pou, of North Carolina, from the Committee on Rules:

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 13274; that the amendment reported by the Committee shall be read and considered in lieu of the original bill; that there shall be not exceeding three hours of general debate, to be equally divided between those supporting and those opposing the bill, which debate shall be confined to said bill, at the end of which time the bill shall be read for amendment under the five-minute rule, and at the conclusion of such reading the committee shall rise and report the bill to the House, together with the amendments, if any, whereupon the previous question shall be considered as ordered upon the bill and all amendments thereto to final passage without intervening motion except one motion to recommit.

After debate the Speaker pro tempore[2] ruled:

The immediate matter before the House is House resolution 487, presented by the gentleman from North Carolina, Mr. Pou, as a report from the Committee on Rules. That resolution provides for the consideration of H. R. 13274. The gentleman from Kansas, Mr. Little, makes the point of order that the bill, when originally introduced, was improperly referred, and further that because of the improper reference the Committee on Rules has no authority to bring in a resolution for the consideration.

Upon the question whether it was improperly referred the Chair does not feel that it is now necessary to pass. That point would involve the question of whether it is a public bill or a private bill. The Chair has a very clearly defined idea about the character of the bill, but so far as the immediate question before the Chair is concerned, it seems that the question is whether the Committee on Rules has the authority to report the resolution that has been presented by the gentleman from North Carolina.

Paragraph 47 of the Rule XI, touching the question of reference of resolutions, provides as follows:

"All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules."

Then, paragraph 56 of Rule XI provides:

"It shall always be in order to call up for consideration a report from the Committee on Rules, and pending the consideration thereof the Speaker may entertain one motion that the

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[1] Third session Sixty-fifth Congress, Record, p. 1135.

[2] Finis J. Garrett, of Tennessee, Speaker pro tempore.

House adjourn; but after the result is announced, he shall not entertain any other dilatory motion until the said report shall have been fully disposed of."

The Committee on rules is not a legislative committee. It is merely a procedure committee. This bill did not go to the Committee on Rules. That which the Committee on Rules has reported is a mere resolution providing for procedure. The only limitation laid upon the Committee on Rules by the general rules of the House is that which I now read:

"The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present"—

That refers to the Calendar Wednesday rule—"nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI."

Those two propositions are the only limitations placed by the general rules of the House upon the Committee on Rules in reporting orders of procedure. The Committee on Rules can report a resolution discharging any committee of the House from further consideration of any bill that has been referred to it, and providing that the bill shall be placed upon its passage. It always rests with the House whether it will adopt the rule reported by the Committee on Rules. The limitations upon the power of the Committee on Rules to report are the two that the Chair just read.

This is a resolution of procedure. The Chair overrules the point of order.

The resolution being agreed to and the House having resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, Mr. Little raised the question of order that the bill was a private bill and not within the jurisdiction of the Committee on Military Affairs, which reported it, but should have been referred to the Committee on Claims.

The Chairman [1] held:

The Chair will state to the gentleman from Kansas that he was in the Hall when the gentleman made his point of order, while the Speaker pro tempore was presiding, and the present occupant of the Chair listened to the argument of the gentleman from Kansas. In the opinion of the Chair the gentleman from Tennessee, Mr. Garrett, the Speaker pro tempore, correctly ruled upon the point of order, which I think is binding on the present occupant of the Chair as chairman of the Committee of the Whole on the state of the Union. The Committee on Rules brought in a rule providing for the consideration of this bill by number. Under the rules of the House, the Committee on Rules can bring in a special order changing and abrogating any rule of the House, with only two limitations, relative to Calendar Wednesday and a motion to recommit. It is in order for the Committee on Rules to bring in a rule providing that a bill that had never been before any committee at all, whether public or private, should be considered, and if the House adopts the special order it changes or abrogates any rules of the House conflicting with the special order.

The Committee on Rules is not a legislative committee. The Committee on Rules is not now considering any legislation. The Committee on Rules can bring in a special order for the consideration of legislation and could provide that any Member of the House or any committee could offer a resolution or a bill for immediate consideration that had never been before any committee at all. In the opinion of the Chair, the House having adopted this special order providing that this bill should be considered, and determining how it should be considered, it is not proper for the occupant of the Chair, as committee chairman to rule that the bill is not properly before the Committee of the Whole for consideration. The Committee of the Whole is simply a creature of the House. The House has provided that this bill shall be considered. In the opinion of the Chair, the bill before the House is a public bill, and it is too late to raise a question of jurisdiction. The question of estoppel would apply. If the bill—a public one—had been improperly referred, any time before it was reported to the House by the committee a motion would have been in order

[1] Charles R. Crisp, of Georgia, Chairman.

to correct the reference. Not having been made, it is now too late to make it. Therefore the Chair overrules the point of order.

2263. The Committee on Rules may not report a resolution which shall operate to prevent consideration of the motion to recommit after the previous question has been ordered on the passage of a bill.

Provision that "the House shall immediately proceed to vote upon he bill without any intervening motion" was construed to prevent the offering of the motion to recommit and to be in violation of the second paragraph of section 56 of Rule XI.

On May 14, 1912,[1] the House was considering the resolution reported on a previous day[2] by Mr. Robert L. Henry, of Texas, and reading as follows:

Resolved, That immediately upon the adoption of this resolution the House shall proceed to consider H. R. 23635, a bill to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911. That there shall be three hours' general debate on said bill and one substitute to be offered, and considered as pending, by the gentleman from Illinois, Mr. Sterling, and at the expiration of such time the previous question shall be considered as ordered on the bill and said substitute to final passage, and the House shall immediately proceed to vote on the bill and substitute without any intervening motion.

Mr. James R. Mann, of Illinois, in insisting on a point of order previously reserved against the provision authorizing a vote on the passage of the bill without intervening motion, said:

Mr. Speaker, I make the point of order that the resolution reported by the gentleman from Texas is not a privileged resolution, that it is not in order, and that the Committee on Rules had no jurisdiction to report the resolution. The rule provides that—

"At the expiration of such time the previous question shall be ordered on the bill and said substitute to final passage, and the House shall immediately proceed to vote on the bill and substitute without any intervening motion."

Mr. Speaker, it became the practice in the Congresses prior to the Sixty-first Congress to adopt resolutions of this kind reported from the Committee on Rules. For instance, on November 16, 1903, the gentleman from Pennsylvania, Mr. Dalzell, reported a resolution for the consideration of the Cuban reciprocity bill, which conclude din this language:

"And whenever general debate is closed the committee shall rise and report the bill to the House, and immediately the House shall vote, without debate or intervening motion, on the engrossment and third reading and on the passage of the bill."

The question was raised at that time whether that shut out any intervening motion, and it was so ruled, although an appeal was taken and the appeal was overruled. Subsequently various other resolutions were asked from the Committee on Rules, which eliminated even the right of appeal.

Following that course, many Members of the House have come to believe that the right to offer a motion to recommit, which originally was designed to permit the gentleman in charge of the bill to move to recommit for the purpose of correcting an error in the bill—that the right to offer a motion to recommit had become a right of the minority, and there was incorporated in the rules of the Sixty-first Congress, and it is in the rules of this Congress, this provision, on page 359 of the Manual, referring to the Committee on Rules:

"The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7, Rule XXIV, shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent a motion to recommit being made, as provided in paragraph 4 of Rule XVI."

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[1] Second session Sixty-second Congress, Record, p. 6408.

[2] Record, p. 6373.

Now, this rule endeavors to cut out the motion to recommit, because it expressly provides that the House shall immediately proceed to vote on the bill and substitute without any intervening motion; while the rule provides that the committee on Rules is not authorized to report any rule which shall operate to prevent a motion to recommit being made.

The right to offer the motion to recommit is preserved by the rules, and preserved in such a manner that the Committee on Rules can not report a rule which shuts it out. Doubtless they could report a rule which would amend the rule providing for a motion to recommit, or the Committee on Rules could report a rule eliminating the rule to recommit, but they can not report a rule which violates the rule providing for the motion to recommit.

The Speaker [1] held:

You can report any rule which you see fit to put upon the books, but as along as that section stands there the Committee on Rules is precluded from bringing in such a resolution as this one. If you bring in a resolution amending the rules, that is a proposition which, of course, the Chair would entertain; but you are not bringing in a resolution to amend the rules, you are bringing in a resolution which violates a rule of the House.

Subseuqently Mr. Henry was permitted, by unanimous consent, to amend the resolution by adding after the last word:

Except a motion to recommit.

Whereupon the Speaker announced:

If the House will permit, it seems to the Chair that it will save trouble in the future if the Chair will now give his own construction of this rule under which the gentleman made his point of order. The question is liable to come up again at any time. The last clause of paragraph 56 of Rule XI provides:

"Nor shall it"—

That is, the Committee on Rules—"report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI."

Jefferson's manual opens with the paragraph:

"Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, 'It was a maxim he had often heard when he was a young man, form old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power."

The Chair does not think the essence of the proposition was ever better stated than it is in those words. Rules are made primarily to fix an order of business and to preserve and maintain decorum. But they are also fixed in order that the minority and the individual member shall have all the rights that are permissible in a legislative body.

It is not necessary to go into the history of how this particular rule came to be adopted, but that it was intended that the right to make the motion to recommit should be preserved inviolate the Chair has no doubt whatever. if this arrangement as to amending the resolution had not been made, the Chair would have sustained the point of order of the gentleman from Illinois, Mr. Mann.

2264. The Committee on Rules may not report any order of business under which it shall not be in order to offer the motion to recommit after the previous question is ordered on the passage of the bill.

A resolution reported by the Committee on Rules authorizing the Speaker to appoint conferees "without intervening motion" was held to

[1] Champ Clark, of Missouri, Speaker.

be in conflict with the limitation placed upon the Committee on Rules in section 56 of Rule XI.

On April 24, 1916,[1] Mr. Finis J. Garrett, of Tennessee, from the Committee on Rules, presented as privileged the following:

Resolved, that upon the adoption of this resolution the Committee on Military Affairs be, and hereby is, discharged from the consideration of H. R. 12766, a bill to increase the efficiency of the Military Establishment of the United States, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill; and the Speaker shall immediately appoint the managers on the part of the House, without intervening motion.

Mr. James R. Mann, of Illinois, having raised a question of order, Mr. Irvine L. Lenroot, of Wisconsin, differentiated between the pending point of order and one under discussion on October 9, 1913:

I would like to offer for the Chair's consideration the note in the Manual upon that ruling, giving the understanding of the compiler of the Manual of the Chair's decision. I read from the note under section 725:

"Ruled by Speaker Clark (Oct. 9, 1913, 1st sess. 63d Cong., p. 5522) that a special rule providing that a House bill with Senate amendments shall be taken from Speaker's table, Senate amendments disagreed to, conference agreed to, and that Speaker shall without intervening motion appoint conferees, is not in violation of clause 56 of Rule XI, since the motion to recommit may be made on the conference report."

That was true in respect to the question that was then before the House, but it is not true with reference to this case. Because in the case that was before the House then, the Senate had asked for a conference, and the Senate would act upon the conference report last. Therefore both sets of conferees would be in existence at the time the motion to recommit would be made. In this case the House asks for the conference, and the Senate will act first, agreeing to the conference report; the Senate conferees will be discharged, and therefore a motion to recommit would not be in order, because there would be no Senate conferees to recommit to.

After extended debate the Speaker[2] ruled:

The matter in controversy is the following resolution:

"*Resolved,* That upon the adoption of this resolution the Committee on Military Affairs be, and hereby is, discharged from the consideration of H. R. 12766, a bill to increase the efficiency of the Military Establishment of the United States, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill; and the Speaker shall immediately appoint the managers on the part of the House, without intervening motion."

As the Chair understands it, no one is objecting to any part of this rule except the last three words, "without intervening motion." By reason of those three words the gentleman from Illinois, Mr. Mann, makes the point of order against the rule. Subdivision 4 of Rule XVI provides:

"When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a certain day, to refer, or to amend or postpone indefinitely; * * *

"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 for such purpose to a Member who is opposed to the bill or resolution."

The gentleman from Illinois claims that the proposed rule deprives Members from the right to move to recommit. He bottoms his contention on rule XI, section 725, of the Manual, which is as follows:

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[1] First session Sixty-fourth Congress, Record, p. 6761.

[2] Champ Clark, of Missouri, Speaker.

"It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present"—

That refers to Calendar Wednesday—

"nor shall it report any rule order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI."

On the 4th of March, 1911, Mr. Speaker Cannon, in ruling on a point of order raised by Mr. Dalzell to a motion of Mr. Fitzgerald to commit the Senate amendments to the bill to create a tariff commission to the Committee on Ways and Means, said:

"The Chair has ruled out, and in the opinion of the Chair properly so, all dilatory motions, as was his duty under the rules of the House. There are certain motions, there are certain demands, that can not be held as dilatory. One is a demand for the yeas and nays. The rules of the House govern the House, and the Chair finds a precedent in this case exactly in point, which the Chair believes to be sound in principle. The chair reads from page 287, volume 5, of Hinds, Precedents:

"'The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to commit is in order. On November 1, 1893, the House was considering the Senate amendments to the bill (H. R. 1) to repeal a part of the act of July 14, 1890, relating to the purchase of silver bullion.

"'Mr. Leonidas F. Livingston, of Georgia, submitted the question of order whether, after the previous question should have been ordered on the motion to concur in a Senate amendment, it would be in order to commit the bill and amendment to a committee with instructions.

"'The Speaker expressed the opinion that the motion to commit would in such case be in order.'

"That is the ruling by Mr. Speaker Crisp, and the Chair, therefore, overrules the point of order made by the gentleman from Pennsylvania to the motion to commit the Senate amendments to the Committee on Ways and Means."

The gentleman from Illinois, Mr. Mann, and the gentleman from Wisconsin, Mr. Lenroot, and others contend that this rule, if adopted, cuts out the right of any gentleman to move to recommit the Senate amendment. That is one branch of this discussion. That seems to have been settled by these two decisions.

Jefferson's Manual provides:

"And in all cases of conference asked after a vote of disagreement, etc., the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case where they refused to receive them they were left on the table in the conference chamber."

The present occupant of the chair has passed substantially on both of those questions. When the first Underwood tariff bill was in process of passage the Senate conferees were entitled to the papers, which would enable them to pass on the conference report first, but Mr. Underwood came in here with the papers in his hand and the gentleman from Illinois, Mr. Mann, raised the point that we were not required, or had no right as far as that is concerned, to pass on the conference report first, because the Senate conferees were entitled to the papers. The Chair interrogated the gentleman from Alabama, Mr. Underwood, as to how he got possession of the papers. Of course, the Chair did not suspect he had used violence or had purloined them, but he wanted to know how he got them for the purpose of deciding, and the gentleman from Alabama stated that the Senate conferees threw the papers down on the table and intimated they did not care what was done with them. So under that set of circumstances the Chair ruled that the House would pass on the conference report first. That has been done on other occasions.

This very question came up here once before, October 9, 1913, but on a different presentation. In that case the House was entitled to pass on this question first and the Senate afterwards, and after a long wrangle the Chair overruled the point of order against the special rule, because the situation was different from what it is now and such that a motion to recommit could be made

The situation now, stated briefly, is as follows: If this rule is adopted the minority can not make a motion to recommit this Senate amendment, with or without instructions, and if the conference report is finally made up, then the Senate, under the practice, not the universal practice but the general practice, passes on it first, and usually when one body agrees to a conference report, or whatever it does to it, the conferees of that body are discharged automatically. In this case under the practice the Senate passes on the conference report first; that leave the House in a position where we can not make a motion to recommit the conference report because the Senate conferees have been discharged.

Usually these special rules provide that the Speaker shall do thus and so "without an intervening motion, except one motion to recommit."

The rule to recommit was one of the most troublesome that ever pestered the House.The gentleman from Illinois did not state it fully. It was used as a sort of legislative trick frequently. The chairman, or whoever had charge of the bill, simply moved to recommit, because only one motion to recommit is permissible—just like the motion to reconsider—and the Chair would recognize the gentleman is control of the bill, and he would make the pro forma motion to recommit and thereby cut the minority out of making a motion to recommit that had some substance in it. So, finally, after must tribulation the rule was changed so that it makes one motion to recommit in order, and makes it imperative on the Speaker to give first recognition to the minority, if the minority member qualifies. That does not necessarily mean a minority politically in the House. It means a minority as to that particular bill, and it may not be improper to refresh the mind of the House of the ruling this Speaker made in an earlier Congress about recommitment, and that was that he would recognize a Member of the minority who said he was opposed to the bill to make the motion to recommit, and he would recognize Members of the minority—minority Members of the committee having the bill in charge—seriatim, if they qualified; and if they did not qualify, any gentleman who would qualify would be recognized.

The provision of the rule requiring the Speaker to give preference to the minority in recognitions for motions to recommit was placed there after profound deliberation, and is of great importance for the purpose intended. The proposed rule deprives the minority of the privilege and right to move to recommit and is therefore, in the judgment of the Chair, obnoxious to subdivision 4, Rule XVI; also to that subdivision of Rule XI which says: "Nor shall it"—that is, the Committee on Rules—"report any rule which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI."

Now, taking all these things into consideration, the Chair sustains the point of order that the proposed rule is not in order.

2265. The limitation on the Committee on Rules in reporting orders of business operating to prevent the motion to recommit while the previous question is pending, applies to resolutions for the consideration of bills only and not to a resolution designating a day to be devoted to motions to suspend the rules.

On March 23, 1992,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported this resolution as privileged:

Resolved, That it shall be in order on Thursday, March 23, 1922, after the adoption of this resolution, to move to suspend the rules under the provisions of Rule XXVII of the House of Representatives: Provided, however, Instead of 20 minutes' debate being allowed to each side for and against the motion, there shall be two hours for such debate to each side.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution was in violation of the limitation placed upon the Committee on Rules in reporting orders operating to prevent the motion to recommit.

[1] Second session Sixty-seventh Congress, Record, p. 4350.

After debate, the Speaker [1] ruled:

The Chair thinks, as intimated by the gentleman from Tennessee, Mr. Garrett, and as quoted by the gentleman from Kansas, Mr. Campbell, that his decision is determined by the ruling made two years ago, that the Committee on Rules has the right to bring in a rule providing that on certain days suspensions shall be in order. This practice, as the gentleman from Kansas suggested, has not bee availed of much of late, but formerly it was a frequent practice. The Chair remembers one Congress when suspension was made in order for weeks, and he thinks for months, and where the vote need be only a majority instead of two-thirds. The Chair thinks that the provision in Rule XI, cited by the gentleman from Tennessee, applies to rules reported by the Committee on Rules for the consideration of bills and does not apply to a rule like this setting apart a day for suspensions, and the Chair over rules the point of order.

2266. A resolution reported by the Committee on Rules providing that a House bill with Senate amendments be taken from the Speaker's table, Senate amendments disagreed to, conference agreed to, and that Speaker "without intervening motion" appoint conferees, was held not to be in violation of the second paragraph of section 56 of Rule XI, since opportunity would be afforded to offer the motion to recommit on the conference report.

On October 9, 1913,[2] the House agreed to a resolution taking from the Speaker's table and sending to conference the urgent deficiency appropriation bill with Senate amendments, and providing that the Speaker should "without intervening motion appoint managers on the part of the House."

Mr. James R. Mann, of Illinois, raised the point of order that the Committee on Rules was without authority to report a resolution in violation of section 4 of Rule XVI and the resolution was therefore unprivileged, as it precluded the motion to recommit.

The Speaker [3] overruled the point of order on the ground that the special order did not prevent the motion to recommit, which could be made on the conference report when presented, and as to the previous question was not operating, the motion to recommit was not in order under section 1 of Rule XVII.

2267. While the Committee on Rules is forbidden to report special orders abrogating the Calendar Wednesday rule or excluding the motion to recommit after order of the previous question, a resolution making possible that ultimate result was on one occasion held in order.

On May 29, 1920,[4] a special order was reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules as follows:

Resolved, That it shall be in order for six legislative days, beginning May 29, 1920, for the Speaker to entertain motions of members of committees to suspend the rules under the provisions provided by the general rules of the House.

Mr. Finis J. Garrett, of Tennessee, made the point of order that unless passed by a two-thirds vote the resolution violated provisions of section 56 of Rule XI in that it set aside Calendar Wednesday and excluded the motion to recommit.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-third Congress, Record, p. 5522.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-sixth Congress, Record, p. 7923.

Mr. James R. Mann, of Illinois, said in support of the point of order:

Here is the rule:

"The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the members present."

Now, here is an order forbidding the Committee on Rules reporting any rule with permits other business on Calendar Wednesday than Calendar Wednesday business unless it is set aside by a two-thirds vote; but when the Speaker is given the right on Calendar Wednesday to recognize for suspension of the rules he may take up the entire time recognizing for suspension of the rules, although not a single motion is even seconded by the Members of the House, and may never get to a vote in the House on any motion. It gives the right to the Speaker to dispense with the proceedings on Calendar Wednesday by recognizing Members to move to suspend the rules, and absolutely abrogates the rule. Here is a rule of the House forbidding the Committee on Rules to report any rule which sets aside Calendar Wednesday without a two-thirds vote. Of course, if the Committee on Rules can do that in this way they can do it in some other way. The rule does not except Calendar Wednesday. I suppose the Committee on Rules might have reported a rule making in order suspension for six legislative days except Calendar Wednesday, but they have not so reported. They had better take it back to the committee on Rules and bring in a rule that is in consonance with the rule of the House.

Mr. Mann then made the further point of order that the Committee on Rules was not authorized to report the resolution for adoption by a two-thirds vote, and said:

I make the point of order that the Committee on Rules is not authorized to report this rule, regardless of the number of votes it may take to pass it. I read a moment ago to the Chair a rule, which the Chair was already familiar with, forbidding the Committee on Rules to report a rule which sets aside Calendar Wednesday. Now, this rule as reported makes the next six days, including to-day, suspension days.

That is what the rule does. It authorizes a motion to suspend the rules on next Wednesday. Now, the rule not only forbids the Committee on Rules to report such a rule—that is, Rule XI—but Rule XXIV provides, in reference to Calendar Wednesday, that on Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House, by a two-thirds vote on motion to dispense therewith, shall otherwise determine.

The Speaker recalls the long fight that there was in reference to inaugurating Calendar Wednesday, the right of the House to set aside one day of the week beyond the control of the Committee on Rules, when the committees of the House should have the right to call up bills reported from those committees, whether the Speaker or the Rules Committee wanted them to come up or not, unless the House by a two-thirds vote should set it aside. They provided twice in the rules that no other business should be in order, nothing else should be in order, except Calendar Wednesday business. And then in addition to that, fearing that that rule might be set aside by a report from the Committee on Rules, they expressly provided that the Committee on Rules could not report a rule setting aside the provisions in Rule XXIV about Calendar Wednesday. That is exactly what this rule does. It does not make a particle of difference whether the Speaker on Wednesday intends to recognize anybody to move the suspend the rules or not, this gives him the authority to do it. The Committee on Rules has no authority to report such a rule.

The Speaker [1] said:

The Chair naturally knew that this question would be raised and has been considering it and will not deny that it has caused him a good deal of perplexity. But the Chair has in his own mind come to a conclusion which is clear, though, of course, he may not make it so to others.

The Chair, in the first place, thinks that this rule making in order for six legislative days motions is suspend the rules does include Calendar Wednesday; that by ordinary construction it

[1] Frederick H. Gillett, of Massachusetts, Speaker.

means six consecutive days; and that the Chair would have the right to entertain a motion to suspend the rules on Calendar Wednesday. The clause which creates the trouble is that "the Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent the motion to recommit being made."

It seems to the Chair that the same argument applies to both. They stand together. It seems to the Chair that this clause means that the Committee on Rules shall not bring in a rule which is aimed strictly at overthrowing either of these privileged matters. But it does not mean that the committee shall not report any resolution which may have that ultimate result. The Committee on Rules, for instance, could bring in a report repealing all the rules of the House; that would dispense with Calendar Wednesday, but that would be in order. It could bring in a rule repealing a part of the rules, including the Calendar Wednesday rule, which would, of course, produce that effect. It seems to the Chair that the Committee on Rules is not permitted to do anything which directly dispenses with Calendar Wednesday or the motion to recommit, but it can bring in a general rule, like the present one, which indirectly produces that result as a minor part of its operation.

Of course, this resolution is brought in, as we all know, on the anticipation that the House will adjourn next Saturday. If a resolution to adjourn should be brought in by the Committee on Rules and passed by the two Houses, that makes the suspension in order for the next six days; that would dispose of Calendar Wednesday and the motion to recommit. Would anyone contend that on that account it was out of order? The Chair thinks that this motion is not so directly aimed at the rule which provides for Calendar Wednesday and the motion to recommit as to make it out of order.

The argument is made that this report from the Committee on Rules is not privileged. The subject matter seems to strictly within the language of the rule which gives the Committee on Rules jurisdiction over "rules, joint rules, and order of business," and the reports of that committee on the subjects over which they have jurisdiction are privileged under the general rule, and in addition there is a special section stating that "it shall always be in order to call up for consideration a report from the Committee on Rules."

The Chair overrules the point of order.

2268. Reports from the Committee on Rules shall be presented within three legislation days and if not immediately considered shall be referred to the calendar and if not called up by the Member reporting them within seven legislative days may be called up by any member of the committee.

Adverse reports may be called up by any Member of the House on discharge days.

Form and history of the last paragraph of section 45 of Rule XI.

The last paragraph of section 45 of Rule XI provides:

The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules shall make an adverse report on any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House any such adverse report, and it shall be in order to move the adoption of the House of said resolution adversely reported not-withstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the member seeking recognition for that purpose as a question of the highest privilege.

The first provision of this paragraph was adopted January 18, 1924,[1] It was formulated for the purpose of insuring prompt presentation of reports ordered by the committee and thus avoiding delay in the filing of reports, a recourse known as the "pocket veto," by means of which unsympathetic chairmen could render nugatory majority action of the committee.

The provision for the consideration of adverse reports was added December 8, 1931.[2]

2269. Under a former ruling a report ordered to be made by a committee was required to be made within a reasonable time.

The time within which a member of a committee authorized to make a report to the House should present such report was formerly held to depend on the circumstances of the situation.

While failure to present within a reasonable time a report ordered to be made by a committee was formerly construed to present a question of privilege, a delay of 23 days was held insufficient to support such a question under exceptional circumstances.

A rule requires the presentation of privileged reports from the Committee on Rules within three legislative days from the time ordered to be reported by the committee.

It is not in order in debate to refer to the proceedings of a committee unless the committee have formally reported their proceedings to the House.

On May 26, 1922,[3] Mr. Royal C. Johnson, of South Dakota, rose to a question of the privileges of the House, and offered the following resolution:

House Resolution 323.

Resolved, That the Speaker of the House of Representatives be, and he is hereby, directed to appoint from the membership of this House a select committee of 15 Members for the Sixty-seventh Congress, and which said committee is hereby authorized to fully investigate all contracts and expenditures made by the War Department, or under its directions, the Navy Department, or under its directions, and the Alien Property Custodian, or under his direction, during and since the late war with Germany, and the settlement of any of such contracts by any officer or agent or department of the Government, and to investigate the criminal and civil prosecution, or lack of prosecution, of any or all of the claims of the Government arising out of such contracts, or the settlement thereof, by the Attorney General, the Alien Property Custodian, the Secretary of War, or the Secretary of the Navy, and in addition to the powers herein conferred shall have the same powers and authority as are now conferred by the rules of this House upon the standing Committee on Expenditures in the War Department. Said committee is hereby authorized to send for persons and papers, to administer oaths and affirmations, to take testimony, to sit during the sessions of the House and during any recess which may occur during its sessions, and may meet at such places as said committee deems advisable. Said committee is also hereby authorized and empowered to appoint such subcommittee as it may deem advisable, and such subcommittees, when so appointed, are hereby authorized to send for persons and papers, to administer oaths and take testimony, and to meet at such times and places as said committee shall from time to time direct.

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[1] First session Sixty-eighth Congress, Record, p. 1143.

[2] First session Seventy-second Congress, Record, p. 83.

[3] Second session Sixty-seventh Congress, Record, p. 7744.

Resolved further, That said select committee shall report to the House, in one or more reports, as it may deem advisable, the result of its investigations, with such recommendations as it may care to make.

Resolved further, That the Speaker of the House is hereby authorized to issue subpoenas to witnesses, upon the request of said committee or any subcommittee thereof, during any recess of Congress during the sessions.

Resolved further, That the Sergeant at Arms of the House be directed to serve all subpoenas and other process put into his hands by said committee or any subcommittee thereof.

Mr. Johnson said:

Mr. Speaker, that resolution was on May 3 of this year ordered to be reported out by the Rules Committee on a motion which I made that the chairman of the committee be instructed to bring it before the House at the earliest possible moment.

Mr. Johnson was proceeding to relate the circumstances attending the adoption of the report in the committee when the Speaker [1] interposed:

The Chair must say, of course, that it is not in order to repeat what occurs in the committee. The records of the committee will show what occurred.

Mr. Johnson continued:

This resolution was not reported by the chairman of the Rules Committee, but it has been resting in his pocket since May 3, and it is very evident there is no intention on the part of the chairman of the Rules Committee to report it. I do not question the motive of the chairman of the Rules Committee. The question of privilege, Mr. Speaker, is this: Whenever a resolution is ordered reported by a committee of the House, and that committee has spoken, the House is entitled to have the action of that committee translated into action and the report of the committee given to the House.[2]

Mr. Johnson then cited a decision [3] by Mr. Speaker Reed, rendered in the Fifty-first Congress, holding that failure to present the report of a committee within a reasonable time gave rise to a question of privilege.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution was not privileged and, after debate, the Speaker ruled:

The Chair is ready to rule. The gentleman from Georgia has stated explicitly and clearly the purpose and bearing of the rule, and the only decision the Chair is aware of is the one cited by the gentleman from South Dakota, Mr. Reed, whose reputation and intellect entitle it to great weight. The Chair thinks, according to that authority, the question is whether the chairman of the Committee on Rules makes his report in a reasonable time. There is a question whether this can come up on Calendar Wednesday, but the Chair waives that. In the case decided by Mr. Reed the committee had waited from September until January without making any report. It appears that in this case the Committee on Rules has adopted within the last month a number of rules, including this, and has instructed the chairman to report them. There is at least one that is much older than this still pending, and there are others which are a little older. According to the argument made by the gentleman from South Dakota, if he is correct, if he has the right to raise the question of privilege, then anybody interested in the adoption of any one of the rules which were adopted by the Committee on Rules previous to this one has still more right to come forward and demand its consideration. If we should adopt the doctrine that when the Committee on Rules had adopted several rules any individual interested in one of these rules had the right, as a matter of the privilege of the House, to rise and claim that that rule should immediately be reported, and that it was unreasonable for the chairman to withhold it, the business of the House

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Such contingencies are now provided for in the last paragraph of section 45 of Rule XI. See section 2268 above.

[3] Hinds' Precedents, III, 2609.

would be in confusion. Mr. Reed that it is a question of reasonable time. For some time the business of the House has been mostly on rules which have been reported by the chairman of the Committee on Rules. They are all of them in their time older than the one which the gentleman claims the right to call up.

If he could make that claim now, he could have made it at any time in the last weeks when we have been transacting business under the leadership and orders of the Committee on Rules, and any other Member interested in one of the other rules could have insisted on his rule. That would occasion interminable confusion. Therefore it seems to the Chair that, inasmuch as the House has been largely occupied with these rules, at least until the Committee on Rules has disposed of the rules that are older than this one it is preposterous to claim that a gentleman can rise as a matter of privilege and say that the chairman of the Committee on Rules is unreasonable in not bringing up this junior rule. Of course, this is under the complete control of the Committee on Rules, which can at any time instruct its chairman in what order to bring up its bills. The Chair, therefore, sustains the point of order, without considering the question of whether Calendar Wednesday business should be interrupted by this matter or not.

2270. The motion to recommit is not in order after the previous question has been ordered on a report from the Committee on Rules.

On October 5, 1917,[1] Mr. Finis J. Garrett, of Tennessee, by direction of the Committee on Rules reported this resolution:

Resolved, That the bill (H. R. 5723) entitled "An act to amend an act entitled 'An act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department,' approved September 2, 1914, and for other purposes," be, and hereby is, taken from the Speaker's table, with the Senate amendments thereto, to the end that the said amendments be, and hereby are, disagreed to; and the conference requested by the Senate on the disagreeing votes on said amendments be, and hereby is, agreed to, and the Speaker shall immediately appoint the conferees.

The previous question having been ordered, Mr. Frederick H. Gillett, of Massachusetts, moved to recommit the report to the Committee on Rules with instructions.

Mr. John J. Fitzgerald, of New York, made the point of order that after the previous question had been ordered it was not in order to move to recommit a report from the Committee on Rules.

The Speaker[2] sustained the point of order.

2271. A division of the question may be demanded on a privileged report from the Committee on Rules containing more than one substantive proposition.

On April 8, 1908,[3] Mr. John Dalzell, of Pennsylvania, by direction of the Committee on Rules, submitted the following privileged resolution:

Resolved, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for consideration of H.R. 20471, the naval appropriation bill; that at 5 o'clock p.m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a.m. on Saturday, April 11; that at 5 o'clock p.m. Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a.m. on Monday, April 13.

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[1] First session Sixty-fifth Congress, Record, p. 7849.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixtieth Congress, Record, p. 4509.

That general debate on the naval appropriation bill shall close not later than at 5 o'clock p.m., Saturday, April 11; the time to be equally divided between the majority and minority and controlled by the chairman of the Naval Committee and by the senior member of the minority: *Provided,* That if general debate shall be concluded prior to 5 p.m. on Saturday the 11th, the Chairman of the Committee of the Whole shall at once declare the committee in recess until Monday, April 13, at 11.30 a.m.

Debate on the resolution having been concluded, Mr. John J. Fitzgerald, of New York, demanded a division of the question and said:

The rule provides that at 5 o'clock to-day and 5 o'clock on Thursday of this week the Speaker shall declare the House in recess until 11:30 o'clock the next calendar day. That is one substantive proposition. That at 11.30 on Friday of this week the Chair shall declare the House in Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill. That is the second distinct substantive proposition. That at 5 o'clock on Friday the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 on Saturday. That is the third distinct substantive proposition. And at 5 o'clock on Saturday of this week that the Chairman of the Committee of the Whole House on the state of the Union shall declare the House in recess until 11.30 o'clock on Monday of next week.

Then, there is a provision, Mr. Speaker, a distinct substantive provision, that if the general debate shall not be concluded on the naval appropriation bill at 5 o'clock on Saturday of this week, that the chairman of the committee shall then declare the committee in recess. Now, these are distinct substantive propositions, any one of which being taken from the resolution, other distinct substantive propositions remain. Under this rule of the House, which the Committee on Rules has not yet abrogated, a Member of the House is entitled to demand, before the question is put, that a separate vote be taken upon each substantive proposition in this resolution.

After further debate the Speaker [1] ruled:

On a careful examination of this rule, the Chair finds that there are five substantive propositions and five only, so that if the gentleman demands a separate vote upon either or all of them, a separate vote will be taken.

2272. On April 18, 1912,[2] Mr. Robert L. Henry, of Texas, from the Committee on Rules, reported a resolution providing a special order for the consideration of the bill (H.R. 21279) the post office appropriation bill.

After debate Mr. James R. Mann, of Illinois, demanded a division of the question on the substantive propositions contained in the resolution.

Mr. Henry made the point of order that the request was not in order.

The Speaker [3] ruled:

There are not very many precedents on this subject, one way or the other.

The two precedents cited from Speaker Henderson are really parts and parcels of one precedent. A division was demanded in a resolution. His first decision was that there should be a separate vote taken on each resolve. When that was through with, somebody undertook to divide the first resolve, and he held that could not be done.

The most elaborate precedent in the lot, and the last one, is that on page 4509, Congressional Record, first session of the Sixtieth Congress. The gentleman from Illinois, Mr. Mann, was himself mixed up in that debate. He seems to have agreed that a division could be had, but he differed from gentlemen as to how many substantive propositions there were involved.

Mr. Speaker Cannon, after listening to the debate, decided that the division could be had.

So it seems to the Chair that the precedents are in favor of the contention of the gentleman from Illinois, Mr. Mann, and against the point of order of the gentleman from Texas, Mr. Henry.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-second Congress, Record, p. 5006.

[3] Champ Clark, of Missouri, Speaker.

In addition to that, it seems to the Chair that the reason of the thing is the same. There are several substantive legislative propositions embraced in this rule that have no connection whatever with one another. A Member might, and most probably would, be in favor of some and against others. He has a right to vote his sentiments on each, which he can not do if they are bunched together. Therefore the point of order is overruled, and the Clerk will report the first proposition.

2273. On January 30, 1923,[1] Mr. Philip P. Campbell, of Kansas, submitted, as a privileged report from the committee on Rules, this special order:

Resolved, That upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of Senate Joint Resolution No. 12; that there shall be not to exceed one hour additional general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it. Upon the conclusion of such general debate the resolution shall be read for amendment under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered on said resolution and all amendments thereto to final passage without intervening motion except one motion to recommit.

That immediately upon the conclusion of the consideration of Senate Joint Resolution No. 12 in the House, the House shall resolve itself into the Committee on the Whole House on the state of the Union for the consideration of Senate Joint Resolution No. 79; there shall be not to exceed one hour and thirty minutes general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it; that at the conclusion of the general debate the resolution shall be read for amendments under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered on the resolution and the amendments thereto to final passage without intervening motion except one motion to recommit.

Debate having been concluded Mr. Marvin Jones, of Texas, demanded a separate vote on the two propositions carried in the resolution.

Mr. Campbell raised a question of order against the demand for a division.

The Speaker[2] said:

The Chair finds that there is a precedent for dividing the rule. Therefore, the Chair thinks that this is divisible, and the vote will first come upon the portion of the rule which applies to Joint Resolution No. 12. The question is on that portion of the resolution applying to Senate Joint Resolution No. 12.

2274. On January 18, 1924,[3] the House having under consideration the resolution (H. Res. 146) adopting the rules of the Sixty-seventh Congress with certain amendments, as the rules of the Sixty-eighty Congress, reported as privileged from the Committee on Rules, Mr. John Q. Tilson, of Connecticut, demanded a division of the question on agreeing to the resolution.

Mr. Thomas L. Blanton, of Texas, made a joint of order that a division was not in order after the previous question had been ordered.

The Speaker[4] ruled:

The Chair does not see how the previous question can affect it. The Chair's attention has been called to a precedent in the Digest, from which it would seem that a report from the Committee on Rules has a different rule applied to it from a report from any other committee. Mr. Speaker Clark held that if a report from the Committee on Rules contained substantive

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[1] Fourth session Sixty-seventh Congress. Record, p. 2734.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-eighth Congress, Record, p. 1142.

[4] Federick H. Gillett, of Massachusetts, Speaker.

propositions a separate vote can be had on each proposition. It is hard for the Chair to see why that does not cover the cause.

The Chair does not see that the gentleman from Texas has discriminated or suggested any reasons why the Chair should not follow this very clear decision. The Chair thinks, while, of course, all amendments have been offered and considered, yet the bill was not read by sections and no vote had upon any section separately; and the Chair thinks the gentleman from Connecticut, if he so desires, is entitled to demand a division.

The Chair overrules the point of order.

2275. A division of the question was denied on a privileged resolution reported by the Committee on Rules wherein the structural relation of the clauses containing several propositions was such as to render them interdependent and indivisible.

On April 20, 1908,[1] the following privileged resolution was reported by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules:

Resolved, That during the remainder of this session Rule XXVIII shall be, and hereby is, modified in the following particulars:

First. The use of the motion shall not be restricted to the first and third Mondays of the month.

Second. The vote on agreeing to the motion shall in all cases be by majority instead of by two-thirds; and upon the demand of any Member opposed to the motion a second shall be considered as ordered.

The previous question having been ordered, Mr. John Sharp Williams, of Mississippi, demanded a separate vote on the three substantive propositions carried in the resolution.

The Speaker pro tempore [2] ruled:

The resolution reads:

"Resolved, That during the remainder of this session rule 28 shall be, and hereby is, modified in the following particulars—"

That would mean nothing unless the particulars were stated. If that were voted down or up, it would have no effect whatever. And then it reads:

"The use of the motion shall not be restricted to the first and third Mondays of the month."

Now, those two propositions, taken together, do make a substantive proposition; but if they were voted down and the House voted for the other proposition—the second propositon—it would have no effect whatever. It would be without sense; it would be nonsense if the House would adopt only what comes after the word "second." Each proposition must stand alone; each proposition must be a substantive proposition. Neither of these propositions will stand alone or could have any effect unless some of the others are adopted. It says:

"Second. The vote on agreeing to the motion—"

What motion? There is no explanation of that proposition.

"Shall in all cases be by majority instead of by two-thirds, and upon the demand of any Member opposed to the motion a second shall be considered as ordered."

There is nothing in the second proposition to show what motion it is or what rule is being affected. The Chair is very clear about it, and will put the motion on the adoption of the resolution.

2276. A resolution to procure testimony in a contested election case is privileged when reported by a committee on elections, and is in order on Calendar Wednesday.

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[1] First session Sixtieth Congress, Record, p. 4978.

[2] Sereno E. Payne, of New York, Speaker pro tempore.

On Wednesday, January 30, 1924,[1] Mr. Richard N. Elliott, of Indiana, by direction of the Committee on Elections No. 3, reported as privileged the resolution (H. Res. 166) directing members of the board of elections of the city of New York to appear and testify before the Committee on Elections No. 3 in the contested-election case of Chandler *v.* Bloom, and to bring with them for counting the disputed ballots in the case.

Mr. Finis J. Garrett, of Tennessee, questioned the privilege of the resolution and the right of the Committee on Election No. 3 to report it on Calendar Wednesday.

The Speaker[2] overruled the point of order, holding the report to be privileged, and to take precedence of the business in order on Calendar Wednesday.

2277. A rule provides that all contested election cases shall be reported within six months after the convening of the first regular session of Congress.

An exception allows nine months within which to report contested election cases from the territory of Alaska.

Form and history of section 58 of Rule XI.

Section 58 of Rule XI provides:

> The several elections committees of the House shall make final report to the House in all contested-election cases not later than six months from the first day of the first regular session of the Congress to which the contestee is elected except in a contest from the Territory of Alaska in which case the time shall not exceed nine months.

This rule was provided for in 1924[3] in the adoption of rules for the Sixty-eighth Congress to remedy a tendancy to unduly prolong cases in which the sitting Member was unseated. Such cases were often delayed and frequently were not reported until shortly before final adjournment.

Originally the rule required reports on contested election cases within six months after the convening of the first session, but in order to avoid complications arising in extra sessions, it was amended in adopting the rules for the Seventy-first Congress[4] by computing the time from the opening of the first regular session.

2278. The term "raising revenue," while broadly construed to cover bills relating to the revenue, does not apply to bills remotely affecting the revenue, as bills extending time of payment of foreign debts.

On March 29, 1922,[5] Mr. Joseph W. Fordney of Michigan, from the Committee on Ways and Means, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (S. J. Res. 160) authorizing an extension of time for payment of the debt incurred by Austria in the purchase of flour from the United States Grain Corporation.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the resolution was not privileged.

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[1] First session Sixty-eighth Congress, Record, p. 1715.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-eighth Congress, Record, p. 1143.

[4] First session Seventy-first Congress, Record, p. 26.

[5] Second session Sixty-seventh Congress, Record, p. 4736.

In debating the point of order Mr. James R. Mann, of Illinois said:

We have in bills on irrigation projects and on a good many sales of public lands the provision that certain amounts of money shall be paid to the Government by those who purchase the land. We frequently extend the time of payment. Would the gentleman from Ohio claim that a bill to extend the time of payment of any of those sums should go to the Committee on Ways and Means and have a privileged status in the House as a bill affecting the revenue of the Government?

What is the distinction between a payment due to the Government that is not privileged and an extension extending the time for the payment of a loan due a private corporation owned by the Government and making that privileged?

The Committee on Ways and Means has reported in my day bills establishing a collection district and relative to any employee in a customhouse as privileged, but none of them ever got by as privileged. They used to call up those bills as privileged until some gentleman—I think I was the first one—made the point of order that those were not privileged. And the Speaker sustained the point of order that it was not a privileged bill, because it was not a bill raising revenue or a bill affecting the revenue, although it affected the customs service.

The Speaker [1] decided:

When this bill came over from the Senate the question was raised whether it was obnoxious to the provision of the Constitution that all bills for raising revenue must originate in the House, and, secondly, whether if that were not true that it was within our rule which gives the Ways and Means Committee power to report from the floor bills for raising revenue—both phrases being the same in the Constitution and the rules.

The Chair has had time to investigate the question with some care, and it seems to the Chair quite clear that this is not a bill for raising revenue as defined in the Constitution. The best definition the Chair has seen is in the Thirteenth of Blatchford, where the court says:

"Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people either directly or indirectly, or lay duties, imports, or excises for the use of the Government, and to give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment in common with the rest of the citizens of the benefit of good government."

It seems to the Chair that that is a good definition of the phrase "for raising revenue," and that it does not include this bill. At the same time the Chair does not feel that it is necessary in this case to define exactly what the phrase does mean. The Chair was struck by the prudence of the court in another case, where in the One hundred and sixty-seventh United States it said:

"What bills belong to the class of bills for raising revenue is a question of such magnitude and importance that it is the part of wisdom not to attempt by any general statement to cover every possible phase of the subject."

In accordance with that the Chair will not attempt to rule what bills could and what may not come under this phrase "bills for raising revenue." While it seems very clear that a bill which postpones the payment by the Government of Austria of an obligation incurred to the Grain Corporation is not a "bill for raising revenue," the Chair recognizes force in the argument that there is a difference by construction in the meaning of the same phrase when it occurs in the Constitution and in our rules. That has arisen somewhat out of necessity or convenience because every tariff bill, for instance, contains necessarily administrative features which are connected with raising revenue and yet which strictly are not "bills for raising revenue." Because of that and similar cases there have grown up by rulings of Speakers, acquiesced in by the House, precedents which hold some bills privileged, though not strictly and exclusively raising revenue, but relating to or affecting the revenue. But the Chair does not think these precedents can sustain the point made by the gentleman from Michigan that this bill is privileged. It seems to the Chair that it is not a bill for raising revenue under the rule any more than under the Constitution, and therefore the Chair sustains the point of order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

2279. A bill merely affecting the revenue incidentally does not come within the privilege of the Ways and Means Committee to report at any time.

A bill regulating the importation of drugs and utilizing the customs office in that connection was held not to come within the rule.

On May 4, 1922,[1] a day on which Calendar Wednesday business was in order, Mr. Lindley H. Hadley, of Washington, by direction of the Committee on Ways and Means, when that committee was reached in the call of the committees, called up the bill (H. R. 2193) prohibiting the importation of narcotics for other than medicinal purposes.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the bill provided for the raising of revenue and was privileged and therefore was not in order under the Calendar Wednesday call.

The Speaker[2] ruled:

The Chair will state that he investigated that subject, and was conferred with by members of the Ways and Means Committee as to whether it was privileged or not. Of course, if it is privileged, that committee can call it up some other day. The Chair concludes that it is not privileged; that while, as the gentlemen from Massachusetts, Mr. Walsh, says, it relates to the revenues, yet that is incidental; that the main purpose of the bill is not to raise revenue; and that therefore it is not privileged. Of course, the fact that it was reported from the floor simply indicated what the gentleman reporting it thought at that time.

The Committee on Ways and Means reported the Harrison Act. That bill did not come from the Committee on Interstate and Foreign Commerce. If the Chair should hold that the bill is not in order today, he would be in an embrassing position, because the Chair refused to recognize the Committee on Ways and Means to call up the bill as a privileged matter, on the ground that in his opinion it was not privileged, and that the only way in which the committee could bring it up would be either to get a rule or to bring it up on Calendar Wednesday. So the Chair not only by his individual opinion but by his conduct is bound to rule that the bill is in order to-day. Of course, the House can decide differently if it desires to do so. The Chair overrules the point of order.

2280. To come within the privilege given the Committee on Ways and Means to report at any time a bill must show on its face that it relates to the raising of revenue.

In passing upon the privilege of a bill for report at any time the Speaker does not take into consideration his personal knowledge and estimate of the probable effects of the passage of the bill.

Where the major feature of a bill relates to the raising of revenue, lesser provisions incidental thereto but not strictly revenue producing do not destroy its privilege when reported by the Committee on Ways and Means.

A bill relating to the method of packing dutiable tobacco for parcel-post shipment was held not to be a revenue bill within the meaning of the rule giving such bills privilege.

On January 22, 1927,[3] Mr. William R. Green, of Iowa, by direction of the Committee on Ways and Means, called up as privileged the bill (H. R. 8997)

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[1] Second session Sixty-seventh Congress, Record, p. 6332.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-ninth Congress, Record, p. 2121.

providing for the admission of tobacco in smaller packages under parcel-post regulations.

Mr. John N. Garner, of Texas, made the point of order that the bill was not privileged because it did not show on its face that it affected the revenue.

After debate, the Speaker [1] ruled:

The Chair was advised yesterday that this point of order would be raised, and he has given some time to the consideration of the precedents.

The Committee on Ways and Means has larger authority in the reporting of bills than any other committee. It is given leave to report any time bills raising revenue while other committees given leave to report at any time are confined strictly to the subjects which they may report as privileged. The privilege of the Committee on Ways and Means has been broadly construed to apply to bills relating to the revenue. As has been stated, this privilege has been extended to a bill to provide for reciprocal trade relations with Cuba and to a bill to repeal the joint resolution in reference to the free zone on the Mexican frontier, which involves the transportation of dutiable goods and its relation to smuggling. But a bill providing for the consolidation and recognition of customs collection districts, which involved a question affecting the revenue and also commerce and shipping, was held by Speaker Cannon not to be privileged on the ground that, while the matter affecting the revenue was privileged, the matter affecting commerce was not privileged and thereby destroyed the privilege of the bill as a whole.

The Chair thinks that a broad summation of all the precedents would lead to about this statement of the rule:

If a major feature of a bill reported from the Ways and Means Committee relates to revenue the bill is privileged, and matters accompanying the bill not strictly raising revenue but incidental to this purpose do not destroy this privilege.

In this case it seems fairly obvious, if one is permitted to go outside of the face of the bill itself, that this bill will raise revenue. It seems to the Chair that the cutting down of the limitation necessarily would enable more people to import cigars than now import them.

But the question is, Does that appear on the face of the bill? Now the Chair has had a little inkling of the fact that some Members of the House did not approve his ruling recently on a question which involved the proper calendar for a bill to be placed upon. The objection made was that the bill did not show on its face that it would create a charge on the Treasury. This bill, while relating to an entirely different question, raises indirectly the question as to whether, by virtue of his knowledge of what will happen in all probability as result of the passage of the bill, the Chair should allow his decision to be influenced by that knowledge. The Chair regards this as one of the closest questions he has had to rule on either as Speaker or formerly as Chairman of the Committee of the Whole House on the state of the Union. The Chair is very anxious, while giving full leeway to the privileges of the Committee on Ways and Means, also to safeguard the House. The Chair, after considerable thought, thinks that he ought not to allow his knowledge of probabilities to affect his judgment of the bill as it appears on its face. The Chair does not think that the bill on its face shows that it necessarily will raise revenue or directly affect revenue. Therefore, the point of order made by the gentlemen from Texas is sustained.

2281. A bill reported by the Committee on Ways and Means exempting profits on Treasury bills from taxation was held to be privileged.

On June 6, 1930,[2] Mr. Willis C. Hawley, of Oregon, from the Committee on Ways and Means, called up the bill (H. R. 12440) exempting from taxation gains from sale or other disposition of Treasury bills.

Mr. William H. Stafford, of Wisconsin, inquired if the bill was to be considered as privileged.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-first Congress, Record, p. 10191.

The Speaker [1] held the bill to be privileged and recognized Mr. Hawley to move to resolve into the Committee of the Whole for its consideration.

2282. The right of the Committee on Appropriations to report at any time is confined strictly to the general appropriations bills.

The privilege of the Committee on Appropriations to report general appropriation bills at any time does not include resolutions extending appropriations.

On July 1, 1912,[2] Mr. John J. Fitzgerald, of New York, by direction of the Committee on Appropriations, reported [3] to the House the joint resolution (H. J. Res. 331) extending appropriations for the necessary operation of the Government under certain contingencies, and asked unanimous consent for its consideration.

In explaining the necessity for enactment of the joint resolution as due to failure of the President to approve bills passed by the House and Senate, Mr. Fitzgerald gave the history of joint resolutions of this character and conceded their lack of privilege.

Unanimous consent having been secured for its consideration, the joint resolution, with brief debate, was ordered to be engrossed and read a third time, and was agreed to.

2283. On July 2, 1918,[4] Mr. Swagar Sherley, of Kentucky, from the Committee on Appropriations, asked unanimous consent for consideration of the joint resolution (H. J. Res. 311) continuing appropriations for the Government and District of Columbia for the month of July, 1918, made necessary by the failure of the conferees on the District of Columbia appropriation bill to agree on the ratio of District expense to be borne by the Federal Government.

Subsequently,[5] when the joint resolution was returned by the Senate, Mr. Sherley asked unanimous consent to take the joint resolution with Senate amendments from the Speaker's table for consideration.

2284. On August 29, 1918,[6] Mr. Joseph W. Byrns, of Tennessee, asked unanimous consent for the consideration of the joint resolution (H. J. Res. 323) continuing appropriations for the Government and District of Columbia for the month of September, 1918.

Mr. Frederick H. Gillett, of Massachusetts, objected.

2285. Bills providing special appropriations for specific purposes are not general appropriation bills and therefore not privileged.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-second Congress, Record, p. 8532.

[3] Report No. 926. This report gives detailed statistics on the instances in which appropriations had been continued since 1876. Mr. Joseph W. Byrns, of Tennessee, also printed in the Record as a part of his remarks on August 1, 1919, a list of annual appropriation laws enacted too late to be effective from the first days of the fiscal year. First session Sixty-sixth Congress, Record, p. 3516.

[4] Second session Sixty-fifth Congress, Record, p. 8639.

[5] Record, p. 8821.

[6] Second session Sixty-fifth Congress, Record, p. 9652.

On December 17, 1931,[1] Mr. Joseph W. Byrns, of Tennessee, by direction of the Committee on Appropriations, asked unanimous consent for the immediate consideration of the joint resolution (H. J. Res. 141) to provide additional appropriations for the Veterans Administration for the fiscal year ending June 31, 1932.

Mr. Thomas L. Blanton, of Texas, made the point of order that the joint resolution was privileged and unanimous consent was not required.

The Speaker[2] held:

The gentleman from Texas makes the point of order that this resolution is privileged. The Chair will call the attention of the gentleman from Texas to clause 45 of Rule XI, which provides:

"The following-named committee shall have leave to report at any time on the matters herein stated, namely: * * *

"The Committee on Appropriations, the general appropriation bills."

The Chair does not think this is a general appropriation bill. It is merely a bill making a special appropriation for a specific proposition. Therefore the Chair overrules the point of order.

2286. The right of the Committee on Rivers and Harbors to report at any time is confined to river and harbor bills, and matter not germane to such bills, although within the jurisdiction of the committee, is subject to a point of order.

In exercising the right to report at any time committees may not include matters not specified by the rule as within the privilege.

The subjects of construction, maintenance, and operation of locks and dry docks are subjects within the jurisdiction of the Committee on Rivers and Harbors.

On June 26, 1917,[3] while the river and harbor bill (H. R. 4285) was being read for amendment in the Committee of the Whole House on state of the Union, the following paragraph was reached:

That whenever any person, company, or corporation, municipal or private, or any State, or any reclamation, flood-control, and drainage district, or other public agency created by any State shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining, and operating dams for use in connection therewith, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of War.

Mr. Irvine L. Lenroot, of Wisconsin, submitted the point of order that the paragraph was not germane to the bill.

After debate, the Chairman[4] held:

The Chair thinks that the Committee on Rivers and Harbors would have jurisdiction of this bill and that that committee might have reported it out and placed it upon the calendar. The

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[1] First session Seventy-second Congress, Record, p. 714.

[2] John N. Garner, of Texas, Speaker.

[3] First session Sixty-fifth Congress, Record, p. 4327.

[4] Pat Harrison, of Mississippi, Chairman.

fact that part of it might be subject to a point of order would not destroy the right of the Committee on Rivers and Harbors to report that bill, let it take its usual place on the calendar, and come up in its order, without having a privileged status.

Under section 56 of Rule XI the Committee on Rivers and Harbors has the right to report as a privileged matter upon bills for the improvement of rivers and harbors. The Chair thinks that the proposition in this bill to amend the law so as to read as follows:

"That whenever any person, company, or corporation,, municipal or private, or any State, or any reclamation, flood-control, or drainage district or other public agency created by any State shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining, and operating dams for use in connection therewith"—

And so forth, destroys its privileged status, and destroys the right of the Rivers and Harbors Committee to report such an amending provision in this bill; and therefore the chair sustains the point or order.

2287. The privilege of the Committee on Rivers and Harbors to report at any time is confined to legislative propositions for the improvement of rivers and harbors and does not extend to provisions for the improvement of canals or artificial waterways.

Subjects relating to canals and their improvements are not within the jurisdiction of the Committee on Rivers and Harbors.

On January 11, 1919,[1] while the House was considering the river and harbor bill in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

Waterway between Beaufort, S. C., and St. Johns River, Fla.: For maintenance, $23,000; completing improvement of Generals Cut, Ga., in accordance with the report submitted in House Document No. 581, Sixty-third Congress, second session, $1,000.

Mr. Martin B. Madden, of Illinois, made the point of order that the item related to canals, a subject which was not within the jurisdiction of the Committee on Rivers and Harbors.

The Chairman[2] ruled:

The gentleman from Illinois, Mr. Madden, makes a point of order on that portion of the pending paragraph, beginning on line 24, on page 10 of the bill, and which reads as follows: "completing improvement of Generals Cut, Ga., in accordance with the report submitted in House Document No. 581, Sixty-third Congress, second session, $1,000"—on the ground that a portion of it relates to the improvement of a canal.

Now, it is very clear to the Chair that the Committee on Rivers and Harbors does not in this bill have jurisdiction over the improvement of canals. Under section 56, Rule XI, bills reported from the Committee on Rivers and Harbors are given a privileged status where they relate to the improvement of rivers and harbors. As far as the Chair knows, it has been uniformly held heretofore that under this rule the Committee on Rivers and Harbors has no authority or jurisdiction to report an appropriation bill, which shall have a privileged status, for the improvement of any existing canal or to make a canal.

In the view of the Chair, this is simply a question of fact as to whether or not this paragraph relates to the improvement of a canal. It is stated by the gentleman from North Carolina, Mr. Small, that this is an existing waterway. But the gentleman from North Carolina also states that it does not exclusively consist of a natural waterway. The gentleman from Illinois,

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[1] Third session Sixty-fifth Congress, Record, p. 1263.

[2] Joseph W. Byrns, of Tennessee, Chairman.

Mr. Madden, has called the attention of the Chair to the report and map submitted by the Chief of Engineers, which show that this is, for a portion of the distance, a canal; and in view of the ruling in the Hennepin Canal case, and the uniform rulings that have been made since that decision was rendered, the Chair does not think that this provision is in order, and therefore sustains the point of order made by the gentleman from Illinois.

On appeal, the decision of the Chair was sustained, yeas 67, nays 43.

2288. A bill authorizing those failing to perfect a prior entry to make a second entry under the homestead law does not involve such a "reservation of the public lands" as to come within the privilege of the Committee on Public Lands to report at any time.

On April 6, 1910,[1] it being Calendar Wednesday, Mr. Frank W. Mondell, of Wyoming, by direction of the Committee on Public Lands, when that committee was reached, called up the bill (H.R. 15660) providing for second homestead entries.

Mr. Herbert Parsons, of New York, raised the point or order that the bill, being privileged under the rule granting the Committee on Public Lands the right to report at any time, was not in order on Calendar Wednesday.

Mr. James R. Mann, of Illinois, in debating the point of order said:

Mr. Speaker, the provision in the rule is "and bills for the reservation of the public lands." If it shall be held that every bill relating to the settlement of public lands by homestead or other settlers is privileged, it will give practically a privilege to every bill reported from the Committee on the Public Lands.

The bill before us only provides that certain people who have forfeited all rights to a homestead may have a right to homestead. It does not purport in any way to be a reservation of affecting in any way the public land. It only affects persons who may avail themselves of existing public lands.

If it shall be held that this bill is in order, it must correspondingly be held that every bill practically relating to the subject-matter is in order, because the bill itself does not purport to be a reservation of public lands, and the only way you can hold it to be in order under the provision of the section is because it is on that subject-matter; and if you do that you make all of these bills reported from the Committee on the Public Lands, or practically all of them, privileged. That may be a wise thing to do, but the committee has never assumed that it had that jurisdiction.

The Speaker[2] ruled:

The gentleman from New York, Mr. Parsons, makes the point of order upon the bill H.R. 15660. The Clerk will read the text of the bill.

The Clerk read as follows:

"Be it enacted, etc., That any person who, prior to the passage of this act, has made entry under the homestead laws, but from any cause has lost, forfeited, or abandoned the same, shall be entitled to the benefits of the homestead law as though such former entry had not been made, and any person applying for a second homestead under this act shall furnish the description and date of his former entry: *Provided,* That the provisions of this act shall not apply to any person whose former entry was canceled for fraud."

The Speaker continued:

Clause 61 of Rule XI provides:

The following-named committees shall have leave to report any time on matters herein stated, viz, * * * the Committee on Public Lands, bills for the forfeiture of land grants to

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[1] Second session Sixty-first Congress, Record, p. 4334.

[2] Joseph G. Cannon, of Illinois, Speaker.

railroad and other corporations, bills preventing speculation in the public lands, bills for the reservation of the public lands for the benefit of actual and bona fide settlers."

Now, clearly it was the intention of the House in enacting the rule to make those bills privileged that would forfeit railroad grants and bills that would tend by their operation, if enacted into law, to preserve the land for actual settlers. The Chair has glanced at the precedents referred to by the gentleman from New York. Perhaps the strongest one is the decision of Mr. Speaker Carlisle that the privilege belonged to a bill repealing the preemption laws, the timber-culture laws, and the laws authorizing the sale of desert lands, since the repeal of these laws would leave in operation no method of acquiring public lands except the homestead laws, which were for the benefit of actual settlers.

But the gentleman will notice that in all of these decisions the bills made a contest between those who were seeking to be actual settlers and those who were seeking under prior grants and under the general laws to obtain lands otherwise than by actual settlement.

This bill is merely to allow anybody who had made a prior homestead claim and did not perfect it to make a second claim. So that, in the opinion of the Chair, the point of order is not well taken, and therefore the Chair overrules it.

2289. The right of the Committee on Public Lands to report at any time is confined strictly to the subjects enumerated in the rule.

A bill providing preference for a class in the administration of the homestead laws is not such a "reservation of the public lands" as to come within the purview of the rule authorizing the Committee on Public Lands to report at any time.

The inclusion of matter not privileged destroys the privileged character of a bill.

A bill privileged under the rules cannot be called up on Calendar Wednesday.

Historical statement that the privilege of the Committee on Public Lands to report at any time has been seldom exercised.

On December 10, 1919,[1] this being Wednesday, when the Committee on Public Lands was reached in the call of committees, Mr. Nicholas J. Sinnott, of Oregon, by direction of the committee, called up the joint resolution (H. J. Res. 20) giving discharged soldiers preferred rights of homestead entry.

Mr. Rollin B. Sanford, of New York, made the point of order that the bill, being privileged, could not be called up on Calendar Wednesday.

Mr. Frank W. Mondell, of Wyoming, in opposition to the point of order argued that the bill was not privileged because not reported from the floor and did not in fact provide for a reservation of the public lands but a preference for a certain class of citizens. He also contended that the inclusion of Indian lands with public lands was sufficient to destroy the privilege of the joint resolution if otherwise privileged.

Mr. Mondell also said:

Mr. Speaker, my recollection is that only once or twice in the last 20 years has the Committee on Public Lands exercised the privilege of calling up a bill under the rule which has been referred to.

The Speaker[2] decided:

The point raised by the gentleman from New York, Mr. Sanford, is an interesting one. The Chair is disposed to agree with the gentleman from New York that the committee could not, by

[1] Second session Sixty-sixth Congress, Record, p. 366.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

reporting a privileged bill through the basket proceed to take advantage of its own wrong and acquire rights which otherwise it would not have. To the Chair the principal question is whether this is a privileged resolution or not. The language of the rule is very clear. It is limited to bills for the reservation of the public lands for the benefit of actual and bona fide settlers, and it seems to the Chair that the distinction that the gentleman makes, that this is not a resolution providing for the reservation of public lands, is well taken, since it merely provides that where there is a reservation an additional privilege shall be granted. The Chair thinks on that ground that the committee was right in not reporting this resolution from the floor, but placing it in the basket.

The general rule is that when a privileged bill includes something not privileged, that takes away from it its privilege. That, however, raises an intricate question, which it is not necessary to consider here, because the Chair thinks this does not come strictly within the language of the rule, and it is not a resolution purely for the reservation of public lands for the benefit of actual and bona fide settlers.

Accordingly, the Chair overrules the point of order.

2290. A bill providing for agricultural entries of coal lands in Alaska was held to be privileged as a reservation of the public lands for actual settlers.

Discussion of the privilege of the Committee on Public Lands to report at any time.

On October 24, 1921,[1] Mr. Dan. A. Sutherland, of Alaska, by direction of the Committee on Public Lands, submitted as privileged a report on the bill (H. R. 7948), providing for agricultural entries on coal lands in Alaska.

Mr. Finis J. Garrett, of Tennessee, asked if the report was privileged.

The Speaker announced that he would hear arguments on that question at some future time.

Thereupon Mr. Nicholas J. Sinnott, of Oregon, was granted leave to extend his remarks by including an argument in favor of the privilege of the bill.

Mr. Sinnott's argument, after quoting from the precedents, concludes as follows:

Examining H. R. 7948 in the light of these decisions, it is apparent that the bill is entitled to a privileged character. Section 1 of the bill grants actual settlers a surface homestead right on public lands containing coal, oil, or gas, which are not now subject to homestead settlement. Section 1 enlarges the area of the public domain subject to homestead settlement. Section 2 of the bill provides for the issuance of a patent with a reservation to the United States of all the coal, oil, or gas in the land patented. Section 2 further protects and safeguards the rights of the homestead settler by restricting the operations of the coal, oil, or gas permittee or lessee in the interest of the homestead settler; it also requires the permittee or lessee to give a bond for the payment of damages to the crops or improvements on the land. It will be remembered that the coal, oil, or gas deposits in the land covered by H. R. 7948 are now subject to disposition under the Alaska coal leasing act of October 20, 1914 (38 Stat., 741), and the oil leasing act of the Sixty-sixth Congress, Public Law 146, approved February 25, 1920, United States Statutes at Large, volume 41, page 437. Said acts provide for the removal of said minerals by permit or lease.

Therefore, Mr. Speaker, the main provisions of section 2 are to insure to the settler the fullest use of the homestead with the least possible molestation from the permittee or lessee; the means for accomplishing this object are by requiring a bond or undertaking against damages to crops and improvements, also by restricting the permittee or lessee to so much of the surface only as may be reasonably required for his mining operations. Without such safeguards and restrictions the privilege of the homestead settler would be bootless and nugatory. This proposition is well stated in that part of Speaker Carlisle's decision on H. R. 7901, Fiftieth Congress, first session, not quoted in Hinds' Precedents, section 4633, and which I shall read:

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[1] First session Sixty-seventh Congress, Record, p. 6686.

"The Chair supposes that a bill reported from this committee might include matters having no relation to the public lands or to the privileged subject mentioned in the rule, and thus might lose its privilege; but the Chair will state that in such a bill all provisions relating tot he preservation of the public lands for actual settlers, and providing the means for accomplishing that object are certainly privileged; otherwise the privilege would amount to nothing."

Subsequently,[1] the bill was, on motion of Mr. Sinnott, by unanimous consent, recommitted to the Committee on Public Lands, and on October 27,[2] the bill H.R. 8842, of similar tenor, was reported from the floor as privileged by Mr. Sutherland.

Mr. Garrett reserved all points of order.

On November 1, 1921,[3] Mr. Sinnott moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

Mr. Garrett made the point of order that the bill was not privileged, and argued:

Mr. Speaker, I have no opposition to this bill. But I do not think it ought to be considered as a privileged bill unless it really be privileged, and I do not believe that the history of the rule, as cited by the gentleman from Oregon, Mr. Sinnott, would cause the philosophy of this bill to square with the rule.

The rule under which the House is operating provides that the following-named committees shall have leave to report at any time on the matters herein stated, namely, the Committee on the Public Lands, on bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers.

I take it that what was in thought in the adoption of this rule was to preserve the public domain. Now, this bill is to open up the public domain for settlement, as I understand it. It is not for the forfeiture of any land grant to a railroad or other corporation. It is not for the purpose of reserving the public domain for future settlement. As I understand the purpose of the bill, it is to open up the country to settlement. I take it that that word "reservation" has and now has a technical meaning. If the rule had said "to provide for opening up public lands to settlement," of course that would be the end of the matter; but the rule says "reserving the public lands for settlement."

The Speaker[4] held:

The Chair has investigated the question as to whether the bill is privileged, and has considered the very elaborate and thorough argument of the gentleman from Oregon.

The Chair comes to the conclusion very readily that these precedents and the logic upon which they were founded clearly show that this bill is a privileged bill under the rule which allows the Committee on the Public Lands to report from the floor bills for the reservation of public lands or for the benefit of bona fide settlers. The Chair confesses that the ingenious argument of the gentleman from Tennessee as to the meaning of the word "reservation" struck the Chair as forcible, but against that the gentleman from Oregon retorts that it reserves them against mineral claimants, and therefore is accurate. The Chair thinks beyond that that the word "reservation" has been so construed in the past. Speaker Carlisle said, over 30 years ago:

"In other words, as part of the land which can now be taken up under existing law as timberland or mineral land or desert land, if this bill passes, be subject to entry hereafter under the homestead law only."

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[1] Record, p. 7053.

[2] Record, p. 6896.

[3] Record, p. 7133.

[4] Fredrick H. Gillett, of Massachusetts, Speaker.

Accordingly, Speaker Carlisle held the bill privileged. The Chair thinks the precedents are to the effect that this bill is one which the Public Lands Committee has the right to report form the floor, and therefore is privileged, and overrules the point of order.

2291. General pension bills reported by the Committee on Invalid Pensions are privileged for consideration at any time.

The term "general pension bills" is construed to refer to bills or legislation general in character as distinguished from bills or legislation of a private character or bills restricted in their purpose or effect.

A bill authorizing monthly payment of pensions in lieu of quarterly payments was classified as a general pension bill and held to within the privilege accorded the Committee on Invalid Pensions to report at any time.

The right to report legislation at any time carries with it the right to consideration at any time when not in conflict with other rules of the House.

On a Friday set aside for the consideration of business on the Private Calendar it is in order to call up business privileged under the rule authorizing certain committees to report at any time.

On Friday, June 21, 1921,[1] Mr. Oscar E. Bland, of Indiana, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2158) to provide for the monthly payment of pensions.

Mr. Eugene Black, of Texas having raised a point of order against the privilege of the bill, the Speaker pro tempore [2] ruled:

The gentleman from Texas, Mr. Black, makes the point of order that the bill reported and called up by the gentleman from Indiana, Mr. Bland, is not a privileged bill under the rule, and therefore that the motion that he has made is not in order at this time.

The rules of the House give to certain committees the right to report certain bills within their jurisdiction at any time. Among the committees that have that privilege is the Committee on Invalid Pensions, to report general pension bills. In the reporting of private bills the jurisdiction of the Committee on Invalid Pensions is restricted to cases over which jurisdiction is not given to the other pension committee, the Committee on Pensions. But in giving the Committee on Invalid Pensions the right to report at any time specific reference is made to general pension bills.

The Chair construes that to mean bills or legislation general in character, as distinguished from bills of a private character, or restricted in their purpose or effect.

The precedents seem to hold that the right to report legislation at any time carries with it the right to have it considered at any time, provided it is not in conflict with other rules of the House governing the procedure and precedence of legislation. The Chair upon examining the provisions of this bill finds that while it deals chiefly with the administration of the Pension Bureau, in that it authorizes the payments to be made monthly on the fourth day of each month beginning not later than July, 1921, as distinguished from quarterly payments, as has heretofore prevailed for some time, yet this provision seems to be general in its character. It is not restricted to any particular class of cases. Furthermore, by its second section it repeals legislation which has heretofore been enacted which may be inconsistent with the provisions of this bill, seemingly dealing with general legislation which is now in force covering the same subject.

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[1] First session Sixty-seventh Congress, Record, p. 2858.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

The Chair feels that under a strict and fair construction of the rule, having in mind the idea that the rule when adopted was evidently so framed and phrased as to expedite the business of the House, this bill can fairly be considered as a general pension bill, being general in its character, and therefore comes within the provisions of the rule conferring authority upon the Committee on Invalid Pensions to report at any time general pension bills, and the Chair overrules the point of order.

2292. A "general" pension bill was defined as a pension bill affecting a class of proposed beneficiaries and not certain specific individuals.

A bill to extend the provisions of pension law to State militia was held to be a general pension bill and privileged when reported by the Committee on Invalid Pensions.

A privileged motion to proceed to the consideration of a general pension bill reported by the Committee on Invalid Pensions is in order on Friday as on other days.

On June 9, 1922,[1] Mr. John W. Langley, of Kentucky, from the Committee on Invalid Pensions, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 211) to extend the provisions of the pension act of May 11, 1912, to the officers and enlisted men of all State militia that rendered service to the Union cause during the Civil War for a period of 90 days of more.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill was not priviledted and said:

The point of order is that the motion of the gentleman is not privileged under the rules of the House. To-day is the second Friday of the month. Under clause 6, Rule XXXIV, providing for the consideration of bills on the Private Calendar, we find the following language:

"On Friday of each week, after the disposal of such business on the Speaker's table as requires reference only, it shall be in order to entertain a motion for the House to resolve itself into the Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion."

I wish to call the attention of the Chair to the fact that the bill for which the gentleman asks unanimous consent for consideration in the Committee of the Whole House on the state of the Union is a public bill, not on the Private Calendar, it being found on the Union Calendar, and therefore does not come within the provisions of clause 6, Rule XXXIV, providing for consideration of business on the Private Calendar.

The Speaker pro tempore [2] held:

The gentleman from Wisconsin, Mr. Stafford, makes the point of order that the motion of the gentleman from Kentucky, Mr. Langley, namely, that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 211, is not in order at this time, and he directs the attention of the Chair to the provision in clause 6 of Rule XXIV, which provides in substance that on Friday of each week, after the disposition of such business on the Speaker's table as requires reference only, it shall be in order to entertain a motion that the House resolve itself into Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to private pension claims and bills removing political disabilities and bills removing desertion charges, and on every Friday except the second and foruth Fridays the House

[1] Second session Sixty-seventh Congress, Record, p. 8482.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

shall give preference to the consideration of bills from the Committee on Claims and the Committee on War Claims, alternating between the two committees.

The attention of the Chair also has been directed to the provision of clause 56 of Rule XI, which provides that "the following-named committees shall have leave to report at any time on the matters herein state: The Committee on Rules on rules, joint rules, and order of business"; then, after enumerating several others, "the Committee on Invalid Pensions, general pension bills." The fact that this is the second Friday of the month would not make this motion in order under the provisions of clause 6 of Rule XXIV.

This bill, however, was reported by the Committee on Invalid Pensions on March 27 last the Chair is advised, as a privileged bill reported from the floor with all points of order reserved. It deals with the pension act of May 11, 1912, by extending its provisions, not to certain specific individuals but to a class of proposed beneficiaries who heretofore have not come under the law relating to pensions.

The present occupant of the chair had occasion to pass upon a question somewhat akin to this when the bill relating to the monthly payment of pensions was reported. A point of order at that time was made, that it was not in order to move to resolve the House into Committee of the Whole House on the state of the Union for the consideration of that bill, because that proposed legislation was not within the purview of the language of clause 56 of Rule XI. The Chair at that time held that that language in the rule, namely, "general pension bills," meant "bills or legislation general in character, as distinguished from bills of a private character or bills restricted in their purpose or effect. The precedents seem to hold that the right to report legislation at any time carries with it the right to have tat legislation considered at any time, provided it is not in conflict with other rules of the House covering the procedure and precedence of legislation."

The Chair has examined the provisions of this bill—H.R. 211—and is of opinion that it si general in character, in that it adds another class to come within the benefit of the laws heretofore enacted for the payment of pensions; and that while it is not in order under the provisions of clause 6, Rule XXIV, it having been reported from the floor as a privileged bill under the provisions of clause 56, Rule XI, which would seem to be somewhat in conflict with clause 6 of Rule XIV, this latter rule should, in the view of the Chair, be held superior. This being a privileged bill, the gentleman from Kentucky in the judgment of the Chair, is entitled to make the privileged motion to resolve the House into Committee of the Whole House on the state of the Union for its consideration. The Chair therefore overrules the point of order.

2293. While the Committee on Invalid Pensions is privileged to report at any time on general pension bills, this right does not extend to the Committee on Pensions.

On May 18, 1921,[1] Mr. John M. Robsion, of Kentucky, proposed to report from the floor the bill (H. R. 4.) pensioning soldiers and sailors of the War with Spain, Philippine insurrection, and Chinese Boxer rebellion campaign.

Mr. Finis J. Garrett, of Tennessee, raised a question of order and inquired if a bill from the Committee on Pensions could be so reported.

The Speaker[2] said:

The Chair thinks not. The Chair thinks it comes through the basket in regular order. This is not from the Committee on Invalid Pensions. It is from the Committe on Pensions. The rule specifies the Committee on Invalid Pensions, but not the Committee on Pensions.

2294. Construction of the rule granting privilege to the Committee on Printing.

In passing upon the privilege of resolutions reported by the Committee on Printing the number of copies specified can not be considered

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[1] First session Sixty-seventh Congress, Record, p. 1537.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

in determining the question as to whether such copies are for the use of the House.

On January 14, 1909,[1] Mr. Charles B. Landis, of Indiana, from the Committee on Printing, reported as privileged this resolution:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the House of Representatives 2,000,000 copies of the debate and proceedings in the House of Representatives Friday, January 8, 1909, concerning that portion of the annual message of the President relating to the Secret Service, to be delivered through the folding room, excepting, 2,000, which shall be assigned to the document room.

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that it was not permissible by concurrent resolution to amend a statute and, further, that the resolution was not privileged for the reason that the number of copies specified was proof that all were not for the "use of the House or two Houses," as required by the rule.

The Speaker[2] decided:

Rule XI makes this report privileged. In the concurrent resolution submitted it purports to be for the use of the House. That settles the question in the opinion of the Chair as to the first point of order that the gentleman from Massachusetts, Mr. Gardner, makes.

Paragraph 4 of the act approved March 1, 1907, reads:

"Orders for printing extra copies otherwise than herein provided for shall be by simple, concurrent, or joint resolution. Either House may print extra copies to the amount of $500 by simple resolution; if the cost exceeds that sum, the printing shall be ordered by concurrent resolution except when the resolution is self-appropriating"—

And so forth.

Now, the gentleman's second point of order, it seems to the Chair, is not well taken, for the reason that to sustain the point of order the Chair would have to determine that the 2,000,000 copies were not for the use of the House. If the Chair had that authority, to put an extreme case, the Chair might hold that the printing of 2 or 2,000 copies, or any other number, was not for the use of the House. It is a question of privilege under the points of order that the Chair passes upon, and, in the opinion of the Chair, it is a matter as to the propriety on the merits of the resolution for the House to pass upon. Therefore the Chair overrules the points of order made by the gentleman from Massachusetts.

2295. While reports from the Committee on Printing pertaining to "printing for the House or two Houses" are privileged, that privilege does not extend to a bill providing for revision of the printing laws.

On May 2, 1914,[3] Mr. Henry A. Barnhart, of Indiana, from the Committee on Printing, proposing to report the bill (H. R. 15902) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications, inquired of the Speaker if the bill could be reported from the floor as within the privilege of the committee to report at any time.

The Speaker[4] held that the bill did not come within the privilege conferred by the rule.

2296. The printing of hearings before a committee of the House was held to be "printing for the use of the House," and a resolution authorizing

[1] Second session Sixtieth Congress, Record, p. 921.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-third Congress, Record, p. 7622.

[4] Champ Clark, of Missouri, Speaker.

such printing was construed to come within the privilege of the Committee on Printing to report at any time.

On December 18, 1924,[1] Mr. Edgar R. Kiess, of Pennsylvania, from the Committee on Printing, presented, as privileged, the report of that committee on the following resolution:

Resolved, That the hearing held before the Committee on the Judiciary, Sixty-eighth Congress, first session, on the proposed child labor amendments to the Constitution of the United States be printed as a House document, and that 2,000 additional copies be printed for the use of the House Committee on the Judiciary.

Mr. Thomas L. Blanton, of Texas, made the point of order that the resolution was not privileged.

The Speaker[2] ruled:

The Chair does not see why it does not come within the rule. Clause 56 of Rule XI provides:

"The following-named committees shall have leave to report at any time on the matters herein stated, viz"—

Then the rule gives the list of committees. The rule mentions the Committee on Printing and provides:

"on all matters referred to them of printing for the use of the House or the two Houses."

The Chair overrules the point of order.

2297. Privilege conferred on bills reported by the Committee on Printing is confined to provisions for printing for the two Houses, and an appropriation for such purpose destroys the privileged character of the bill.

On April 30, 1930,[3] Mr. Edward M. Beers, of Pennsylvania, by direction of the Committee on Printing, proposed to call up as privileged the following joint resolution:

Resolved, etc., That the Secretary of Agriculture be, and is hereby, authorized to have printed, with illustrations, and bound in cloth 130,000 copies of the Special Report on the Diseases of Cattle, the same to be revised and brought to date, of which 90,000 shall be for the use of the House of Representatives, 25,000 for the use of the Senate, and 5,000 for the use of the Department of Agriculture; and to carry out the provisions of this resolution there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $60,000, or so much thereof as may be necessary.

Mr. Earl C. Michener, of Michigan, having questioned the privilege of the bill, the Speaker[4] said:

From the reading of the resolution, the Chair observes it carries a direct appropriation, which destroys its privilege.

The Chair understood this was one of the ordinary privileged resolutions; on the contrary, it carries a large appropriation, and of course is not privileged, because the Committee on Printing has no authority to report a resolution carrying an appropriation. Under the circumstances the Chair will ask the gentleman to withhold his request for the time being.

2298. Reports from the Committee on Printing when on provisions for printing for the use of the Congress are privileged.

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[1] Second session Sixty-eighth Congress, Record, p. 785.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventy-first Congress, Record, p. 8083.

[4] Nicholas Longworth, of Ohio, Speaker.

On May 21, 1929,[1] Mr. Edward M. Beers, of Pennsylvania, by direction of the Committee on Printing, offered as privileged the following resolution previously referred to that committee:

Resolved, That the address of President Hoover on law observance delivered in New York City on April 22, 1929, at the annual luncheon of the Associated Press in New York be printed as a House document and that 10,000 additional copies be printed for the use of the House document room.

Mr. John N. Garner, of Texas, questioned the privilege of the resolution.

The Speaker[2] held that its provision came within the restrictions of "printing for the use of the two Houses," and overruled the point of order.

2299. The privilege of the Committee on Accounts is confined to resolutions making expenditures from the contingent fund.

The inclusion of matters not privileged destroys the privileged character of a resolution.

Directions to the Postmaster of the House specifying the number of mail deliveries was held to destroy the privilege of a resolution reported by the Committee on Accounts.

On January 15, 1908,[3] Mr. James A. Hughes, of West Virginia, from the Committee on Accounts, presented, as privileged, the following resolution:

Resolved, That the Postmaster of the House is hereby directed, in pursuance of Rule VI, to deliver and collect mail at the offices of Members, officers and employees of the House, and at committee rooms not less than four times per day until otherwise ordered by the House: *Provided,* That Members may also have mail delivered in the manner now provided so far as may be desired; and such additional number of messengers, not exceeding five, as may be necessary, in the discretion of the Postmaster, to carry out the provisions of this resolution, shall be employed by him during the sessions of the Sixtieth Congress, to be paid out of the contingent fund of the House, at the rate of $100 per month each, until otherwise provided for by law.

Mr. Sereno E. Payne, of New York, raised the point of order that the resolution was not privileged.

The Speaker[4] ruled:

This resolution provides that the Postmaster of the House be directed, in pursuance of Rule VI, to deliver and collect mail at the offices of Members, offices of employees of the House, and at committee rooms not less than four times per day until otherwise ordered by the House. That is one proposition. It is also provided that Members may have mail delivered in the manner now prevailing, so far as may be desired, and also that such additional number of messengers, not exceeding five, as may be necessary, in the discretion of the Postmaster, be employed to carry out the provisions of this resolution during the session of the Sixtieth Congress, those messengers to be paid out of the contingent fund, etc. Rule VI provides that the Postmaster shall superintend the post office kept in the Capitol for the accommodation of Representatives, Delegates, and officers of the House, and be held responsible for the prompt and safe delivery of their mail.

Clearly the latter part of this resolution, standing alone, is privileged. It provides for the payment out of the contingent fund, and it is for the service provided for by Rule VI. The Chair is perfectly clear that if the first provision, which is mandatory for the distribution of mail four times per day, were left off this resolution, the resolution would be privileged, or if the resolu-

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[1] First session Seventy-first Congress, Journal, p. 211; Record, p. 1625.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixtieth Congress, Record, p. 735.

[4] Joseph G. Cannon, of Illinois, Speaker.

tion provided under Rule VI for the performance of the duty of the Postmaster, as provided in Rule VI, and there stopped, and then provided for messengers, it seems to the Chair it would then be a privileged matter.

Here is positive direction equivalent to a new rule of the House, or at least providing that there should be so many distributions a day. The Chair is inclined to think that destroys the privilege of the resolution. The Chair reads from the Manual:

"The privilege of the Committee on Accounts is confined to resolutions making expenditures from the contingent fund of the House. * * * A resolution from the Committee on Accounts, relating to management of the House restaurant, was not received, as a matter of privilege."

The Chair is inclined to think the question of privilege is destroyed by the first provision of the resolution. By unanimous consent, if the House desires to grant it, it is in the power of the House to consider the resolution.

2300. The fact that a resolution reported by the Committee on Accounts authorizes an expenditure from the contingent fund does not necessarily render it privileged.

Legislative propositions relating to subjects within the jurisdiction of other committees are not privileged when reported by the Committee on Accounts because involving disbursements from the contingent fund.

Authorization of publications in connection with the service of the House is a subject belonging to the jurisdiction of the Committee on Printing and not the Committee on Accounts.

Unprivileged matter in a resolution otherwise privileged vitiates the privilege of such resolutions.

On September 24, 1918,[1] Mr. Frank Park, of Georgia, by direction of the Committee on Accounts, proposed to report as privileged, this resolution:

Resolved, That the preparation and publication of the Weekly Compendium and Monthly Compendium, compiled and edited by W. Ray Loomis, assistant superintendent of the document room of the House, is hereby authorized to be continued, published, and distributed as heretofore; and the Clerk of the House is hereby directed to pay out of the contingent fund of the House, until otherwise provided for, extra compensation to said Loomis at the rate $125 per month, from and after December 31, 1917, the date when the preparation and publication of said compilations began.

Mr. William H. Stafford, of Wisconsin, raised a point of order and said:

As I gleaned from hearing the resolution read, it involves an authorization of some publication that has not heretofore been authorized. The gentleman from Georgia presents this as privileged, saying that it involves expenditures out of the contingent fund. That does not necessarily mean that everything involving expenditures out of the contingent fund shall be privileged. It involves matters relating to the jurisdiction of other committees, and, as I heard it read, the resolution authorizes a publication that has not heretofore been authorized and properly should go to the Committee on Printing. The Committee on Accounts should not take jurisdiction of matters that relate to the Committee on Printing, even if it involves expenditures out of the contingent fund.

The Speaker[2] decided:

The point of order made by the gentleman from Wisconsin is well taken. The resolution involves nonprivileged matter which vitiates the privilege of the resolution.

2301. In exercising the right to report at any time the Committee on Accounts may not include matters extraneous to its jurisdiction.

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[1] Second session Sixty-fifth Congress, Record, p. 10706.

[2] Champ Clark, of Missouri, Speaker.

Propositions limiting or enlarging the powers and discretion of officers of the House in the discharge of administrative duties are not within the jurisdiction of the Committee on Accounts and nullify the privilege of resolutions reported by that committee even though associated with expenditures from the contingent fund.

Directions to the Clerk of the House to classify books and documents in the House library and dispose of any surplus in conjunction with the chairman of the Committee on the Disposition of Useless Executive Papers and the Librarian of Congress was held to be a subject not within the jurisdiction of the Committee on Accounts.

Propositions relating to the convenience of Members of the House, as the installation of elevators, were held to belong to the jurisdiction of the Committee of Accounts, and privileged for report at any time in connection with disbursements from the contingent fund.

On July 26, 1921,[1] Mr. Clifford Ireland, of Illinois, for the Committee on Accounts, offered as privileged this resolution:

Resolved, That the Clerk of the House is hereby directed to make a survey and classification of the books and documents in the House library and of the reserve stock stored in the House Office Building, and to dispose of such excess volumes through the Superintendent of Documents as provided by law, as, in the judgment of the Clerk, the Librarian of Congress, and the Chairman of the Committee on Disposition of Useless Executive Papers, may not be necessary as a reserve library with which to supply the Hall Library. And the Clerk is further directed, in conjunction with the Architect of the Capitol, to remove the contents of the rooms now occupied by the House library, and to refit and make ready said rooms for the occupancy of the journal clerk, tally clerk, chief bill clerk, enrolling clerk, and their respective assistants, and of such other employees of the Clerk's office as may therein be accommodated. All expenses in connection with the execution of this resolution, including labor, additional clerical assistance, and equipment not exceeding $25,000 shall be paid out of the contingent fund of the House upon vouchers approved by the Committee on Accounts.

Mr. Finis J. Garrett, of Tennessee, in raising a point of order said:

I make the point of order that this is not a privileged resolution. It clothes the Clerk of the House with authority that he does not now have either under the law or the rules of the House. It brings into the determination of what is probably a legislative question the chairman of the Committee on Disposition of Useless Executive Papers. It does not bring in the committee, but just the chairman. Then it directs the Clerk further, in conjunction with the Architect of the Capitol, to remove the contents of the rooms now occupied by the House library. The Clerk has no jurisdiction over the House library. It directs him to refit and make ready said rooms. The Clerk of the House has no jurisdiction under the law over the matter of refitting the rooms.

I venture to direct the attention of the Speaker to the fact that the Committee on the disposition of Useless Papers is not a committee created by the rules of the House alone. It is a committee created by statute.

This resolution undertakes to confer upon the chairman of the committee created not alone by the rules of the House but by law the functions which ought to be performed by the full committee, if performed at all.

The Speaker[2] held:

The Chair is somewhat perplexed by this proposition. It has been held in a number of cases that a proposition relating to the convenience of Members of the House is privileged, such as the

[1] First session Sixty-seventh Congress, Record, p. 4316.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

building of elevators, and so forth. But the right to dispose of documents is provided by law, and this does seem to change it by saying that the Clerk shall dispose of them, not as now but with the concurrence of the chairman of the Committee on the Disposition of Useless Papers and the Librarian of Congress. It seems to the Chair that that does change the power the Clerk now has by law, and so the point of order is sustained.

2302. A resolution fixing salaries of House employees was held not privileged when reported by the Committee on Accounts.

On February 17, 1920.[1] Mr. Clifford Ireland, of Illinois, by direction of the Committee on Accounts presented a report on the following resolution:

Resolved, That the salary of one special employee of the House be $2,800 per annum: *Provided*, That the said salary be paid out of the contingent fund of the House of Representatives until otherwise provided for by law.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution was not privileged.

Mr. James R. Mann, of Illinois, speaking to the point of order said:

The resolution is not privileged. The Committee on Accounts does not have jurisdiction to fix the salary of employees. It can not report a privileged resolution fixing a salary. The Committee on Accounts could provide that there should be a certain amount paid out of the contingent fund, which would increase the salary of this employee. Automatically under the rules of the House, that would authorize the Committee on Appropriations to provide an appropriation at an increased salary. But this is legislation; it fixes the salary of the employee at $1,800 and is not privileged.

The Speaker[3] sustained the point of order.

2303. A resolution providing for the employment of a designated individual at a stated salary to be paid out of the contingent fund was held to be privileged when reported by the Committee on Accounts.

On February 17, 1920,[3] the Committee on Accounts reported a resolution which the Clerk read as follows:

Resolved, That James Clark be appointed special messenger to serve in and about the House under the direction of the Doorkeeper, at a salary of $125 per month, to be paid out of the contingent fund of the House, until otherwise provided for.

Mr. Joseph Walsh, of Massachusetts, having raised a question of order against the resolution, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, it provides for a new position, naming the incumbent, the compensation to be payable out of the contingent fund of the House, which is the very purpose of the Committee on Accounts. They have the right to bring in resolutions of that kind.

The Speaker[4] overruled the point of order.

2304. A resolution enlarging the powers and increasing the duties of a standing committee through the employment of a clerk to be paid from the contingent fund was held not to be within the privilege given the Committee on Accounts to report at any time.

A resolution against which a point of order has been sustained is no longer before the House and amendments thereto are not in order.

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[1] Second session Sixty-sixth Congress, Record, p. 3013.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-sixth Congress, Record, p. 3013.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

On February 7, 1922,[1] the Committee on Accounts proposed to report as privileged the resolution:

Resolved, That pending the election and qualifications of a successor to the late Hon. J. K. Kalanianaole, Delegate from Hawaii, the Committee on the Territories of the House of Representatives is authorized to maintain and conduct the office of the late Delegate; and for that purpose the chairman is authorized to employ a clerk at a salary of $266 per month, the same to be paid from the contingent fund of the House: *Provided*, That such payments shall cease on the day that a new Delegate from Hawaii takes office.

Mr. Joseph Walsh, of Massachusetts, submitted that the resolution contained matter which destroyed its privileged character.

The Speaker[2] ruled:

The Chair thinks the resolution is subject to that point of order, because the first part of it says that "pending the election and qualification of the successor to the late Hon. J. K. Kalanianaole, Delegate from Hawaii, the Committee on the Territories of the House of Representatives is authorized to employ a clerk." It makes the whole resolution subject to a point of order.

Mr. Ireland said:

I maintain that it should not lose its privileged status simply because of the additional legislation therein. Whether it makes an appropriation for one month or for three months is immaterial. The language transferring the jurisdiction to the Committee on the Territories is perhaps surplusage. It would come under their jurisdiction in any event, and possibly it was an error to include that.

The Speaker said:

The Chair thinks it was an error to include it if it was intended to make the resolution in order, because it is a well-settled principle that where something not privileged is joined with matter that is privileged the whole loses its privilege thereby, and the Chair thinks the first part of the resolution is clearly not privileged, and therefore that the whole resolution loses its privilege. The opinion of the Chair has not been changed. The Chair is quite clear that the first part of the resolution is not privileged, and therefore that takes away the privilege of the whole resolution. The Chair suggests that the resolution might be presented in such form that it would be in order.

Thereupon, Mr. Ireland proposed to amend the resolution by striking out the following:

The Committee on the Territories of the House of Representatives is authorized to maintain and conduct the office of the late Delegate.

The Speaker said:

The gentleman can offer a new resolution.

2305. A resolution providing additional compensation for employees of the House to be paid from the contingent fund, when reported by the Committee on Accounts, was held to come within the privilege given that committee to report at any time.

On April 22, 1926,[3] Mr.Clarence MacGregor, of New York, by direction of the Committee on Accounts, reported as privileged a resolution directing the Clerk of the House to pay out of the contingent fund additional compensation to certain employees of the House.

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[1] Second session, Sixty-seventh Congress, Record, p. 2238.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 7982.

Mr. Eugene Black, of Texas, made the point of order that the resolution was not privileged.

The Speaker [1] ruled:

This form of resolution has been the practice for a number of years. The Chair would think that the Committee on Accounts would not undertake to add additional employees, but it certainly has been the practice for a great many years to increase salaries by resolution. The Chair overrules the point of order.

2306. The jurisdiction of the Committee on Accounts does not extend to the contingent fund of the Senate and a resolution providing for joint payment from the contingent funds of the two Houses was held not to be privileged for report at any time.

On April 22, 1924,[2] Mr. Clarence MacGregor, of New York, by direction of the Committee on Accounts, called up, as privileged, the concurrent resolution (H. Con. Res. 19) authorizing the Architect of the Capitol to contract for the extermination of pests in the Capitol and in the Senate and House Office Buildings, and containing the following:

That the expenditures in carrying out the contract be paid from the contingent fund of the House and Senate in equal proportions and upon vouchers authorized by the respective committees having control of the contingent funds of the Senate and House of Representatives and approved by the chairman thereof.

Mr. Thomas L. Blanton, of Texas, made the point of order that reports from the Committee on Accounts were privileged when relating to the contingent fund of the House only.

The Speaker [3] sustained the point of order.

2307. The requirement that reports to printed was construed not to preclude consideration before printing.

Failure of printed report to conform to report as originally presented to the House was held not to prevent consideration.

When a standing committee reports on subject matter referred to it, jurisdiction over it ceases unless recommitted.

The right of a Member to his seat may come up at any time as a question of privilege, even though the subject may have been referred to a committee.

On December 15, 1922,[4] Mr. Frederick W. Dallinger, of Massachusetts, from the Committee on Elections No. 1, called up the contested election case of Paul *v.* Harrison, from Virginia.

Mr. R. Walton Moore, of Virginia, made the point of order that the report had not been printed as required by the rules and said:

The report was sent to the Government Printing Office. It was placed in type and the proof was turned over to the chairman of the committee. That document, thus dealt with, is the only report that has ever been brought into this House within the meaning of the rule. When

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 6900.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Fourth session Sixty-seventh Congress, Record, p. 533; Journal, p. 59.

the chairman received the proof he undertook to change the report. He changed it elaborately. He changed it substantially and materially. For example, the report having declared that certain precincts should not be counted but disregarded altogether, the chairman changed that feature of the report and varied the number of precincts to be treated in that way. The chairman went further and added two independent important sections, something like three to five hundred words, in which he embodied calculations as to what would occur in the result on this or that hypothesis. That paper was substituted for the original paper and without any permission from the House. That paper went to the Government Printing Office and was printed and distributed, and that is what purports to be the report of the committee that is before us now.

The gentleman from Massachusetts called his committee together again, and that committee proceeded to give its approval to this second paper, which is now designated as a report. That action was taken without the authority of this House.

There was an original reference to the committee of the case and there was never any subsequent reference, and the central suggestion I wish to submit is that when the committee presented here the first paper that was agreed upon it exhausted its authority. Thereafter the Committee on Elections was powerless to go a step further. That would seem to be the view based upon common sense. If that is not a correct view, then this House is under the control of a committee, however arbitrarily it may choose to act.

Mr. Frank Mondell, of Wyoming, said in explanation:

The chairman of the committee can verify my statement. I am simply stating my understanding of the case. The only changes made in the original print were, I am told, changes made in order to include in the print certain matter that was in the report as presented by the chairman of the committee and omitted, probably by mistake, by the printer, and there is nothing in the report now before the House that was not in the original report. While a statement of this fact is not necessary to the decision of the point of order, I think it best that the fact be stated.

The Speaker [1] ruled:

The statement just made by the gentleman from Wyoming, Mr. Mondell, of course, puts a new aspect upon the case, but it is not necessary for the Chair to rule upon the discrepancy of fact. The Chair, to save time, is ready to assume that the facts are as stated by the gentleman from Virginia. If that is true, it is clear that the committee which had jurisdiction to report this resolution, which the gentleman from Massachusetts calls up, reported it.

The report was submitted to the House and this resolution went upon the calendar, having been reported by the committee. That put it in the care of the House. The Chair thinks that the gentleman from Virginia is correct in arguing that the committee's authority was then exhausted and the committee could not then make a new report without having the matter again referred to it by the House. But it does not follow, it seems to the Chair, that a point of order can be made against consideration of the resolution because the provision of the rule which requires the report shall be printed was not carried out. It is undoubtedly desirable for the convenience of Members that they shall have sufficient copies of the report at the time the matter comes before the House.

In this case the Chair will assume that this report, which is before the House, was not the same report that the committee made. But, of course, no harm has ensued to anybody. A full report is simply the argument of the committee. This is the report which the minority had before them and which their statement of views answered. It is the report that expressed the latest views of the committee. Apparently the committee supposed they had the right to correct and amplify their first report. As a matter of equity there could be no claim that this report should not be considered as the valid report of the committee. The only claim can be that, as a matter of strict technical law, the fact that the report which the committee first made was not printed prevents this resolution being in order.

There was here no improper vote, such as was referred to in the case in Hinds', volume 4 section 3117. The report was properly made, and this being an election case it is not even neces-

[1] Frederick H. Gillett, of Massachusetts, Speaker.

sary that there should be any report at all to make it in order. It has been held—Hinds', third volume, section 2584—that when an election case was before the committee, and a Member in the House, without waiting for the committee to report at all, moved a resolution on that case, a resolution similar to the one that the gentleman from Massachusetts, Mr. Dallinger, moves now, that even then, without any report from the committee, that motion was in order. Much less, then, in this case, where the committee did make a report to the House, as is admitted, does such a point of order lie against the consideration of the resolution. The Chair overrules the point of order.

2308. The requirement that reports be printed is not interpreted as making the printing of a report a condition precedent to the consideration of the bill on which made.

On January 5, 1926,[1] Mr. Louis C. Cramton, of Michigan, by direction of the Committee on Appropriations presented the report of that committee on the Interior Department appropriation bill, which was referred to the Union Calendar and ordered to be printed.

Subsequently, on the same day, Mr. Cramton moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

Mr. Fiorella H. LaGuardia, of New York, made the point of order that the report had not yet been printed as required by the rules and the bill was therefore not in order for present consideration.

The Speaker[2] ruled:

The Chair is quite prepared to concede that as a general rule it is better procedure in reporting a bill of grave importance like this—an appropriation bill—to permit it to lie over for one day. The Chair is not called upon to rule on that question, however. If he were, on this particular occasion he would say that the most abundant fairness is given to every Member of the House, in view of the statement of the gentleman from Michigan, Mr. Cramton, in charge of the bill, that there will be three days of general debate; but the Chair is not called upon to decide that question. The only question before the Chair is whether under the rules it is in order to bring up for consideration a privileged bill on the day on which the bill and the report are presented. There is no question in the Chair's mind on that point at all. There is nothing in the rules that provides that a bill of this sort, a privileged bill, shall lie over for one day. Even in the case of bills not privileged there is nothing in the rules which provides that while the report and the bill must be printed they can not be considered on the day they are reported. The Chair does not think there is any possible doubt about the situation in this case. The Chair, therefore, overrules the point of order.

2309. On January 18, 1907,[3] Mr. Lucius Nathan Littauer, of New York, by direction of the Committee on Appropriations, reported the bill (H. R. 2454) the deficiency appropriation bill.

Later, on the same day, Mr. Littauer moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the deficiency bill.

The point having been raised that the report had not yet been printed and consideration of the bill was not in order until the report had been printed as provided

[1] First session Sixty-ninth Congress, Record, pp. 1507, 1525.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Fifty-ninth Congress, Record, p. 1348.

by the rules, the Speaker [1] held that the only essential requirement before consideration was that the report be in writing, and this being complied with it was not necessary to wait until it also had been printed.

2310. Ordinarily the House proceeds to the consideration of a privileged question only on motion authorized by the Committee reporting thereon.

The privilege of a question is not affected by the nature of the report thereon and a resolution privileged under the rule occupies the same status when reported adversely as when reported favorably.

A point of order having been made, all points of order on the same proposition should be submitted before decision on any.

By an exceptional decision it was held that a resolution of inquiry was privileged for consideration only on motion authorized by the committee having jurisdiction.

A resolution of inquiry asking for "reason" and "cause" was held to ask for opinions rather than facts.

On December 13, 1924,[2] Mr. Fiorello H. LaGuardia, of New York, proposed to call up the resolution (H. Res. 365) requesting the Secretary of the Treasury to furnish to the House of Representatives certain information regarding Robert J. Owens, a prohibition agent.

Mr. L. C. Dyer, of Missouri, made the point of order that the resolution had been reported adversely by the Committee on the Judiciary and that Mr. LaGuardia, not being a member of that committee, was not authorized to call it up.

Mr. Everett Sanders, of Indiana, inquired if other points of order against the privilege of the resolution should be presented immediately or deferred until the pending point of order had been disposed of.

The Speaker thereupon recognized Mr. Sanders and Mr. Nicholas Longworth, of Ohio, to submit further points of order.

Mr. Sanders, submitted the further point of order that the House had by special order set aside the day for the consideration of business on the Private Calendar otherwise in order on the preceding Friday.

Mr. Longworth made the additional point of order that the resolution in asking for cause and reasons asked for opinions rather than facts.

In debating the question as to whether authorization by the committee was requisite, Mr. Louis C. Cramton, of Michigan, said:

> Mr. Speaker, I am not interested in the subject matter of the resolution. I am, however, somewhat jealous of the protection of the rights of Members and the protection of the rights of minorities with reference to resolutions of inquiry. If it should be held that the point of order made by the gentleman from Missouri is correct it means to do away with the right which a minority heretofore has had with reference to resolutions of inquiry.
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> The point of order of the gentleman from Missouri is that a report having been made upon the resolution, that report having been adverse, that no one now can call up that resolution and the report on it except a member of the committee. I did not see where they get the authority for the

[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-eighth Congress, Record, p. 605.

statement that no one but a member of the committee can call up the resolution in view of an adverse report. The only provision of the rules that has to do with this subject is as follows:

"All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within one week after presentation."

Under that rule has grown up the practice of the House giving to the resolution of inquiry a privileged status. All that the rule definitely requires is that the committee shall report, but the report of the committee is an idle ceremony unless it does lead to possible consideration by the House. If it is to be held that the resolution itself when reported has no privilege, then it is easy to see how a majority in this House can entirely put the lid on resolutions of inquiry. The majority in the House having control of the Rules Committee, having a majority on the committees, can secure an adverse report upon a resolution of inquiry. Is it to be understood that that adverse report absolutely prevents the getting up of a resolution for a vote by the House?

If it is to be so held, then a minority no longer can get a vote in this House upon a resolution of inquiry perhaps addressed to an administration that is politically opposed.

It would be strange, indeed, if a man who introduces a resolution shall be held to lose the right to call it up in this House—a right equal to that of any other Member—unless there is something explicit in the rules to that effect, and there is not.

There is a rule that provides that when there is an adverse report upon any bill, that bill shall lie upon the table, unless within three days some Member of the House—not only a member of the committee, but some Member of the House—asks to have that bill put on the calendar, where it belongs, and any Member of the House has the right to have that bill put on the calendar, notwithstanding an adverse report. Show me a line here that restricts to a member of the committee the right to call up a bill on which there has been an adverse report.

Where is there in the rules any statement restricting to a member of the committee the right to call up a bill or resolution on which there is an adverse report?

If there is any restriction as to the rights of the gentleman it is incumbent upon those who allege such restrictions to point them out. In the absence of them, if they are to hold that an adverse report from a committee on a resolution of inquiry shall deny to its introducer an opportunity to get a vote of this House upon the resolution, then you have done away with that outlet, which has been in this House historic as to the protection of the rights of the minority. Logically it would be an idle ceremony to require a committee to report within seven days and then not give an opportunity for consideration of the report after it should be made.

So, Mr. Speaker, I repeat. I am not concerned about the resolution. I assume that I shall not vote for it if it comes up for consideration, but I do not want a ruling that will put an end to any opportunity of Members or of a minority to call upon the administrative heads for information.

The purpose of the resolution of inquiry, its very nature, is to be used by the minority. The majority in harmony with the administration can get information, but if you are to hold that an adverse decision of a committee of this House shall prevent the House itself from having the right to decide the question, then you have done away with the resolution of inquiry.

The Speaker [1] ruled:

It seems to the Chair that this question is rather academic. It is certainly so if what the gentleman from Missouri, Mr. Dyer, states is the fact, that in the report are given the full reasons of the department. But it is none the less to be decided.

Three points of order are made. As to the day, the Chair finds that the order yesterday was simply that bills on the Private Calendar, reported from the Committee on Claims, be in order for consideration tomorrow. It seems to the Chair that does not prevent the consideration of other privileged business, if the House so desires.

The second point of order is: Can it be brought up by the gentleman from New York, Mr. LaGuardia, he not being a member of the committee, which made the report? This rule was adopted in 1880, and when it was first reported by Mr. Randall it simply provided that any motion of inquiry should be referred to a committee. Then it was contended by some Members

[1] Frederick H. Gillett, of Massachusetts, Speaker.

that there should be some constraint on that committee, and, therefore, the addition was made that such committee should report within one week, and since then, without any special provision in the rule, it has been held that if the committee did not report within that week the Member who offered the resolution should have the right to bring it up as a matter of privilege. There is no special reason, given in any decision the Chair has been able to find, for establishing that right, but the Chair supposes it is to compel the committee to do its duty. It is logical, if the committee does not do its duty, that the House should have the right, without the action of the committee, to immediately proceed to consider the subject. But there is nothing in the rule which provides what shall be done when the committee does report, and consequently it has been held that such a report is privileged, and, it seems to the Chair, it must stand just like any other privileged report of a committee. The Chair can see no reason for any difference in the privilege, whether it is adverse or whether it is favorable. But the Chair is unable to see any reason why this case should be held by decision to be different from all other cases. It is always held that the only person who can bring up a bill is the Member authorized by the committee. There are some privileged bills now on the calendar which are subject to be brought up, but nobody can bring them up except the member of the committee authorized to do so, and in the absence of any expression in the rules or of any precedents by a decision the Chair does not feel authorized to hold that there is any different right in this case than in any other case.

Then as to the point that is made by the gentleman from Ohio, Mr. Longworth, the rulings have been continuous that such a resolution must call simply for the facts and not for opinions. It does seem to the Chair that calling for the reason why the act was done is calling for an opinion by the official who performed that act. It is asking his motive. Of course, the language could be drawn so as to ask the facts on which he based his action, but to ask the motive and the reason of his action, it seems to the Chair, also makes this resolution subject to the point of order. So the Chair sustains the point of order.

2311. A standing committee, unlike a select committee, is not discharged from consideration of a subject within its jurisdiction by reason of having reported thereon.

A standing committee having reported a bill relating to a subject within its jurisdiction is not thereby precluded from reporting other bills subsequently referred to it dealing with the same subject matter.

The fact that the Committee on Merchant Marine and Fisheries had reported a bill relating to radio communication was held not to prevent it from reporting a further bill on that subject and calling it up for consideration in preference to the bill first reported.

There being no question as to the facts affecting the validity of a report the Speaker decided that it should be received.

The Committee on the Merchant Marine and Fisheries has general jurisdiction over radio matters.

On March 12, 1926,[1] during the Calendar Wednesday call of committees, Mr. Frank D. Scott, of Michigan, from the Committee on the Merchant Marine and Fisheries, called up the bill (H. R. 9971) for the regulation of radio communications.

Mr. Tom D. McKeown, of Oklahoma, made the point of order that the bill was improperly on the calendar for the reason that the committee having previously reported a similar bill (H.R. 9108) had been thereby automatically discharged from consideration of the subject matter.

[1] First session Sixty-ninth Congress, Record, p. 5477.

After debate, the Speaker [1] ruled:

The Chair has followed with interest the ingenious argument of the gentleman from Oklahoma, which was well thought out, carefully prepared, and well delivered, but the Chair finds himself quite unable to follow the logic of the gentleman from Oklahoma in this case.

What are the facts? In the mind of the Chair, they are extremely simple. On February 27, 1926, Mr. Scott, chairman of the Committee on the Merchant Marine and Fisheries, reported House bill 9108, a bill for the regulation of radio communications, and for other purposes. Subsequently, on the 3d of March, Mr. White, of Maine, introduced a bill which was referred to the Committee on the Merchant Marine and Fisheries, and reported to the calendar on March 5, 1926. That bill differed in some number of details from House bill 9971. In the judgment of the Chair, the argument advanced by the gentleman from Oklahoma could only hold in one of two cases, either that the Committee on the Merchant Marine and Fisheries was a select committee or that the action taken by the committee was an actual reconsideration of the action taken on House bill 9108. Of course, the Committee on the Merchant Marine and Fisheries is a standing committee. There is some reason for the rule that where a select committee is appointed for a certain purpose it loses jurisdiction entirely over the subject matter after it reports a certain bill because it is automatically dissolved, but there can be no question that no rights are taken away from any standing committee as to its jurisdiction by the reporting or nonreporting of any particular bill.

It is plain in the mind of the Chair that the action taken with regard to House bill 9971 was in no manner a reconsideration of the action taken on House bill 9108. Though it differs in detail it is just as much within the jurisdiction of the committee as was House bill 9108. In House bill 9971 section 4 of House bill 9108 does not appear, and besides there are other amendments; but the Chair thinks the bill is very greatly altered by the elimination of section 4, which, in the opinion of the Chair—although this is a matter that it is not necessary for the Chair to decide here—is a matter probably not within the jurisdiction of the Committee on the Merchant Marine and Fisheries but of another committee. However, the fact is, and it is undenied, that the House bill which the chairman of the committee has just called up for consideration is a different proposition from a bill which the Committee on the Merchant Marine and Fisheries previously reported, and there is no question in the world but that on Calendar Wednesday it is within the province of any committee to call up any bill reported by it.

The Chair thinks there is no question of the right of the gentleman from Michigan to call up House bill 9971 and to consider it in the House under the rules applying to Calendar Wednesday. The Chair, therefore, overrules the point of order.

In response to an inquiry from Mr. Fiorello H. LaGuardia, of New York, the Speaker added:

The Committee on Merchant Marine and Fisheries has general jurisdiction over radio matters; there is no question about that.

2312. A report when presented is not debatable unless privileged for immediate consideration.

A motion for rereference of a bill comes too late after the bill has been reported to the House.

A report when presented may be withdrawn by unanimous consent only.

On March 23, 1921, [2] Mr. Halvor Steenerson, of Minnesota, presented the following report from the Committee on the Post Office and Post Roads:

The Committee on the Post Office and Post Roads, to whom was referred the petition (Exhibit A) signed by Joseph Dixon and 19 other citizens of the city of St. Louis, in the State of

[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session sixty-sixth Congress, Record, P. 4746.

Missouri, charging Colin M. Selph, the duly appointed and acting postmaster of the city of St. Louis, a United States post office of the first lass, with certain high crimes and misdemeanors in office, therein specified and set forth, and which, if found to be true, constitute grounds for impeachment, together with a petition (exhibit B) signed by Joseph Dixon and other citizens of the city of St. Louis, in support of said charges, and a further petition (Exhibit C) signed by Robert J. Ebrecht and other citizens of the city of St. Louis, report the same back with the recommendation that said charges and papers be referred to the Committee on the Judiciary, with directions to investigate the same and take such action as may be proper in the premises.

The report having been read by the Clerk, Mr. Steenerson was proceeding to debate it when Mr. John N. Garner, of Texas, made the point of order that the report not being privileged was not in order for consideration and Mr. Steenerson could not be recognized to debate it.

The Speaker[1] sustained the point of order.

Mr. Steenerson then proposed to move that reference of the matter be changed from the Committee on the Post Office and Post Roads to the Committee on the Judiciary.

Mr. James R. Mann, of Illinois, made the point of order that after the Committee on the Post Office and Post Roads had reported it was too late to offer a motion for change of reference.

The Speaker sustained the point of order.

Whereupon Mr. Steenerson asked unanimous consent to withdraw the report. Mr. Garner objected and the report was referred to the calendar.

2313. An instance wherein a committee filed a supplemental report.

On January 13, 1921,[2] Mr. Edward C. Little, of Kansas, by direction of the Committee on Revision of the Laws, submitted by delivery to the Clerk a supplementary report[3] on the bill (H.R. 9389) to consolidate, codify, revise, and reenact the general and permanent laws of the United States in force March 4, 1919, which said report was ordered to be printed.

2314. A member of the minority party on a committee is sometimes ordered to make the report.

Under exceptional circumstances a minority member of a committee has sometimes presented the report of the committee to the House.

On May 8, 1922,[4] Mr. William F. Stevenson, of South Carolina, a minority member of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. J. Res. 132) to provide for the continuance of certain Government publications, by direction of that committee, presented the conference report, which was thereupon considered and agreed to.

2315. On January 23, 1924, Mr.[5] Charles R. Crisp, of Georgia, a minority member of the Committee on Ways and Means, by direction of that committee, presented to the House a report on the bill (H. R. 5557) to authorize the settlement of the indebtedness to the Republic of Finland to the United States of America.

[1] Frederick H. Gillette, of Massachusetts, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 1392.

[3] Report No. 781, Part 2.

[4] Second session Sixty-seventh Congress, Record, p. 6522.

[5] First session Sixty-eighth Congress, Report No. 89.

On May 3, 1924,[1] Mr. Crisp, by direction of the committee, submitted a report on the bill to authorize the settlement of the indebtedness of the Kingdom of Hungary; on December 12, 1924,[2] a similar report on the bill for the settlement of the indebtedness of the Republic of Lithuania; on December 13, 1924,[3] on the indebtedness of the Republic of Poland; on January 8, 1926,[4] on the indebtedness of the Kingdom of Italy; on January 7, 1926,[5] reports on the indebtedness of the Kingdom of Belgium, the Republics of Estonia, and Latvia, and the Kingdom of Rumania.

2316. The ordinary motion to discharge a committee from the consideration of an unprivileged legislative proposition is not privileged.

A motion for disposition of a resolution is not admissible while a point of order against the privilege of its consideration is pending.

Motions to discharge committees from consideration of questions privileged under the Constitution, as the right of a Member to his seat or the right to consider a vetoed bill, frequently have been held in order.

A charge that a committee has been inactive in regard to a subject committed to it does not constitute a question of privilege.

Dicta to the effect that a resolution and preamble proposing investigation of charges of corruption against the membership of a committee or a Member of the House is privileged.

On June 14, 1910,[6] Mr. Choice B. Randell, of Texas, offered, as affecting the privileges of the House, the following preamble and resolution:

Whereas a bill (H. R. 24318) entitled a bill "To prohibit the giving or receiving of gifts, employment, or compensation from certain corporations by Senators, Representatives, Delegates, or Resident Commissioners in the Congress of the United States, or Senators, Representatives, Delegates, or Resident Commissioners elect, and the judges and justices of the United States courts, and prescribing penalties therefore," was duly introduced in the House of Representatives and on April 9, 1910, was referred to the Committee on the Judiciary and is now before that committee; and

Whereas said bill (H. R. 24318), among other things, contains provisions making it unlawful and penal for Members of the Congress of the United States, during their term of service, to receive any free transportation of person or property, or frank, franking privilege, or money, or other thing of value, or to directly or indirectly hold or take any office, employment, or service, or to receive any salary, fee, or pay as officer, agent, representative, or attorney from any railroad company, or ship, express, telegraph, telephone, or sleeping-car company, or any public-service corporation, or any corporation chartered by an act of the Congress of the United States, or any firm, company, or corporation organized or conducted in violation of the antitrust laws of the United States, or any corporation engaged in interstate and foreign commerce, or any person, firm, or corporation interested in legislation or other business of Congress; and

Whereas the controlling membership on said Judiciary Committee, and especially the chairman of the committee and the chairman of the subcommittee of the Judiciary Committee, to which said bill (H. R. 24318) has been referred by the full committee, are personally interested in the subject-matter of said bill (H. R. 24318) and have been, and are now, receiving gifts, franks,

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[1] Report No. 654.

[2] Second session Sixty-eighth Congress, Report No. 1045.

[3] Report No. 1046.

[4] First session Sixty-ninth Congress, Report No. 63.

[5] Reports Nos. 47, 48, 49, 46.

[6] Second session Sixty-first Congress, Record, p. 8064.

employment, and compensation of great and pecuniary value, such as would be prohibited by the terms of said bill (H. R. 24318) if the same should become a law; and

Whereas the said Judiciary Committee, on account of personal interest, is incompetent and disqualified from justly and properly considering and acting upon said bill (H. R. 24318), and have failed to report said bill (H. R. 24318) back to the House of Representatives, either favorably or unfavorably, and have failed to make known to the House their disqualification by reason of personal interest to pass upon said bill (H. R. 24318); and

Whereas the retention of said bill (H. R. 24318) by the Judiciary Committee is contrary to public propriety and policy, and, by reason of the personal interest of its members adverse to the provisions of said bill, directly affects the rights of this House collectively, and the safety, dignity, and integrity of its proceedings: Therefore be it

Resolved, That the Judiciary Committee of the House of Representatives be, and it is hereby requested and instructed to immediately report back to the House said bill (H. R. 24318) for the further action and consideration thereon by this House.

Mr. George R. Malby, of New York, made the point of order that the resolution was not privileged.

Pending the decision of the Speaker, Mr. Albert Douglas, of Ohio, moved to strike out the preamble.

A point of order by Mr. John Dalzell, of Pennsylvania, that no motion relating to the resolution was in order while the question as to its privilege was pending, was sustained by the Speaker.[1]

Debate on the point of order having been concluded, the Speaker ruled:

The Chair listened to the reading of this resolution. In its preamble it makes very serious and grave charges against the personnel of the Committee on the Judiciary, and then winds up, not with a resolution to investigate those charges by a standing or select committee to see whether they be true or not, but with a resolution as follows:

"Therefore be it resolved, That the Judiciary Committee of the House of Representatives be, and it is hereby, instructed to immediately report back to the House said bill for further action and consideration thereon by this House."

Now, there are some cases where a motion to discharge a committee is in order. There are some questions of high constitutional privilege on which it is in order for the House to proceed without reference to a committee. Amongst that class are the right of a Member to his seat in the House and the right to consider a vetoed bill. Those are questions of privilege arising under the Constitution, and a motion to discharge a committee from consideration of a privileged resolution of that class has been frequently held in order. But in that case the subject that it was proposed to take from the committee was privileged.

Now, it is proposed to take an unprivileged subject from the Committee on the Judiciary, for the House to deal with that question after the committee is discharged, and the gentleman, as a foundation, puts in his whereases, and commences the resolution with "Therefore be it resolved."

Now, while the gentleman presents, so far as the preamble is concerned, a question that might grow into a question of privilege, so far as the substance of the resolution is concerned he presents an entirely unprivileged question. There are many precedents, of which the Chair will cite one:

"A resolution relating to matters undoubtedly involving privilege, but also relating to other matters not of privilege, may not be entertained as of precedence over the ordinary business in regular order.

"A privileged proposition may not be amended by adding thereto matter not privileged or germane to the original question."

The precedents are many, under Speakers Reed, Crisp, and Henderson, and made by the recent occupant of the chair, and, therefore, made in all these cases by the House.

Now, a charge that a committee has been inactive in regard to a subject committed to it was decided not to constitute a question of privilege. That is a decision by Mr. Speaker Crisp, and is along the line of many other precedents that the Chair will not take the time of the House to refer to.

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[1] Joseph G. Cannon, of Illinois, Speaker.

If this motion to discharge the committee that has charge of a matter that is not privileged under the Constitution is privileged, then there are, in round numbers, 20,000 other matters pending before committees which are privileged, and under the gentleman's theory the motion to discharge the committee from consideration of a bill, for inaction or otherwise, would require a session of Congress lasting into several decades to dispose of them all.

The gentleman seems to have brought in a number of whereases here to bolster up, seemingly, unsubstantiated charges against a committee of the House, concluding with a "therefore" to pull through that which is not in order. If the gentleman really wanted to discharge this Committee on the Judiciary from further consideration of this bill, there is a motion that is in order immediately after the reading of the Journal. By unanimous consent first, or by direction of another committee, it is in order to move to discharge a committee from the consideration of any bill and refer it to another committee. That has very frequently been resorted to in the history of legislative proceedings. Back in the time of Mr. Speaker Carlisle a motion was made by the Committee on Agriculture to discharge the Committee on Ways and Means from consideration of what was known as the oleomargarine bill.

And while, in the opinion of many, the Ways and Means Committee had jurisdiction under the rules of the House, a majority of the House, under a parliamentary motion, voted to take the bill from the Ways and Means Committee and refer it to the Committee on Agriculture. So that the gentleman, if he merely desires to change this bill from one committee to another, has full power to make a motion under the rules any day after the reading of the Journal. If the gentleman desires, however, to introduce privileged matter making charges against the membership of the committee, or against any Member of the House from the standpoint of corruption, the proper way is to propose investigation by a resolution for that purpose, and such a preamble and resolution would, in the opinion of the Chair, be privileged. But a preamble suggesting improper conduct by the committee can hardly be made a vehicle for carrying through a procedure not in order under the rules affecting a bill not privileged above other bills. The Chair sustains the point of order.

An appeal from the decision of the Chair by Mr. Randell was laid on the table, yeas 121, nays 20.

2317. The report of a joint commission constituted by law, with minority views thereon, was received and, with a bill recommended by the commission, was referred to the Union Calendar.

On June 3, 1924,[1] Mr. Carl E. Mapes, of Michigan, by direction of the Joint Committee on Reorganization, presented from the floor the report[2] of that committee.

This joint committee, consisting of three Members of the Senate and three Members of the House, was created by joint resolution (S. J. Res. 191) agreed to in the third session of the Sixty-sixth Congress.

The committee, being authorized to report "by bill or otherwise," submitted with their report a bill, the title of which was read by the clerk as follows:

A bill (H. R. 9629) to provide for the reorganization and more effective coordination of the executive branch of the Government, to create a department of education and relief, and for other purposes.

Mr. Thomas L. Blanton inquired if it would be in order to reserve points of order on the bill.

The Speaker[3] replied in the negative, and referred the report, with minority views and the bill recommended by the committee, to the Committee of the Whole House on the state of the Union. No further action on the bill appears.

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[1] First session Sixty-eighth Congress, Record, p. 10329.

[2] Senate Document No. 128.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Chapter CCXXXVII.[1]

THE COMMITTEE OF THE WHOLE.

2318. An instance wherein the House resolved into the Committee of the Whole House on the state of the Union without designating a specific subject for consideration, in preference to engaging in general debate in the House.

An occasion on which the House resolved into the Committee of the Whole pending a reply from the President in response to notification by committee that the House had assembled and was ready to receive any communication he desired to make.

On December 5, 1921,[2] immediately following the appointment of a committee on the part of the House to join with the committee on the part of the Senate to notify the President that a quorum had assembled and was ready to receive any communication he might be pleased to make, Mr. Philip P. Campbell, of Kansas, asked unanimous consent that there be three hours' debate, to be divided equally between the two sides of the House.

Inquiry being made by several Members as to the subject it was proposed to debate, Mr. Campbell replied:

On the state of the Union. Several gentlemen desire to speak on the St. Lawrence Canal. Two hours on this side are to be devoted to that subject. I am not aware of the nature of the debate on the other side.

Mr. Finis J. Garrett, of Tennessee, supplemented:

I am unable to state what will be the subject of the speeches on this side.

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[1] Supplementary to Chapter CVII.

[2] Second session Sixty-seventh Congress, Record, p. 6.

Mr. James R. Mann, of Illinois, suggested:

The request that the gentleman makes is made in the House. My recollection is that throughout the whole history of the House debate on the state of the Union has been held in the Committee of the Whole House on the state of the Union. A motion to go into Committee of the Whole House on the state of the Union, of course, would be in order. I do not believe that we ought to set a precedent for general debate in the House as distinguished from debate in Committee of the Whole House on the state of the Union.

Mr. Andrew J. Montague, of Virginia, asked:

Is it customary for the House to engage in any business, general debate or otherwise, pending the reply of the President to the committee that the House sends to notify him that it is organized and ready to do business? Is it not without precedent for the House to do what the gentleman contemplates it shall do prior to the response of the President to the House committee? In other words, is it not rather discourteous to the Executive for the House to enter upon any business pending this response of the President? If no discourtesy is intended, is it not wholly unprecedented to do what the gentleman asks the House to do, and is not such action an implied discourtesy?

Mr. Mann said:

It think it has never been done since I have been here.

Thereupon, Mr. Campbell moved that the House resolve itself into the Committee of the Whole House on the state of the Union and, pending that motion, asked unanimous consent that general debate be controlled by himself and the gentleman from Georgia, Mr. Crisp.

After further debate, the consent was granted, the motion was agreed to and the House resolved into the Committee of the Whole House on the state of the Union. At the conclusion of general debate the committee rose and the Chairman [1] reported that the committee had had under consideration the state of the Union and had come to no resolution thereon.

2319. The Committee of the Whole has no power to make recommendations relative to sending to conference.

On August 16, 1921,[2] the Committee of the Whole House on the state of the Union was considering the Senate amendment to the prohibition enforcement bill.

At the conclusion of consideration of the Senate amendments, Mr. Andrew J. Volstead, of Minnesota, offered a motion which was read by the Clerk as follows:

Mr. Volstead moves that the committee do now rise and report the amendment to the House, with the recommendation that the House concur in the action of the committee and that the House agree to the conference requested by the Senate.

Mr. James R. Mann, of Illinois, in rising to a point of order said:

Mr. Chairman, I make the point of order that the latter part of that motion is not in order. The House acts on the question of the conference. All the committee can do is to act on the Senate amendments. The committee has no authority to recommend to the House what it should do. That matter is not referred to the committee. The rule provides for the consideration of the Senate amendments. We report upon them. The House determines in reference to a conference. The committee has no authority to make a recommendation about a conference. Of course, the House would have that authority.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session, Sixty-seventh Congress, Record, p. 5081.

The Chairman [1] sustained the point of order.

2320. The motion to instruct conferees is not in order in the Committee of the Whole.

On September 23, 1918,[2] Senate amendments to the bill (H. R. 11945) the food production bill were being considered in the Committee of the Whole House on the state of the Union, when Mr. James C. McLaughlin, of Michigan, offered this motion:

Mr. McLaughlin offers the following: "That the House disagree to Senate amendment No. 1 and the conferees on the part of the House be, and are hereby, instructed to adhere to such disagreement."

Mr. Asbury F. Lever, of South Carolina, made the point of order that the motion was not admissible in the Committee of the Whole.

The Chairman [3] said:

The Chair is of the opinion that the conferees can not be instructed in Committee of the Whole.

2321. The Committee of the Whole has no authority to modify an order of the House.

Time for debate having been fixed by the house, the Committee of the Whole may not, even by unanimous consent, extend it.

On September 16, 1919,[4] Mr. James W. Good, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the first deficiency appropriation bill.

Pending that motion, on the request of Mr. Good, by unanimous consent, it was ordered that time for general debate be limited to three hours, half to be controlled by Mr. Good and half by Mr. Joseph W. Byrns, of Tennessee.

During general debate in the Committee of the Whole, Mr. Byrns asked unanimous consent that Mr. Good, who had the floor, be allowed to conclude his remarks, the additional time not to be taken from the time agreed upon.

The Chairman [5] held:

The Chair will state that the time on this bill was fixed by the order of the House. The Chair does not see how the committee, even by unanimous consent, can agree to an extension of time, the time having been fixed in the House. The only way the debate can be extended is by action of the House.

2322. On October 25, 1919,[6] pending a motion to resolve into the Committee of the Whole House on the state of the Union for the consideration of the bill to promote the mining of coal, phosphate, oil, gas and sodium on the public lands, Mr. Nicholas J. Sinnott, of Oregon, asked unanimous consent that general debate

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session, Sixty-fifth Congress, Record, p. 10686.

[3] Ben Johnson, of Kentucky, Chairman.

[4] First session, Sixty-sixth Congress, Record, p. 5536.

[5] Joseph Walsh, of Massachusetts, Chairman.

[6] First session, Sixty-sixth Congress, Record, p. 7115.

on the bill be confined to two hours, one-half to be controlled by himself and one-half by the gentleman from Oklahoma, Mr. Scott Ferris.

The request for control of the time having been agreed to and the House having resolved into the Committee of the Whole, Mr. John E. Raker, of California, was yielded 10 minutes by Mr. Sinnott and 30 minutes by Mr. Ferris.

At the expiration of the 40 minutes thus allotted to him Mr. Raker asked unanimous consent that he have additional time in which to read a letter.

The Chairman [1] declined to entertain the request and explained:

The time has been fixed by the rule, and is in control of the gentleman from Oregon, Mr. Sinnott, and the gentleman from Oklahoma, Mr. Ferris, and the Chair has no jurisdiction. The gentleman from Oregon is recognized.

2323. The Committee of the Whole may not alter an order of the House, and the Chairman is not authorized to entertain requests to that effect.

On December 16, 1920,[2] the Committee of the Whole House on the state of the Union was engaged in general debate on the District of Columbia appropriation bill under an order from the House limiting general debate to not more than two and a half hours.

The two hours and a half having expired, Mr. Rufus Hardy, of Texas, preferred a request for unanimous consent to proceed for one additional minute.

Mr. James R. Mann, of Illinois, said:

Mr. Chairman, the house fixed the time for general debate and the committee can not change it. I make the point of order that it is not the duty of the Chair to state the request. The Chair is under the instructions of the House.

The Chairman [3] ruled:

The Chair recognizes the gentleman from Illinois as correct under a strict construction of the rule. And if the gentleman from Illinois insists upon that, the gentleman from Texas is not entitled to recognition.

2324. The motion to reconsider is not in order in the Committee of the Whole.

On April 8, 1910,[4] the House in Committee of the Whole House on the state of the Union was reading the naval appropriation bill for amendment under the five-minute rule, when on motion of Mr. George E. Foss, of Illinois, debate was closed on the pending paragraph and all amendments thereto.

Mr. Joseph H. Gaines, of West Virginia, proposed to move to reconsider the vote by which debate had been closed.

The Chairman [5] declined to recognize for that purpose for the reason that the motion to reconsider is not in order in the Committee of the Whole.

2325. The motion to reconsider is not submitted in Committee of the Whole.

A motion that the committee rise may not interrupt a Member having the floor for debate.

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[1] Martin B. Madden, of Illinois, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 444.

[3] Frederick C. Hicks, of New York, Chairman.

[4] Second session Sixty-first Congress, Record, p. 4425.

[5] James R. Mann, of Illinois, Chairman.

The committee having voted to close debate at a stated hour the Chair announces the close of debate at that time notwithstanding intervening time has been consumed without debate.

On February 26, 1924,[1] while the revenue bill was being read for amendment in the Committee of the Whole House on the state of the Union, the Chairman announced that pursuant to an order of the committee all debate on the pending section had closed.

Mr. R. Walton Moore, of Virginia, submitted that much of the time had been consumed in conversation, parliamentary inquiries and votes by tellers.

The Chairman[2] said:

The Chair will state the situation. The motion was stated very plainly that all debate on these three subsections close at a definite hour, namely, 6 o'clock. It was not 10 minutes or 15 minutes or any other time but a certain hour. That hour having arrived, under the Chair's construction of it, the time for debate has expired.

Mr. Charles R. Crisp, of Georgia, as a parliamentary inquiry, asked if it would not be in order to enter a motion to reconsider the vote by which debate had been closed.

The Chairman held that the motion to reconsider was not admissible in the Committee of the Whole.

The Chairman having recognized Mr. Edward E. Denison, of Illinois, Mr. L. C. Dyer, of Missouri, offered a motion that the committee rise.

The Chairman said:

The gentleman from Illinois, Mr. Denison, has the floor, and can not be taken off the floor by a motion that the committee rise.

2326 The simple motion to recommit is not in order in Committee of the Whole.

The re-reference of one section of a bill would carry with it the entire bill.

On January 11, 1908,[3] the bill (H. R. 11701) for the codification of the criminal law, was being read for amendment in the Committee of the Whole House on the state of the Union.

A motion to strike out section 19 of the bill being lost, Mr. William B. Wilson, of Pennsylvania, asked recognition to offer a motion to refer section 19 back to the committee reporting it.

Mr. Sereno E. Payne, of New York, raised a question of order on the motion, and the Chairman[4] said:

The gentleman from New York makes the point of order against the motion. That motion would take the entire bill back to the committee, and the Chair does not think the Committee of the Whole can refer a bill back to the committee. The Chair sustains the point of order.

2327. On February 12, 1924,[5] the reading of the Treasury and Post Office appropriation bill for amendment having been completed in the Committee of the Whole

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[1] First session Sixty-eighth Congress, Record, p. 3198.

[2] William J. Graham, of Illinois, Chairman.

[3] First session Sixtieth Congress, Record, p. 616.

[4] Frank D. Currier, of New Hampshire, Chairman.

[5] First session Sixty-eighth Congress, Record, p. 2328.

House on the state of the Union, Mr. Jeff Busby, of Mississippi, proposed to offer a motion to recommit.

The Chairman [1] said:

A motion to recommit is not in order in Committee of the Whole.

2328. On January 30, 1924,[2] the bill (S. 794) to equip the Leavenworth Penitentiary for the manufacture of supplies for the use of the Government, was being read for amendment in the Committee of the Whole House on the state of the Union.

Mr. Thomas L. Blanton, of Texas, being being recognized, moved to recommit the bill to the Committee on the Judiciary.

Mr. James T. Begg, of Ohio, raised a question of order against the motion being made in the Committee of the Whole.

The Chairman [3] said:

That is not in order in Committee. That motion can only be made in the House. The Chair thinks that motion is not now in order.

2329. While the simple motion to recommit is not admissible in the Committee of the Whole, it is in order to move to rise and report with the recommendation that the bill be recommitted.

The motion to rise and report with the recommendation that the bill be recommitted takes precedence of the motion to rise and report with the recommendation that the bill pass.

On January 5, 1910,[4] the bill (H. R. 12316) for the government of the Canal Zone, being under consideration in the Committee of the Whole House on the state of the Union, and reading of the bill for amendment having been concluded. Mr. William Richardson, of Alabama, asked if a motion to recommit the bill would be in order.

The Chairman [5] replied:

The gentleman can move that the committee rise and report this bill to the House with the recommendation that it be recommitted to the Committee on Interstate and Foreign Commerce. A motion to recommit is in order in the House. It is in order in Committee of the Whole House to move that when the committee rises it recommends to the House a recommitment of the bill.

Thereupon, Mr. Richardson moved that the committee rise and report the bill to the House with the recommendation that it be recommitted to the Commitee on Interstate and Foreign Commerce.

Mr. James R. Mann, of Illinois, moved that the committee rise and report with the recommendation that the bill as amended do pass.

The Chairman said:

But the motion of the gentleman from Alabama has precedence over the motion to rise and report the bill favorably, and the Chair must put the question upon the motion of the gentleman from Alabama. The question is upon the motion made by the gentleman from Alabama that the committee rise and report this bill to the House with the recommendation that it be recommitted to the Committee on Interstate and Foreign Commerce.

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[1] Mr. Everett Sanders, of Indiana, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 1702.

[3] George S. Graham, of Pennsylvania, Chairman.

[4] Second session Sixty-first Congress, Record, p. 348.

[5] Frank D. Currier, of New Hampshire, Chairman.

2330. The motion to lay on the table is not in order in the Committee of the Whole.

On May 14, 1930,[1] the House in the Committee of the Whole House on the state of the Union was considering the bill (H.R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture.

Mr. John C. Ketcham, of Michigan, offered a motion that all debate on the pending section and all amendments thereto be closed.

The Chairman[2] ruled that the motion to lay on the table was not admitted in the Committee of the Whole.

2331. In Committee of the Whole House unless otherwise ordered by the House or the committee, bills are taken in their order on the Calendar.

In considering bills on the Calendar of the Whole House, it is in order, on a motion made and carried, to take up a bill out of its order.

The motion in the Committee of the Whole House to take up a bill out of its order is not debatable.

On Friday, March 25, 1910,[3] the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, when Mr. William Sulzer, of New York, proposed to call up the bill (H. R. 13383), to promote an army officer, out of the order in which it appeared on the Calendar.

Mr. James R. Mann, of Illinois, made the point of order that bills could not be called up for consideration out of their regular order.

The Chairman[4] sustained the point of order.

Whereupon Mr. Sulzer moved that the bill be taken up out of its order for immediate consideration.

The Chairman read from section 4731 of Hinds' Precedents and said:

> In accordance with the precedents the Chair overrules the point of order of the gentleman from Illinois and will put the motion made by the gentleman from New York, that we proceed to take up the bill referred to out of its order.

The question being put and a parliamentary inquiry being submitted by Mr. Mann as to whether the motion was debatable, the Chairman held that debate on the motion was not in order.

2332. In the Committee of the Whole House business on its Calendar is taken up in regular order unless the committee or the House before resolving into the committee otherwise determine.

A motion is in order in Committee of the Whole House to take up a specified bill out of its turn or to establish an order other than the regular order.

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[1] Second session Seventy-first Congress, Record, p. 8959.

[2] Scott Leavitt, of Montana, Chairman.

[3] Second session Sixty-first Congress, Record, p. 3772.

[4] Henry S. Boutell, of Illinois, Chairman.

A motion may be withdrawn at any time prior to action thereon.

On February 3, 1911,[1] bills on the Private Calendar were under consideration in the Committee of the Whole House, when Mr. James R. Mann, of Illinois, moved to take up out of its order the bill (S. 6104) for the appointment of Commander Robert E. Peary a rear admiral in the Navy.

Mr. Elmer E. Morse, of Wisconsin, made the point of order that the motion was not in order.

The Chairman[2] said:

> Bills will be taken up in the order in which they appear on the Calendar unless a motion to the contrary prevails and such a motion is in order.

Mr. Mann then asked to withdraw his motion.

Mr. Albert F. Dawson, of Iowa, proposing to reserve the right to object, the Chairman ruled:

> The Chair desires to state that this is not like a motion to amend. It is a separate, independent motion to take up a certain bill. In the opinion of the Chair, its withdrawal does not require unanimous consent. It can be withdrawn by the gentleman from Illinois if he so desires.

2333. The motion to take up a bill out of its order in the consideration of business on the Private Calendar is not debatable and may not be amended.

On February 17, 1911,[3] the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. George W. Prince of Illinois, moved to take up out of its order the bill H.R. 26121, the first bill on the Calendar reported by the Committee on Claims.

Mr. Thetus W. Sims, of Tennessee, moved to amend the motion by substituting for the bill proposed for consideration the bill S. 7971, the omnibus claims bill.

The Chairman[4] declined to recognize Mr. Sims for that purpose, holding that the motion to take up a bill out of its order in the Committee of the Whole House was neither subject to amendment nor open to debate.

2334. A bill undisposed of at adjournment on a day devoted to special business comes up as unfinished business on the next day when that class of business is again in order.

On December 13, 1924,[5] a day devoted by special order to business in order on Friday, the Committee of the Whole House rose and reported back to the House the bill (H. R. 3132) for the relief of William J. Oliver, with sundry amendments and the recommendation that the bill as amended be passed.

Mr. Thomas L. Blanton, of Texas, made the point of order that there was no quorum present. The point of order being sustained, Mr. Nicholas Longworth, of Ohio, preliminary to moving adjournment, inquired when the bill under consideration would again be in order.

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[1] Third session Sixty-first Congress, Record, p. 1921.

[2] Marlin E. Olmstead, of Pennsylvania, Chairman.

[3] Third session Sixty-first Congress, Record, p. 2802.

[4] Frank D. Currier, of New Hampshire, Chairman.

[5] Second session Sixty-eighth Congress, Record, p. 625.

The Speaker [1] held that it could again be called up when bills on the Private Calendar reported from the Committee on Claims were again in order.

2335. When a bill is taken up in Committee of the Whole, the first reading may be dispensed with by unanimous consent only and a motion to that effect is not in order.

On February 17, 1911,[2] while the House was in the Committee of the Whole House for the consideration of bills on the Private Calendar, the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, was taken up for consideration.

The Clerk read the title of the bill, when Mr. Thetus W. Sims, of Tennessee, asked unanimous consent that the first reading of the bill be dispensed with.

Objection being made to the request, Mr. Sims moved to dispense with the first reading of the bill.

The Chairman [3] declined to entertain the motion and said:

It is not in order to move it. The clerk will report the bill.

2336. When the House resolves itself into the Committee of the Whole House on the state of the Union for the consideration of a bill on which reading for amendment was begun on a previous day the regular order is the reading of the bill and may be dispensed with by unanimous consent only.

A paragraph passed over by unanimous consent during the reading of a bill for amendment in the Committee of the Whole is recurred to when reading of the bill has been concluded, and an earlier motion to return to it is not in order.

On May 6, 1908,[4] the House resolved itself to the Committee of the Whole House on the state of the Union for further consideration of the sundry civil appropriation bill on which reading for amendment had previously begun.

Mr. Oscar W. Underwood, of Alabama, proposed to recur to a paragraph which has been passed over by unanimous consent on the preceding day.

Mr. James A. Tawney, of Minnesota, made the point of order that it was not in order to return to the paragraph until the bill had been read in its entirety.

The Chairman [5] ruled:

The Chair is informed that there is no rule on the proposition, and therefore no precedent for disposing of it. But the Chair thinks that the question presented is one of orderly procedure of the business of the House, and especially the orderly reading of the bill. Yesterday the gentleman from Minnesota said:

"Unanimous consent having been given to return to the paragraph to offer an amendment, I suggest that we read, and will recur to the paragraph hereafter"—

No specific time having been fixed.

"The CHAIRMAN. Unless objection is made, the amendment will be considered as pending, subject to the point of order."

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2803.

[3] Frank D. Currier, of New Hampshire, Chairman.

[4] First session Sixtieth Congress, Record, p. 5807.

[5] James E. Watson, of Indiana, Chairman.

The regular order this morning, since we have gone into the Committee of the Whole, is the reading of the bill, and it occurs to the Chair that the orderly procedure would be to return to this amendment after the completion of the bill, and not at this time, and that it is not in the power of the gentleman from Alabama or the gentleman from Minnesota, or any other single Member, to destroy or interfere with that order. That would have to be done by unanimous consent, and not by a majority vote, by motion. The regular order is the reading of the bill, and that can only be interfered with by unanimous consent. The House is in Committee of the Whole, and the regular order is the reading of the bill. The Clerk will resume the reading of the bill.

2337. In reading a bill for the first time in Committee of the Whole committee amendments are read in full.

On December 3, 1918,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 12917) to provide for the establishment of a sanitarium for soldiers and sailors.

The Clerk having read the bill was proceeding to read the committee amendments when Mr. Frank Clark, of Florida, as a parliamentary inquiry asked if it was necessary to read the committee amendments on the first reading of the bill.

The Chairman[2] held that unless dispensed with by unanimous consent both the bill and committee amendments must be read in full.

2338. On December 21, 1920,[3] during consideration of the bill (S. 3477) providing for the acquisition of rural homes, Mr. Otis Wingo, of Arkansas, interrupted the reading of committee amendments to the bill by rising to a point of order that the reading of the committee amendments was not in order at the first reading of the bill and should be deferred until the conclusion of general debate.

The Chairman[4] overruled the point of order and directed that committee amendments be read in full with the bill.

2339. An amendment having been read for information by consent must again be read for consideration and is not pending until so reported.

On July 19, 1999,[5] the Committee of the Whole House on the state of the Union was considering the bill H. R. 6810, the prohibition enforcement bill, when Mr. Andrew J. Volstead, of Minnesota, asked that certain lengthy amendments previously read for information be considered as pending.

The Chairman[6] held that a second reading was necessary, unless waived by unanimous consent, and objection being made, directed the Clerk to read the amendments in full.

2340. While under the practice of the House appropriation bills and revenue bills are read for amendment by paragraphs and other bills by sections, the Chairman has on occasion authorized the reading of such other bills by paragraphs where the text of the bill was such as to warrant it.

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[1] Third session Sixty-fifth Congress, Record, p. 52.

[2] Martin D. Foster, of Illinois, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 608.

[4] Frederick C. Hicks, of New York, Chairman.

[5] First session Sixty-sixth Congress, Record, p. 2860.

[6] James W. Good, of Iowa, Chairman.

On September 11, 1917,[1] during consideration of the bill H. R. 5723, the war risk insurance bill, in the Committee of the Whole House on the state of the Union, Mr. William H. Stafford, of Wisconsin, submitted as a parliamentary inquiry a question as to whether section 2 of the bill should be read in its entirety or by paragraphs.

The Chairman[2] said:

The Chair does not agree with the gentleman from Wisconsin that the matter of "articles" being mentioned in a bill has anything to do with the parliamentary question which is involved. But the Chair does think that there is a serious side to it. There is no provision in the rules of the House which requires the reading of any bill for amendment. There was such a provision from 1789 until the revision of the rules in 1880, as the Chair now remembers. In that revision that rule was dropped. Mr. Hinds, who has written the parliamentary history of the House, says, in his work, that it was undoubtedly eliminated by inadvertence. But, notwithstanding the fact that it was dropped from the rules of the House, it was retained in practice and has been followed since that time precisely the same as it was before.

Now, under the rule as it existed prior to that time, and under the practice which has since existed, appropriation bills and revenue bills were and are read for amendment by paragraphs. Other bills were and are read for amendment by sections. That rule was followed in practice, as I have said, after the dropping of it from the rules in 1880, both as to appropriation and revenue bills and as to other bills.

So far as the Chair was able to find in investigations made last evening, no such situation has arisen before the House as that which is presented in this particular bill. And the Chair has been greatly bothered as to just what the right ruling is to make.

Undoubtedly there was a reason underlying the rule which existed prior to the revision of 1880 and the practice which has been uniformly followed since as to having appropriation and revenue bills read by paragraphs. And undoubtedly there was a reason for having other bills read by section, for amendment, because, as the Chair has said, after 1880 the rules did not require the reading at all. Now, it seems to the Chair that the reason for having these bills read by sections for amendment was in order to give the House in an orderly way the opportunity to consider every new proposition of law that was presented to it. That seems to the Chair to be the reason for the matter.

If that reason be true, what have we here? We have a bill here which, we will say, might be construed as being technically divided into two general sections. Nevertheless, it contains section after section of new law. And for the reason underlying the rule and practice that have been followed uniformly this bill ought to be read by the sections as they appear in the bill. In other words, answering the parliamentary inquiry of the gentleman from Wisconsin the Chair will hold that the bill be read by sections as they are numbered here.

The Clerk will now report section 12 as here numbered and at the end of the reading it will be open for amendment, and then report section 13 as here numbered, which will then be open for amendment, and so forth, to the end.

2341. Whether a bill shall be read for amendment by sections or paragraphs is in recent practice a matter of convenience and rests largely within the discretion of the Chairman.

On January 15, 1925,[3] the Committee of the Whole House on the state of the Union was considering the bill H. R. 11472, the river and harbor bill. General debate having been concluded, the Chairman directed the Clerk to read the bill

[1] First session Sixty-fifth Congress, Record, p. 6970.

[2] Finis J. Garrett, of Tennessee, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 1917.

for amendment, when Mr. Henry E. Barbour, of California, as a parliamentary inquiry, raised a question as to manner in which the bill should be read.

The Chairman [1] said:

The rules have no definite provisions as to the manner of consideration of a bill, whether by paragraphs or by sections. The rule has generally been stated that revenue and appropriation bills are to be considered by paragraphs and other bills by sections. The rulings, however, in all instances base the matter upon the convenience of the House. The bill before us was for a long time in fact an appropriation bill and as far as the present occupant of the chair knows has always been considered under paragraphs, even since it no longer carries appropriations. Every reason that would obtain for the consideration of an appropriation or revenue bill in that manner would obtain as to the bill before us, so that the Chair, unless the House should decide differently, will hold that this bill should be considered by paragraphs and an amendment to the first paragraph is now in order.

2342. On May 19, 1922,[2] the bill H. R. 10766, the river and harbor bill being under consideration in the Committee of the Whole House on the state of the Union, the Chairman directed the Clerk to read the bill for amendment.

The Clerk read the first paragraph and was proceeding to read the remainder of the section, when Mr. Theodore E. Burton, of Ohio, inquired if an amendment to the first paragraph would be in order at that time or after the entire section had been read.

The Chairman [3] said:

The present occupant of the chair is not advised whether that question has been presented since the appropriating powers have been taken away from the Committee on Rivers and Harbors. The rule has been that on general appropriation bills and on revenue bills the bill is considered by paragraphs, but the river and harbor bill, even when it carried appropriations and not merely authorizations, was not a general appropriation bill, and yet the bill was always considered by paragraphs. The Chair thinks it would be better practice to have the bill considered by paragraphs, and all question would be removed if the gentleman having the bill in charge would ask unanimous consent to have it so considered.

Thereupon, on motion of Mr. S. Wallace Dempsey, of New York, by unanimous consent, it was determined to read the bill by paragraphs and not by sections.

2343. On May 12, 1920,[4] at the conclusion of general debate on the bill H. R. 10183, the lighthouse bill, under consideration in the Committee of the Whole House on the state of the Union, the Clerk read the first paragraph of the bill, when Mr. James R. Mann, of Illinois, offered an amendment.

The Chairman [5] said:

The Chair will call the gentleman's attention to the fact that this bill is being read by sections. It is not a general appropriation bill.

Mr. Mann replied:

This bill has always been read by paragraphs.

Whereupon the Chairman recognized Mr Mann to offer the amendment, and the bill was thereafter read by paragraphs.

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[1] Louis C. Cramton, of Michigan, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 7278.

[3] William H. Stafford, of Wisconsin, Chairman.

[4] Second session Sixty-sixth Congress, Record, p. 6948.

[5] Martin B. Madden, of Illinois, Chairman.

2344. On October 3, 1914,[1] in the Committee of the whole House on the state of the Union, the bill (H. R. 18459) to declare the purpose of the people of the united States as to the future political status of the people of the Philippine Islands, was being read for amendment by sections.

When section 3 was reached Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, said:

Section 3 is a long section. It covers a great many different paragraphs somewhat in the nature of a coy of certain things, I suppose either from the constitution of the United Stats or from various State constitutions. Is it to be treated as one section or one paragraph only for amendment, or are the paragraphs to be read separately for amendment? The subjects matter in the different paragraphs of the section are entirely disassociated one from the other.

The Chairman[2] decided:

The general rule, as the Chair understands, is that the whole section should be read before it is open to amendment, except with appropriation bills; but the gentleman from Illinois suggests that the subject matter of the various paragraphs, so to speak, is different, and therefore the Chair will permit amendments after each one.

2345. On April 2, 1908,[3] the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the resolution (H. Res. 233) to dispose of the President's message.

The Chairman directed the Clerk to read the resolution in its entirety for amendment, when Mr. John Sharp Williams, of Mississippi, interrupted the reading and proposed to offer an amendment to the first paragraph.

Mr. Sereno E. Payne, of New York, made the point of order that an amendment was not in order until the reading of the resolution had been completed.

The Chairman[4] ruled:

The Chair understands the rule under which matters are considered under the five-minute rule is this, that all revenue bills and appropriation bills are considered by paragraphs; all other bills by sections. It is very rare that he House goes into the Committee of the Whole House on the state of the Union to consider a resolution like this, the House usually considering it by unanimous consent. about two years ago however, a similar resolution was considered in Committee of the Whole, and the Chair understands that at that time it was considered as a resolution in its entirety—as one section. The Chair will rule that this resolution should be considered it its entirety, and at the conclusion of the reading of the resolution there will be opportunity for offering amendments under the five-minute rule to any part of the resolution.

2346. Whether a bill shall be read by paragraphs, sections, or subsections when read for amendment in the Committee of the Whole is not governed by arbitrary rule but by practical considerations of convenience as determined by the Chairman.

On January 24, 1923,[5] during the reading for amendment of the bill (H. R. 13773), the radio control bill, Mr. John Q. Tilson, of Connecticut, raised a question of order as to whether the bill should be read by paragraphs or by sections.

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[1] Second session Sixty-third Congress, Record, p. 16124.

[2] Henry D. Flood, of Virginia, Chairman.

[3] First session Sixtieth Congress, Record, p. 4329.

[4] George P. Lawrence, of Massachusetts, Chairman.

[5] Fourth session Sixty-seventh Congress, Record, p. 2353.

The Chairman [1] said:

The question of whether bills should be considered by paragraphs or sections is a matter of custom. No specific rule covers this question. It is the invariable practice that appropriation bills and revenue bills shall be considered by paragraphs, and all other bills by sections. The Chair directs the attention of the committee to the fact that in the very first paragraph of this bill it is suggested that sections 1, 2, and 3 of the present law, approved August 13, 1912, should be amended by inserting in lieu thereof sections 1, 2, and 3 following. Instead of the committee going ahead and merely substituting one section as 1, 2, and 3, it has substituted many other sections without changing the sections of the bill, by noting that section 4 and the numbered sections following should be designated section 2. The Chair will hold that in the consideration of bills, the important and guiding question, where no counter practice prevails, is to consider the measure according to distinct substantive proposals, so that there may be the best legislative consideration to the various provisions, and the Chair holds in this particular instance that it is better for the consideration by the committee to have the bill read by sections as numbered, and the Clerk will now read section 2.

2347. Overruling the decision of the Chairman, the Committee of the Whole decided that the river and harbor bill should be read by sections.

Debate on appeal in the Committee of the Whole is under the five-minute rule, and is within the discretion of the Chair.

On June 3, 1926 [2] general debate on the river and harbor bill having been exhausted in Committee of the Whole House on the state of the Union, the Chairman [3] directed the Clerk to read the bill for amendment by paragraphs.

Mr. S. Wallace Dempsey, of New York, raised a question of order and submitted that according to long-established custom the river and harbor bill should be read by sections.

After debate, the Chairman held:

The written rules of the House do not prescribe how Bills shall be considered in the Committee of the Whole House on the state of the Union. clause 6 of Rule XXIII indicates that there may be two methods applied in the consideration of a bill for amendment. Clause 6 of Rule XXIII reads as follows:

"The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph * * *."

In so far as the rules prescribe how all bills may be considered in committee, it indicates that both methods may be used. The question then arises, What method is prescribed, if not by the strict letter of the rules, by the practice of the House and by its precedents, which are binding upon the occupant of the chair?

It has been said that whether a bill should be considered by sections or by paragraphs is within the discretion of the Chair. Strictly speaking, that is not the fact. The discretion that the Chair exercises is in determining what method in a given instance shall be used, applying to the circumstances of that given instance the practice of the House as set forth by its precedents, and the reasons stated that underlie the practices indicated by the precedents. The fundamental reason for reading the bill either by sections or by paragraphs is the convenience of the committee in the consideration of the bill. The convenience of the committee has been indicated in those various decisions cited by gentlemen arguing both for and against the proposition to be that the committee may have before it substantive provisions considered as a whole, but that each substantive provision may be considered independently by the committee.

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[1] William H. Stafford, of Wisconsin, Chairman.

[2] First session Sixty-ninth Congress, Record, p. 10644.

[3] Frederick R. Lehlbach, of New Jersey, Chairman.

Consequently, we find that as a general rule legislative bills are considered by sections, because we know that bills have always been so drafted that each section contains a substantive legislative provision, the whole together making the entire legislation on the subject matter, but each section being a substantive proposition dealing with the general subject matter of the legislation. Therefore, following the reasons for the practice, as distinguished from a written rule, legislative bills generally are considered by sections. Appropriation bills are consider by paragraphs, because in the paragraphs concluding with an appropriation is to be found the substantive provision for which that specific appropriation is made, and each paragraph in such bills contains a single and a complete substantive legislative provision.

The rule has always been, both when the bill for rivers and harbors carried appropriations and since that time, that the bill was to be considered by paragraphs, because it is obvious from an inspection of this or any other river and harbor bill that each paragraph carries a complete and independent substantive legislative proposition.

The suggestion that the Chair might rule that certain portions of the bill be considered by paragraphs and other portions of the bill by sections the Chair can not entertain, as he finds nowhere any authority which would permit him to make such a ruling.

Consequently, following the precedents of the House both with reference to this specific legislation and the precedents generally, as well as the reasons underlying the precedent which established the practice, the Chair feels that river and harbor bills should be considered by paragraphs, and the Chair so rules.

Mr. Martin B. Madden, of Illinois, having appealed from the decision of the Chair, Mr. Carl E. Mapes, of Michigan, inquired if debate on the appeal was in order.

The Chairman ruled that the appeal was debatable within the discretion of the Chair under the five-minute rule.

The question on the appeal being taken, and tellers being ordered, the yeas were 64, the nays were 91, and it was decided in the negative.

So the decision of the Chair was rejected as the judgment of the Committee of the Whole.

2348. The question as to whether bills shall be considered in the Committee of the Whole by paragraphs or sections is within the determination of the Chairman subject to the will of the committee on appeal.

On December 12, 1927,[1] on motion of Mr. William R. Green, of Iowa, the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the revenue bill.

The Chairman[2] having directed the Clerk to read the bill by sections, Mr. Fiorello H. LaGuardia, of New York, submitted that it was not within the province of the Chair to determine the manner in which the bill should be read.

The Chairman ruled:

The Chair is of the opinion that it ought to read by sections. The Chair understands that that is a matter largely within the discretion of the Chair, subject, of course, to the will of the committee on appeal.

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[1] First session Seventieth Congress, Record, p. 499.

[2] Walter H. Newton, of Minnesota, Chairman.

2349. While the manner of reading a bill is within the determination of the Committee, tariff bills are ordinarily read by paragraphs rather than by sections.

On May 24, 1929,[1] under a special order, the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, encourage the industries of the United States, and to protect American labor.

Mr. William W. Hastings, of Oklahoma, as a parliamentary inquiry, asked if the bill should be read by paragraphs.

The Chairman[2] held:

In the opinion of the Chair, this is the first paragraph; and I think the reading of the bill should be by paragraphs.

It is the usual practice that bills of this character are read by paragraphs. I appreciate the fact that the committee can decide whichever way it desires, but unless the committee makes some different recommendation, the present occupant of the chair will consider that the bill should be read by paragraphs, as the Chair believes that tends to more orderly procedure.

2350. Instance wherein the Committee of the Whole, disregarding the suggestion of the Chairman, determined to read a revenue bill by paragraphs and not by sections.

On March 18, 1932,[3] the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 10236,) the revenue bill.

The Clerk having read the title of the bill, the Chairman[4] announced:

In the reading of this bill the Chair will direct the Clerk to read it section by section instead of by paragraphs.

Mr. Fiorello H. LaGuardia, of New York, submitted a request for unanimous consent that the bill be read by paragraphs.

In putting the question the Chairman said:

If the gentleman from New York will indulge the Chair a moment, this action was not taken by the present occupant of the chair as an original proposition. When the gentleman from Minnesota, Mr. Newton, a former Member of the House, was Chairman of the Committee of the Whole House for the consideration of the revenue act of 1928, this same question arose, and after some colloquy between the minority leader at that time, the present Speaker of the House, and the Chairman of the Committee of the Whole, it was determined that, probably, as a matter of mechanical expedition in the consideration of the bill, the saving of time on the part of the reading clerk, and for other practical reasons, it was thought best that that procedure should be followed, and the Chairman directed the Clerk to read the bill by sections. The Chair, however, feels that it is his duty to submit the unanimous-consent request submitted by the gentleman from New York.

Is there objection to the request that the bill be read by major paragraphs instead of by sections?

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[1] First session Seventy-first Congress, Record, p. 1879.

[2] Bertrand H. Snell, of New York, Chairman.

[3] First session Seventy-second Congress, Record, p. 6467.

[4] William B. Bankhead, of Alabama, Chairman.

2351. The extent of a paragraph is indicated by the printed indentation in the bill and not by the substance of the text.

A point of order against a paragraph of a bill being read for amendment under the five-minute rule comes too late after the reading of the following paragraph.

On May 4, 1908,[1] while the Committee of the Whole House on the state of the Union was considering the sundry civil appropriation bill, Mr. James A. Tawney, of Minnesota, raised a point of order against a paragraph previously read, contending that it was not a separate paragraph but constituted a part of the paragraph under consideration.

After debate, the Chairman[2] ruled:

The Chair is informed there is no precedent as to what constitutes a paragraph in a general appropriation bill under consideration in the Committee of the Whole. Ordinarily it would occur to the Chair that the paragraph should contain one substantive proposition. But it occurs to the Chair that under the practice which exists as to printing bills it would be very bad practice to establish the precedent of determining the paragraph by the substantive proposition rather than by the printer's indentation.

The Chair is clearly of the opinion that a paragraph ends with the word "dollars," in line 17, on page 77, and that the point of order made by the gentleman from Minnesota comes too late, because the paragraph to which it refers has been passed; and that the amendment offered by the gentleman from California is in order, so far as place is concerned. The Chair decides that the printer's indentations constitute the paragraphs.

2352. Portions of bills concluding with semicolons are subparagraphs and when considered in the Committee of the Whole are passed over for amendment until the major paragraph has been read in full.

On February 3, 1928,[3] in the consideration of the District of Columbia appropriation bill, in the Committee of the Whole House on the state of the Union, the Clerk read a paragraph providing for street paving which consisted of a number of items respectively naming a street and closing with a semicolon.

Mr. Anthony J. Griffin, of New York, proposed to offer an amendment at the conclusion of an item ending with a semicolon.

The Chairman[4] declined to recognize him for that purpose and explained:

The Clerk has not yet completed the reading of the paragraph. The Clerk has read down to the end of line 15, which ends with a colon. The Chair is of opinion that it is all one paragraph. It will end with a period. The Clerk will read.

2353. A paragraph includes headings or subheadings and when stricken out on a point of order carries with it such titles or subtitles.

On February 13, 1919,[5] the Army appropriation bill was being read for amendment in the Committee of the Whole House on the state of the Union, when a point of order by Mr. Otis Wingo, of Arkansas, against a paragraph of the bill relative to the purchase of typewriters for the Army was sustained.

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[1] First session Sixtieth Congress, Record, p. 5673.

[2] James E. Watson, of Indiana, Chairman.

[3] Second session Sixty-ninth Congress, Record, p. 2884.

[4] Carl R. Chindblom, of Illinois, Chairman.

[5] Third session Sixty-fifth Congress, Record, p. 3315.

Subsequently, Mr. James R. Mann, of Illinois, as a parliamentary inquiry, asked if the line in the bill containing the heading of the paragraph had been eliminated with the paragraph.

The Chairman [1] held that a paragraph included headings and subheadings, and that the line containing the heading had been stricken out with the remainder of the paragraph on the point of order.

2354. When in considering a bill by paragraphs or sections the Committee of the Whole has passed a particular paragraph or section it is not in order to return thereto.

On January 19, 1909,[2] the House was in the Committee of the Whole House on the state of the Union considering the urgent deficiency bill, when Mr. J. Thomas Heflin, of Alabama, asked unanimous consent to return to a section previously passed, providing for the Department of Agriculture.

Mr. James A. Tawney, of Minnesota, objected, and Mr. Heflin offered a motion that the committee return to the section in order to permit the offering of an amendment.

A point of order by Mr. Tawney that the motion was not in order in Committee of the Whole was sustained by the Chairman.[3]

2355. On May 28, 1917,[4] the House was in the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4188) for the distribution of agricultural products.

Mr. Fiorello LaGuardia, of New York, proposed to offer an amendment to a portion of the bill already passed by the committee.

Mr. Asbury F. Lever, of South Carolina, made the point of order that the committee could not return to a section previously passed.

The Chairman [5] sustained the point of order.

2356. In considering a bill for amendment under the five-minute rule an amendment offered as a separate paragraph or section is not in order until the pending paragraph has been perfected and disposed of.

On January 27, 1912,[6] while the bill (H. R. 18642) the metal schedule tariff bill, was being considered in the Committee of the Whole House on the state of the Union, Mr. Atterson W. Rucker, of Colorado, proposed to offer an amendment to be inserted as a new paragraph.

Simultaneously Mr. John A. Martin, of Colorado, and Mr. Ebenezer J. Hill, of Connecticut, announced that they desired to offer perfecting amendments to the pending paragraph.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to offer an amendment as a separate paragraph until the pending paragraph had been perfected and passed by the committee.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] Second session Sixtieth Congress, Record, p. 1120.

[3] David J. Foster, of Vermont, Chairman.

[4] First session Sixty-fifth Congress, Record, p. 3011.

[5] Courtney W. Hamlin, of Missouri, Chairman.

[6] Second session Sixty-second Congress, Record, p. 1408.

The Chairman [1] sustained the point of order and recognized Mr. Martin to offer a perfecting amendment to the pending paragraph.

2357. In reading a bill under the five-minute rule, a section or paragraph is considered as having been passed for amendment or debate when an amendment in the form of a new section or paragraph is taken up for consideration.

On April 25, 1929,[2] the House was considering, in the Committee of the Whole House on the state of the Union, the bill (H.R. 1) to establish a Federal farm board to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries.

Mr. Marvin Jones, of Texas, offered an amendment to be inserted as a new section, which was ruled out of order.

Whereupon, Mr. William W. Hastings, of Oklahoma, offered an amendment to the section under consideration at the time Mr. Jones proposed the new section.

The Chairman [3] declined to recognize Mr. Hastings for that purpose and said:

The amendment offered by the gentleman from Texas was to add a new section and there is now nothing pending before the committee until the Clerk reads the next section.

The Chair thinks the parliamentary situation is this: Although the amendment of the gentleman from Texas was not read, it was offered in the shape of a new section. We passed section 6, and while we can still debate it by unanimous consent, if anyone makes a point of order we would have to go to the next section.

The amendment was not offered in the nature of a substitute to the section, but as a new section following the section which had been read. The parliamentary situation thus created required those who desired to amend the section to offer their amendments and have them voted on before the amendment proposing a new section was disposed of.

The Chair has before him a precedent exactly in point in so far as the amendment is concerned, if it had been adopted or rejected, made by Chairman Stafford on April 22, 1921, in which it is stated:

"A section of the bill under consideration is considered passed for the purpose of debate and the offering of amendments to that section after an amendment in the form of a new section has been considered."

The Chair thinks that that ruling would be controlling if action had been taken upon the amendment of the gentleman from Texas, but the Chair is inclined to agree that inasmuch as a point of order was raised against the amendment and no vote was had upon it, that the situation presented here is somewhat different, and the Chair will therefore recognize the gentleman from Oklahoma to offer his amendment.

2358. Disposition of an amendment offered as a new section closes to debate or amendment the section pending when the amendment was offered.

Amendments in the form of new sections or paragraphs are not considered until all amendments to the pending section or paragraph have been disposed of.

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[1] John C. Floyd, of Arkansas, Chairman.

[2] First session Seventy-first Congress, Record, p. 567.

[3] Carl E. Mapes, of Michigan, Chairman.

On February 10, 1920,[1] the agricultural appropriation bill was being considered in the Committee of the Whole House on the state of the Union when the Chairman sustained a point of order by Mr. Carl Hayden, of Arizona, against an amendment offered by Mr. Gilbert N. Haugen, of Iowa, as a new section.

Whereupon, Mr. Thomas L. Rubey, of Missouri, moved to strike out the last word of the paragraph pending at the time Mr. Haugen offered his amendment.

Mr. James R. Mann, of Illinois, made the point of order that an amendment offered as a new section having been disposed of, the section pending at the time the amendment was offered had been passed and was no longer open to amendment.

The Chairman[2] sustained the point of order.

2359. On February 10, 1920,[3] during consideration of the agricultural appropriation bill in the Committee of the Whole House on the state of the Union, an amendment offered by Mr. Sydney Anderson, of Minnesota, as a new paragraph was ruled out on a point of order raised by Mr. Carl Hayden, of Arizona.

Mr. John W. Rainey, of Illinois, thereupon offered as a pro forma amendment a motion to strike out the last three words of the paragraph which the amendment had been proposed to follow.

The Chairman[2] declined to recognize him for that purpose, holding that the paragraph had been passed.

The Clerk having read the next paragraph, Mr. Rainey was recognized to offer his motion.

2360. On April 22, 1921,[4] the Committee of the Whole House on the state of the Union was considering the bill H. R. 4075, the immigration bill.

All amendments to the pending section having been disposed of, the Chairman[5] announced:

> If no other gentleman desires to offer an amendment to the section the Chair will recognize the gentleman from New York to offer a new section, which the Clerk will report.

Mr. Isaac Siegel, of New York, then offered as a new section an amendment to be inserted as a new section, which was ruled out on a point of order submitted by Mr. Thomas L. Blanton, of Texas.

Mr. Siegel then offered a motion to strike out the last word.

The Chairman refused recognition on the ground that no last word was pending.

2361. On April 27, 1921,[6] the bill (H. R. 4810) authorizing incorporation of companies to promote trade in China, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Finis J. Garrett, of Tennessee, offered an amendment to insert a new section to follow section 22 in the bill.

The amendment was agreed to, and Mr. Merrill Moores, of Indiana, then proposed to offer an amendment to perfect section 22.

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[1] Second session Sixty-sixth Congress, Record, p. 2725.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 2728.

[4] First session Sixty-seventh Congress, Record, p. 589.

[5] William H. Stafford, of Wisconsin, Chairman.

[6] First session Sixty-seventh Congress, Record p. 739.

Mr. Garrett made the point of order that a new section having been inserted to follow section 22, amendments seeking to perfect section 22 were no longer in order.

The Chairman [1] sustained the point of order.

2362. On April 11, 1924,[2] while the Committee of the Whole House on the state of the Union was considering the bill H. R. 7995, the immigration bill, the Chairman [3] announced:

Certain gentlemen have asked the Chair for recognition to offer amendments to the section that we are now considering. The amendment just offered by the gentleman from Indiana is a new section. In order that those gentlemen shall not lose their rights to offer their amendments, unless some gentleman asks unanimous consent to consider it and then return to it, the Chair would like to recognize those gentlemen first for that purpose.

2363. A motion to lay aside a bill to be reported to the House with favorable recommendation is in order in the Committee of the Whole.

n Friday, December 12, 1924,[4] while business on the Private Calendar was being considered in the Committee of the Whole House, the consideration of the bill (S. 353) for the relief of Reuben R. Hunter, was concluded and Mr. George W. Edmonds, of Pennsylvania, asked unanimous consent that the bill be laid aside with favorable recommendation.

Mr. Thomas L. Blanton, of Texas, objected.

Whereupon Mr. Edmonds was recognized by the Chairman [3] to offer a motion that the bill be laid aside to be reported to the House with favorable recommendation.

2364. In Committee of the Whole a motion to amend a bill has precedence over a motion to rise and report it.

On March 21, 1908,[5] the bill H. R. 19355, the fortifications appropriation bill, was being read for amendment in the Committee of the Whole House on the state of the Union, when Mr. Gilbert M. Hitchcock, of Nebraska, proposed to offer an amendment.

Mr. Walter I. Smith, of Iowa, moved that the committee rise and report the bill to the House with amendments and with the recommendation that the bill as amended be passed.

The Chairman [6] said:

The proposed amendment by the gentleman from Nebraska has precedence over the motion of the gentleman from Iowa.

2365. On January 23, 1923,[7] the Committee of the Whole House on the state of the Union finished reading for amendment the joint resolution (H. J. Res. 314) proposing an amendment to the Constitution relative to tax-exempt securities.

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[1] Clifton N. McArthur, of Oregon, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 6138.

[3] Everett Sanders, of Indiana, Chairman.

[4] Second session Sixty-eighth Congress, Record, p. 558.

[5] First session Sixtieth Congress, Record, p. 3732.

[6] Irving P.Wanger, of Pennsylvania, Chairman.

[7] Fourth session Sixty-seventh Congress, record, p. 2283.

Mr. Green, of Iowa, moved that the committee rise and report the joint resolution with amendment and with the recommendation that the amendment be agreed to and the joint resolution as amended do pass.

Mr. R. Walton Moore, of Virginia, objected to consideration of the motion before opportunity was afforded him to offer an amendment.

The Chairman [1] held that the motion to amend the joint resolution took precedence of the motion to rise and report it, and recognized Mr. Moore to offer the amendment.

2366. The motion to lay aside a bill in Committee of the Whole is not debatable.

On September 5, 1919,[2] consideration of the bill (S. 253) a claims bill, under consideration in the Committee of the Whole House, having been concluded, Mr. George E. Edmonds, of Pennsylvania, moved that the bill be laid aside to be reported to the House with a favorable recommendation.

Mr. Joseph G. Cannon, of Illinois asked if the motion was debatable.

The Chairman [3] held that it was not.

2367. After reading for amendment has begun in the Committee of the Whole the motion to strike out the enacting clause is in order at any time until the stage of amendment has been passed.

On November 9, 1921,[4] the Committee of the Whole House on the state of the Union was considering the bill (S. 843) for relief of war contracts.

After the last section had been read and while it was still open for amendment, Mr. Marion E. Rhodes, of Missouri, moved that the committee rise and report the bill back to the House with favorable recommendation.

Mr. Louis C. Cramton, of Michigan, offered, as preferential, a motion to strike out the enacting clause.

Mr. Nicholas J. Sinnott, of Oregon, made the point of order that reading of the bill having been concluded it was too late to offer that motion.

The Chairman [5] held the motion to strike out the enacting clause to be in order at any time before the stage of amendment had been passed.

2368. The reading of a bill for amendment in Committee of the Whole being concluded, a motion to strike out the enacting clause is not in order.

On February 20, 1925,[6] reading the bill (H. R. 745) for the establishment of migratory bird refuges, for amendment in the Committee of the Whole House on the state of the Union, having been concluded, Mr. Gilbert N. Haugen, of Iowa, moved that the committee rise and report the bill back to the House with favorable recommendation.

Mr. Thomas L. Blanton, of Texas, offered, as preferential, a motion to strike out the enacting clause.

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[1] Clifton N. McArthur, of Oregon, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 4945.

[3] Nicholas Longworth, of Ohio, Chairman.

[4] First session Sixty-seventh Congress, Record, p. 7608.

[5] Simeon D. Fess, of Ohio, Chairman.

[6] Second session Sixty-eighth Congress, Record, p. 4298.

The Chairman [1] held that the stage of amendment had passed and the motion was therefore not in order.

2369. The Chairman having announced the absence of a quorum in Committee of the Whole, a motion to rise is in order and if a quorum develops on the vote by which the motion is rejected the roll is not called and the committee proceeds with its business.

A call of the House may not be moved in the Committee of the Whole.

It is in order for any member of the Committee of the Whole to move to rise and the Chairman is constrained to recognize for that purpose.

The Chairman's count of a quorum is not subject to verification by tellers.

On July 19, 1919,[2] the bill (H. R. 6810), the prohibition enforcement bill, was under consideration in the Committee of the Whole House on the state of the Union.

The point of no quorum having been raised by Mr. William L. Igoe, of Missouri, the Chairman announced that there was not a quorum present.

Several Members asked for tellers on the count.

The Chairman [3] declined to order tellers, holding that the Chairman's count of a quorum is not subject to verification.

Mr. Andrew J. Volstead, of Minnesota, proposed to move a call of the House.

The Chairman said:

> The gentleman can not move a call of the House in committee.

Mr. Igoe moved that the committee rise.

Mr. John M. Baer, of North Dakota, submitted that the motion was not in order.

The Chairman held:

> The motion of the gentleman from Missouri is in order. The gentleman moves that the committee do now rise.

Mr. Louis C. Cramton, of Michigan, as a parliamentary inquiry asked if a roll call to develop a quorum would still be necessary in event a quorum voted on the motion to rise.

The Chairman said:

> If upon this vote it should develop that a quorum is present, the committee will then proceed with its deliberations without calling the roll. The question is on the motion of the gentleman from Missouri, Mr. Igoe, that the committee do now rise.

The question being put on the motion to rise, it was decided in the negative, yeas 30, nays 71.

The Chairman announced that the committee declined to rise and a quorum was present, and the committee resumed consideration of the bill.

After further debate, Mr. James W. Overstreet, of Georgia, moved that the committee rise.

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[1] Robert Luce, of Massachusetts, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 2890.

[3] James W. Good, of Iowa, Chairman.

The Chairman [1] declined to recognize him for that purpose when Mr. Joseph G. Cannon, of Illinois, said:

Oh, Mr. Chairman, it is always in order to move that the committee rise.

The Chairman thereupon held the motion in order and recognized Mr. Overstreet to move that the committee rise.

2370. In the Committee of the Whole a Member may not move to rise while another has the floor.

A decision by the Chairman that a motion to rise is in order after a Member has been recognized for debate but before he has begun to speak, was overruled by the Committee.

On February 12, 1923, [2] during general debate on the bill (H. R. 8084) for the change of certain streets in the District of Columbia, Mr. Manuel Herrick, of Oklahoma, having the floor, was proceeding in debate when interrupted by Mr. Frank W. Mondell, of Wyoming, with a motion that the committee rise.

Mr. Thomas L. Blanton, of Texas, made the point of order that the motion was not in order while another Member had the floor.

The Chairman [3] having overruled the point of order. Mr. Blanton appealed from the decision of the Chair.

Mr. Charles R. Crisp, of Georgia, in discussing the point of order said:

When a Member is recognized there is but one thing that will take him off the floor, and that is a point of order that there is no quorum. If there is no quorum, the House cannot transact any business, not even hear a Member speak. I recognize that a motion that the committee rise is analogous to a motion to adjourn when we are in the House and it is of the highest privilege, provided the Chair is open to entertain that motion. When the Chair recognizes a Member to speak, whether that Member actually commences to talk or not, if he is recognized and has the floor time runs against him. There is but one way that he can be taken off the floor and that is by a point of order that no quorum is present if he is proceeding in an orderly way. If a quorum is present, he is entitled to the floor and entitled to proceed.

The Chairman said:

Previous to the point of order that no quorum was present the gentleman from Pennsylvania, Mr. Focht, yielded 20 minutes to the gentleman from Oklahoma, Mr. Herrick, and the Chair recognized the gentleman from Oklahoma by name. Then the committee rose, and the Chair reported that a quorum was present after the roll had been called. The Chair has no desire to prejudice the gentleman from Oklahoma. As a matter of fact, the Chair himself suggested to the gentleman from Pennsylvania that the gentleman from Oklahoma be given time in order to present certain views he holds. The Chair is less inclined to override any precedent in this House or to misinterpret the rules; but the Chair feels that the motion to rise even after a Member has been recognized, but before the Member has commenced debate, is an entirely privileged motion and is in order. Therefore the Chair overrules the point of order made by the gentleman from Texas, Mr. Blanton, and is perfectly willing to submit this to the members of the committee.

The question being submitted to the committee, the decision of the Chairman was overruled—yeas 70, nays 78.

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[1] Cassius C. Dowell, of Iowa, Chairman.

[2] Fourth session, Sixty-seventh Congress, Record, p. 3528.

[3] Frederick C. Hicks, of New York, Chairman.

2371. On January 6, 1920,[1] the Indian appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

Mr. Charles D. Carter, of Oklahoma, having been recognized for debate, Mr. Thomas L. Blanton asked recognition to move that the committee rise.

The Chairman[2] held that the motion to rise could not be received while another Member had the floor.

2372. The motion to rise and report with the recommendation that consideration be postponed to a day certain is in order in the Committee of the Whole and is preferential.

Debate on the motion to postpone to a day certain is confined to the advisability of postponement and does not extend to the merits of the question under consideration.

A motion made on the preceding Calendar Wednesday is not a motion on the same day within the purview of the rule forbidding repetition of certain motions on the same day.

On Calendar Wednesday, February 13, 1918,[3] the bill (H. R. 5667) for the deportation of certain aliens, was being read for amendment in the Committee of the Whole House on the state of the Union, when Mr. Hubert S. Dent, jr., of Alabama, moved that the committee rise and report the bill back to the House with the recommendation that further consideration be postponed until February 27.

Mr. Irvine L. Lenroot, of Wisconsin, raised a point of order against the motion.

The Chairman[4] held that the motion was in order and was preferential.

Mr. Joseph Walsh, of Massachusetts, made the further point of order that the motion was not in order because made on the preceding Calendar Wednesday on which the bill had been under consideration and of which the present Calendar Wednesday was a continuation, and cited this rule:

> And no motion to postpone to a day certain, to recur, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question.

The Chairman decided:

> The Chair understands that this is not the same day or the same stage of the question. The Chair understands, too, that a different rule has been applied upon rather a similar question; that is, the question of consideration on Calendar Wednesday, and that two motions of that sort may be made to that question. The Chair is of the impression that this point of order should be overruled.

Several Members rising for debate, Mr. John L. Burnett, of Alabama, made the point of order that the motion was not debatable.

The Chairman said:

> Decisions under the rule provide that this motion may be debated to a limited extent, but the debate must be confined to the advisability of postponing only. The merits of the bill cannot be discussed.

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[1] Second session Sixty-sixth Congress, Record, p. 1119.

[2] Nicholas Longworth, of Ohio, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 2076.

[4] Joseph J. Russell, of Missouri, Chairman.

2373. A bill reported by the Committee of the Whole to be improperly on the Private Calendar was thereupon referred by the Speaker without action on the part of the House to the proper calendar as of the date of original reference.

A bill for reimbursement of bank depositors not severally specified was held to refer to a class and not a collection of individuals, and therefore to constitute a public bill and to be improperly on the Private Calendar.

A point of order against the reference of a bill to the Private Calendar is properly made after the bill is read and before consideration begins in the Committee of the Whole.

On Friday, January 6, 1991,[1] the House resolved itself into the Committee of the Whole House for the consideration of business in order on the Private Calendar, and the Clerk read the bill (H. R. 14610) to reimburse depositors in the Freedman's Savings & Trust Company:

Be it enacted, etc., That the commissioner of the Freedman's Savings & Trust Co. and his successors in office be, and the same are hereby, authorized and directed to pay, or cause to be paid, under such regulations as said commissioner, with the approval of the Secretary of the Treasury, shall prescribe, to all the depositors of the Freedman's Savings & Trust Co. whose accounts have been properly verified and balanced under existing laws, or to their legal representatives, a sum of money equal to the verified balances due said depositors from said company at the time of its failure, less the amount of dividends which may have been paid from the assets of said company; and for this purpose the sum of $1,291,744.50, still unpaid, which is due the 61,131 persons who lost money by reason of this failure, which is 38 per cent still due each depositor, is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, said amount to be placed to the credit of the said commissioner by the Secretary of the Treasury for the purpose of this act specified, and that the clerical expense for the settlement of these claims be paid out of the money herein appropriated, and that no assignment claimed shall be allowed.

Mr. James R. Mann, of Illinois, made the point of order that the bill was improperly on the Private Calendar, and said:

Mr. Chairman, this is a bill which was introduced and referred to the Committee on Banking and Currency and reported by that committee to the House. If it is a public bill, of course it has no place on this calendar, but should be on the Union Calendar. If it is a private bill, the Committee on Banking and Currency had no jurisdiction over the bill, and was not authorized to make a report upon it.

The rule provides—

"No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following-named committees, viz, to the Committee on Invalid Pensions, to the Committee on Pensions, to the Committee on Claims, to the Committee on War Claims, to the Committee on Private Land Claims, and to the Committee on Accounts."

That does not include the Committee on Banking and Currency. Section 2 of Rule XXII provides:

"Any petition or memorial or private bill excluded under this rule shall be returned to the Member from whom it was received; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same."

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[1] Third session Sixty-first Congress, Record, p. 593.

It seems to be clear that if this is a private bill, for the payment of private claims, it must have been referred to the Committee on Claims. If it is not a private bill, then it is not referable to the Private Calendar. It should have gone to the Union Calendar, and is not subject for consideration by this committee, which is a committee on the Private Calendar.

Mr. Everis A. Hayes, of California, submitted that the bill having been read by the Clerk was now under consideration and the point of order came too late.

Mr. Mann replied:

The rule expressly provides that the point of order may be made at any time before the bill is under consideration. If the point of order is overruled, the question of consideration will be raised. Of course you could not make the point of order until the bill had been read. You can not raise the question of consideration until a bill has been read. Neither the House nor the Chair nor the gentleman from Illinois would know what the bill was until it had been read. I take it that the Chairman of this Committee of the Whole would not have authority to order this bill referred to the Union Calendar. All he can do, if a report is to be made at all, is to report that this bill was found upon the private Calendar erroneously.

The Chairman [1] said:

The Chairman of the Committee of the Whole House can report to the House that this bill is not in order on this calendar. The Chair therefore sustains the point of order made by the gentleman from Illinois. The Clerk will report the next bill.

Presently the committee rose; and the Chairman reported to the House, among other proceedings, that the committee had directed him to report that the bill (H. R. 14610) to reimburse depositors in the Freedman's Savings & Trust Co. had been found not to be in order on this calendar.

The House proceeded to the consideration of the several recommendations of the committee in the order in which reported, and when the bill (H. R. 14610) was reached, the Speaker pro tempore [2] in response to an inquiry from Mr. Mann said:

The point involved is whether it is a public or a private bill. A hasty reading of this bill shows that it refers to a class of claimants or creditors rather than to a collection of individuals. There is no document, so far as appears, from which the names could be ascertained. The language describes a class of people. The Chair is of the opinion that it is a public bill, and therefore it will be placed on the Union Calendar. The Chair understands that it will take its proper place as if it had been placed on the proper calendar in the first instance.

2374. The motion to report a bill with a favorable recommendation being decided in the negative in the Committee of the Whole, the bill remains in its place on the calendar.

On February 28, 1910,[3] the House was in the Committee of the Whole House for the consideration of bills on the Private Calendar.

Consideration of the bill (H. R. 17754) setting aside certain lands for street purposes in the District of Columbia having been concluded, Mr. Samuel W. Smith, of Michigan, moved that the bill be laid aside, to be reported to the House with a favorable recommendation. The question being taken on a division, the yeas were 43, nays 67, and the committee declined to lay the bill aside with favorable recommendation.

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[1] David J. Foster, of Vermont, Chairman.

[2] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

[3] Second session Sixty-first Congress, Record, p. 2506.

Mr. Martin B. Madden, of Illinois, having propounded a question as to the status of the bill, the Chairman [1] said:

The Chair decided that the measure was refused consideration, and the bill reverts to the calendar.

2375. A special order providing that the Committee of the Whole rise at the conclusion of the reading of a bill and report it to the House and that the previous question operate to final passage was held not to interfere with the right of the committee to report with recommendation to recommit.

The recommendation of the Committee of the Whole to recommit a bill being decided in the negative, the question was held to recur on the amendments and bill under a special rule ordering the previous question on the bill and amendments to final passage.

Debate on an appeal from the decision of the Chair in the Committee of the Whole proceeds under the five-minute rule.

On May 4, 1926,[2] the Committee of the Whole House on the state of the Union, was considering the bill H. R. 11603, the McNary-Haugen bill for farm relief, under the following special order:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 11603) entitled "A bill to establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities." After general debate, which shall continue not to exceed four days, one-third of the time to be controlled by the gentleman from Iowa, Mr. Haugen, one-third of the time to be controlled by the gentleman from Kansas, Mr. Tincher, and one-third of the time to be controlled by the gentleman from Louisiana, Mr. Aswell, the bill H. R. 11603 shall be read for amendment under the five-minute rule. After the reading of such bill for amendment it shall be in order to offer H. R. 11618 (Tincher bill) or H. R. 11606 (Aswell bill) as a substitute for H. R. 11603, or H. R. 11606 for H. R. 11618, or vice versa, notwithstanding the provisions of clause 7 of Rule XVI. At the conclusion of the bill the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage.

On May 21, the reading of the bill for amendment having been concluded, Mr. Gilbert N. Haugen, of Iowa, moved that the committee rise and report the bill back to the House with amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

Mr. Martin B. Madden, of Illinois, offered, as preferential, a motion that the committee rise and report the bill back to the House with amendments and with the recommendation that the bill and amendments be referred to the Committee on Agriculture.

Mr. Cassius C. Dowell, of Iowa, made the point of order that the motion to report with recommendation to refer was not in order in the Committee of the Whole.

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[1] William H. Stafford, of Wisconsin, Chairman.

[2] First session Sixty-ninth Congress, Record, p. 8691.

After extended debate, the Chairman [1] ruled:

The Chair thinks there is nothing unusual with reference to this special rule. The rule does not operate automatically. The rules make it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 11603, the so-called Haugen bill. The House does not automatically go into the Committee of the Whole House on the state of the Union for the consideration of that bill. It goes into the Committee of the Whole House on the state of the Union only upon the motion of some one to do so. The so-called Haugen bill under the rule has no more privileged status than has the ordinary revenue or appropriation bill in that respect, and the Chair thinks that the closing sentence of the special rule, to which reference has been made, has no more significance or gives the legislation no different status than revenue and appropriation bills have without a rule under the common practice of the House. It is the common practice upon the completion of the reading of a bill under consideration for amendment for the chairman of the committee to make the motion that the committee rise and recommend to the House the bill with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass. In practical effect that is all that this rule does—authorize the making of such a motion. Upon any such strict construction of the language, as some have argued here, it would not be in order for the chairman of the Committee on Agriculture to make the motion which he has made, that the committee rise and report the bill back to the House with a favorable recommendation.

The rule does not authorize the chairman of the Committee on Agriculture to do that. The language of the rule does not say that. It simply says that at the conclusion of the reading of the bill the committee shall rise and report the bill to the House with such amendments as may have been adopted. I take it that no one would contend, however, that the motion to report the bill with amendments with the recommendation that the bill as amended do pass would not be in order.

The gentleman has cited a provision in the rules that the motion may not be used in direct form in Committee of the Whole. The Chair thinks that is correct, but he does not think it is in point. No attempt here is made to make a motion in direct form. That is not the motion. The motion is that when the committee rise it report the bill back to the House with the recommendation that the bill and amendments be referred to the Committee on Agriculture.

For the reasons stated, the Chair overrules the point of order.

Mr. Dowell having appealed from the decision of the Chair, Mr. Ernest R. Ackerman, of New Jersey, offered a motion to lay the appeal on the table.

In response to a point of order by Mr. Dowell, the Chairman ruled that the motion to lay on the table is not in order in the Committee of the Whole.

The question being taken on the appeal, the decision of the Chairman was sustained, yeas 201, noes 132.

The question recurring on the motion to rise and report with recommendations to recommit the bill, it was decided in the affirmative, yeas 197, nays 176.

Mr. Olger B. Burtness, of North Dakota, made the point of order that under the special order under which the bill was being considered providing:

At the conclusion of the reading of the bill the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage—

the bill with amendments was before the House for passage or rejection, the report of the Committee of the Whole to the contrary notwithstanding.

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[1] Carl E. Mapes, of Michigan, Chairman.

The Speaker [1] ruled:

The Chair thinks the situation is absolutely clear, and the Chair does not think he has the right to put any question except the question as to whether the House will follow the recommendation of the committee. The contention of the gentleman from Iowa would have been in order if the committee had recommended to the House the passage of the bill, but the committee did not make that recommendation; the committee recommended that the bill and amendments should be referred to the Committee on Agriculture. Therefore the Chair can take no other course than to overrule the point or order, and the question is, Shall the recommendation of the Committee of the Whole House on the state of the Union that the bill be referenced to the Committee on Agriculture be adopted by this House?

The question being submitted to the House, the yeas were 182, the nays 200, and the recommendation of the Committee of the Whole to refer the bill to the Committee on Agriculture was rejected.

Mr. Dowell, rising to a parliamentary inquiry, asked:

Mr. Speaker, the bill having been reported to the House by the Committee of the Whole House and the House having refused to accept the special recommendation of the committee, is not the bill, with the amendments, now before the House under the rule for voting on the bill and the amendments thereto upon its final passage with the previous question ordered?

The Speaker said:

The Chair thinks the gentleman from Iowa is correct. The question is on agreeing to the amendments.

2376. The hour fixed by the House for termination of the consideration of a bill in the Committee of the Whole having arrived, the Chairman directs the committee to rise and makes his report as if the committee had risen in the regular way.

On March 10, 1932,[2] on motion of Mr. Henry T. Rainey, of Illinois, by unanimous consent, the House agreed to an order providing for consideration of the bill (H. R. 2706), declaring a moratorium for water users on certain irrigation projects, in the Committee of the Whole on the following day from 11:00 o'clock a.m. until noon.

On the following day [3] the bill was considered under the special order in the Committee of the Whole until noon, when the Chairman [4] announced:

The hour of 12 o'clock having arrived, the committee will rise, pursuant to the order agreed upon yesterday.

Accordingly the committee rose; and the Speaker having resumed the chair, the Chairman reported that the committee had had under consideration the bill H. R. 2706 and had come to no resolution thereon.

2377. When the Committee of the Whole rises to report a quorum call no other business is in order, and immediately upon the report of the Chairman the House resolves automatically into the committee for the further consideration of the proposition originally committed to it.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Seventy-second Congress, Record, p. 5687.

[3] Record, p. 5786.

[4] Kent E. Keller of Illinois, Chairman.

On June 20, 1914,[1] the Committee of the Whole House on the state of the Union, during the consideration of the bill (H. R. 17041), a general appropriation bill, found itself without a quorum. The roll being called a quorum answered, the committee rose and the Chairman reported to the House.

Thereupon Mr. James R. Mann, of Illinois, moved that the House adjourn.

The Speaker[2] declined to recognize for that purpose and directed that the committee resume its sitting.

2378. The presentation of conference reports, although highly privileged under the rules, is not in order when the Committee of the Whole rises informally to receive a message.

On February 27, 1915,[3] during the consideration of the general deficiency appropriation bill in the Committee of the Whole House on the state of the Union, the committee rose informally to receive a message from the Senate.

While the Speaker was still in the Chair, Mr. Joshua W. Alexander, of Missouri, claimed recognition to present a conference report for printing under the rule.

The Speaker[2] held that no business was in order under the circumstances and the House automatically resolved into the Committee for the further consideration of the general deficiency appropriation bill.

2379. After the Chairman of the Committee of the Whole has reported to the House proceedings incident to securing a quorum of the committee, the Speaker declines to recognize for any purpose, including requests for unanimous consent, and the House automatically resolves again into the Committee of the Whole.

On June 20, 1922,[4] the Committee of the Whole House on the state of the Union, engaged in the consideration of the bill (H. R. 12022) relative to the naturalization of married women, rose and reported proceedings incident to securing a quorum.

Mr. Rufus Hardy, of Texas, addressed the Speaker and asked to prefer a request for unanimous consent to extend his remarks in the Record.

The Speaker[5] said:

> The Chair has no right to consider any such request. The committee has risen temporarily and the Speaker has resumed the chair only to receive a report. The Chair has no right to recognize the gentleman. The committee will resume its session.

2380. The Senate no longer requires consideration of bills and joint resolutions in the Committee of the Whole.

May 16, 1930,[6] in the Senate a resolution submitted by Mr. Claude A. Swanson, of Virginia, was agreed to, abolishing the requirement that bills and joint resolutions be considered in the Committee of the Whole.

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[1] Second session Sixty-third Congress, Record, p. 10820.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-third Congress, Record, p. 4884.

[4] Second session Sixty-seventh Congress, Record, p. 9821.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

[6] Second session Seventy-first Congress, Record, p. 9056.

Formerly a bill after passing through the amendment stage in the Committee of the Whole and having been reported to the Senate, was again open to individual amendment at the desire of any Senator. Under the modified procedure provided by this change in the rules of the Senate, consideration in the Committee of the Whole is eliminated and a bill on being taken up is on its second reading, and goes from its amendment stage direct to passage.

Chapter CCXXXVIII.[1]

SUBJECTS REQUIRING CONSIDERATION IN COMMITTEE OF THE WHOLE.

2381. The fact that a House bill was considered in Committee of the Whole is not taken into consideration in determining whether Senate amendments thereto require consideration in the Committee of the Whole, but the question as to whether a charge upon the Government is involved is applied to each amendment received from the Senate.

On April 21, 1922,[2] the Speaker laid before the House the bill (H. R. 2185) to provide for monthly payment of pensions, with Senate amendments.

Mr. John N. Garner, of Texas, raised a question of order and submitted that the amendments required consideration in the Committee of the Whole because the bill had been considered in the Committee of the Whole.

The Speaker[3] said:

The rule does not require that every bill which must be considered in Committee of the Whole House on the state of the Union, when it comes back from the Senate with a Senate amendment thereto, must be considered in the Committee on the Whole House on the state of the Union for the consideration of the Senate amendments, unless the Senate amendments require such consideration. The Chair is informed that these amendments do not require such consideration. The Clerk will report the Senate amendments.

2382 A Senate amendment merely increasing or decreasing the amount of a House appropriation, without providing new subjects of expenditure, does not require consideration in the Committee of the Whole.

A Senate amendment authorizing expenditures from a naval hospital fund is not required to be considered in the Committee of the Whole.

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[1] Supplementary to Chapter CVIII.

[2] Second session Sixty-seventh Congress, Record, p. 5817.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Senate amendments to House bills on the Speaker's table not requiring consideration in the Committee of the Whole may be disposed by motion authorized by the committee reporting the bill.

On February 7, 1931,[1] Mr. George P. Darrow, of Pennsylvania, called up from the Speaker's table the bill (H. R. 10166) to authorize the Secretary of the Navy to proceed with the construction of certain public works at Philadelphia, with Senate amendments.

The Clerk read the Senate amendments increasing the amounts provided in the House bill for hospital buildings and equipment and directing that they "be expended from the naval hospital fund."

Mr. John N. Garner, of Texas, questioned the privilege of the motion to take the bill from the Speaker's table.

The Speaker[2] said:

The gentleman from Pennsylvania is calling this up as matter of right under the rule for the purpose of moving that the House concur in the Senate amendments.

The Chair thinks he has a right to do this inasmuch as it does not seem to the Chair that it is necessary to consider the Senate amendments in Committee of the Whole House on the state of the Union.

2383. A Senate amendment which is a modification merely of a House proposition is not required to be considered in Committee of the Whole.

A Senate amendment restricting the powers granted by a House bill to a commission to refund foreign loans does not require consideration in Committee on the Whole.

When Senate amendments to a House bill are considered in the House a separate vote may be had on each amendment.

On February 3, 1922,[3] Mr. Joseph W. Fordney, of Michigan, called up the bill.

(H. R. 8762) for refunding obligations of foreign governments, with Senate amendments thereto.

Mr. Joseph Walsh, of Massachusetts, as a parliamentary inquiry asked if the amendments of the Senate were acted upon separately or in gross.

The Speaker[4] said:

Any Member has the right to have them acted upon separately.

Mr. James R. Mann, of Illinois, raised the point of order that one of the Senate amendments proposed to fix the rate of interest on Government securities, and therefore required consideration in the Committee of the Whole House on the state of the Union.

The Speaker ruled:

It does not seem to the Chair that these amendments involve an expenditure by the Government. That is a limitation on the provisions of the House bill. The bill as passed gives the commission full control over the rate of interest, and this reduces rather than increases their power.

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[1] Third session Seventy-first Congress, Record, p. 4248.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 1922.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

It does not seem to the Chair that it requires consideration in Committee of the Whole House on the state of the Union.

2384. On June 30, 1926,[1] the Speaker laid before the House a bill of the House with Senate amendments, the title of which the Clerk read as follows:

A bill (H. R. 7893) to create a division of cooperative marketing in the Department of Agriculture; to provide for the acquisition and dissemination of information pertaining to cooperation; to promote the knowledge of cooperative principles and practices; to provide for calling advisers to counsel with the Secretary of Agriculture on cooperative activities; to authorize cooperative associations to acquire, interpret, and disseminate crop and market information, and for other purposes.

Mr. James B. Aswell, of Louisiana, made the point of order that the Senate amendments were such as to require consideration in the Committee of the Whole.

The Speaker[2] held:

The rule on the subject is this:

"But House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine."

As the Chair understands, it is not necessary to consider these amendments in the Committee of the Whole. It is a question of fact whether it is necessary and whether they involve questions which must be determined under the rule in Committee of the Whole. The Chair does not think that either of these amendments requires consideration in the Committee of the Whole.

The Chair has read the two amendments. The first amendment is on page 1, striking out the words "and naval stores." Unquestionably that does not have to be considered in the Committee of the Whole. The only other amendment is on page 4, after the words "cooperative associations," by the addition of the words "and others." Unquestionably, in the opinion of the Chair, that does not require consideration in the Committee of the Whole.

2385. A Senate amendment merely modifying a House provision by increasing the amount of an appropriation, and which does not involve new and distinct expenditure, is not required to be considered in Committee of the Whole.

On February 21, 1931,[3] Mr. Fred A. Britten, of Illinois, by direction of the Committee on Naval Affairs, called up the bill (H. R. 9676) to authorize the Secretary of the Navy to proceed with certain public works at the United States naval hospital with the following Senate amendments:

Page 1, line 4, strike out "construct suitable buildings for hospital purposes" and insert "replace, remodel, or extend existing structures and to construct additional buildings with the utilities, accessories, and appurtenances pertaining thereto."

Page 1, line 6, strike out "$1,500,000" and insert "$3,200,000."

Page 1, line 7, strike out "$250,000" and insert "$100,000."

Page 2, after line 4, insert:

Mr. William H. Stafford, of Wisconsin, made the point of order that the Senate amendments involved a charge on the Government and should be considered in the Committee of the Whole.

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[1] First session Sixty-ninth Congress, Record, p. 12454.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Third session Seventy-first Congress, Record, p. 5649.

The Speaker [1] said:

The Chair will call the gentleman's attention to a decision by Mr. Speaker Randall, found in Hind's Precedents, Volume IV, section 4797:

"A Senate amendment which is a modification merely of a House proposition, like the increase or decrease of the amount of an appropriation, or a mere legislative proposition, and does not involve new and distinct expenditure, is not required to be considered in Committee of the Whole."

The Chair thinks that is this case exactly.

The Chair thinks this comes under the decision made by Mr. Speaker Randall and therefore overrules the point of order.

2386. To require consideration in Committee of the Whole the text of Senate amendments must indicate beyond a doubt a charge upon the Treasury.

In passing upon the question as to whether a legislative proposition involves a charge upon the Treasury the Speaker is confined to the provisions of the text and may not take into consideration personal knowledge not directly deducible therefrom.

On February 11, 1927,[2] Mr. Gilbert N. Haugen, of Iowa, called up from the Speaker's table the bill (H. R. 11768) to regulate the importation of milk, with Senate amendments thereto, and moved to concur in the amendments of the Senate.

Mr. Loring M. Black, of New York, made the point of order that the amendments involved a reduction in the revenue by authorizing the waiver of permits, and should be considered in the Committee of the Whole.

The Speaker [3] ruled:

A very recent decision of the House itself holds that if any amendment or provision makes a charge upon the Treasury it must appear upon the face of the bill itself. The House went so far even as to hold that the Speaker might not make use of any knowledge he might possess that a charge on the Treasury would necessarily follow. The effect of the decision of the House is that any provision must show on its face beyond any possibility of speculation or doubt that a charge upon the Treasury is in fact created. The Chair is unable to see language in these amendments on their face which would cause the Chair to be certain of there being a charge on the Treasury and overrules the point of order.

2387. Where the question of requiring consideration in Committee of the Whole was raised against a Senate amendment which on its face apparently placed a charged upon the Treasury the Speaker held it devolved upon those opposing the point of order to cite proof to the contrary.

A motion to take from the Speaker's table a House bill with Senate amendments, disagree to the amendments, and send to conference, precludes the motion to concur and is not in order.

On August 11, 1921,[4] Mr. Andrew J. Volstead, of Minnesota, moved to take from the Speaker's table the bill (H. R. 7294) supplemental to the national prohibition act, disagree to Senate amendments thereto, and agree to the conference asked by the Senate.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-ninth Congress, Record, p. 3532.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 4890.

Mr. James R. Mann, of Illinois, raised a question of order and said:

That motion is not in order, Mr. Speaker, and I make the point of order that it is not. The gentleman can not make such a motion. He may move to take the bill from the Speaker's table. He can not go beyond that at this stage of the proceedings, because the right to move to concur takes precedence of the motion to disagree to the Senate amendments.

The Speaker [1] sustained the point of order.

Mr. Volstead thereupon moved to take the bill with amendments from the Speaker's table for consideration.

Mr. Joseph Walsh, of Massachusetts, submitted that the motion was not in order for the reason that the Senate amendments required consideration in the Committee of the Whole.

The bill as it passed the House carried this provision:

SEC. 3. That this act shall apply to the United States and to all territory subject to its jurisdiction, including the Territory of Hawaii and the Virgin Islands; and jurisdiction is conferred on the courts of the Territory of Hawaii and the Virgin Islands to enforce this act and the national prohibition act in such Territory and Islands.

A Senate amendment provided:

That this act and the national prohibition act shall apply to the United States, including Hawaii.

Mr. Volstead argued that the national prohibition act was already in force in Hawaii and the Virgin Islands and the Senate amendment added nothing to the expense of its enforcement.

The Speaker said:

The gentleman from Massachusetts makes the point of order that the words "and the national prohibition act" being Senate amendment No. 17 in section 3 of the bill under consideration, makes the bill subject to consideration in the Committee of the Whole House on the state of the Union because those words involve an expenditure and a charge upon the Treasury. The gentleman from Minnesota, Mr. Volstead, rebuts that claim by saying that those words mean nothing because they are already in the law. The Chair has asked the gentleman to submit the phrase in the original law substantiating his position, and the Chair thinks the gentleman should have a reasonable time in which to examine the law to find those words.

Subsequently the Speaker ruled:

The gentleman from Massachusetts claims that the clause "and the national prohibition act shall apply not only to the United States but to all territory subject to its jurisdiction," being a Senate amendment, extends the operation of the present prohibition law and, therefore, that the bill must be first considered in Committee of the Whole House on the state of the Union and consequently can not be brought up here now. It seems clear to the Chair that extending the operation of the act to all territory subject to the jurisdiction of the United States, if the provision is new, does involve a charge upon the Government, and, therefore, obviously the bill must be first considered in Committee of the Whole House on the state of the Union and, therefore, can not be considered in the House at this time. The gentleman from Minnesota responds that the original prohibition law contains this same provision. The Chair has asked him to cite to the Chair that provision and the gentleman says now that he can not find the provision which he thought was in the original law. Until it is shown that this provision is in the original act, and no evidence of that is now offered, the Chair must sustain the point of order.

[1] Frederick H. Gillett, of Massachusetts, Speaker.

2388. Where the expenditure is a mere matter of speculation the rule requiring consideration in Committee of the Whole does not apply.

On January 5, 1909,[1] when the bill (H. R. 21898) to provide for the establishment of judicial divisions in the district of Indiana was called up under call of committees, Mr. R. Wayne Parker, of New Jersey, made the point of order that it required consideration in the Committee of the Whole, and called attention to the following section in the bill:

> And said clerk and marshal shall appoint deputies in said division in which a deputy clerk and deputy marshal does not already reside, who shall reside in and keep their offices at the place of holding court in each of said divisions.

Mr. John J. Jenkins, of Wisconsin, explained that the expenses of such deputies were paid from fees and did not involve a charge upon the Government.

The Speaker[2] said:

> It seems to the Chair that it is a matter of speculation or surmise as to whether there is a charge on the Treasury. In such cases has been usual to consider these bills in the House as belonging on the House Calendar. Points of order in such cases have not been sustained. The Chair therefore overrules the point of order.

2389. On December 14, 1911,[3] during call of committees, Mr. William B. Wilson, of Pennsylvania, from the Committee of Labor, called up the bill H. R. 9061, the eight-hour labor bill.

Mr. James R. Mann, of Illinois, made the point of order that the bill should be on the Union Calendar, for the reason that the shortening of hours of labor necessarily tended to increase the expenditures of the Government.

The Speaker[4] ruled:

> The rule under which this point of order is made is found in the third subdivision of Rule XXIII:
>
> "All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."
>
> Speaker Henderson rendered the following option:
>
> "To require consideration in Committee of the Whole, a bill must show on its face that it falls within the requirements of the rule (IV, 4811–4817), but where the expenditure is a mere matter of speculation (IV, 4818–4821), or where the bill might involve a charge, but does not necessarily do so (IV, 4809, 4810), the rule does not apply."
>
> Now, you can speculate what effect this eight-hour business would have, but it does not seem to the Chair it comes within that rule. The Chair knows it has been contended that people do more work in 8 hours a day than in 10. The Chair does not know whether that is true or not, but the point of orders is overruled.

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[1] Second session Sixtieth Congress, Record, p. 487.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-second Congress, Record, p. 376.

[4] Champ Clark, of Missouri, Speaker.

2390. On December 13, 1917,[1] following the disposition of business on the Speaker's table, Mr. Finis J. Garrett, of Tennessee, rose to a parliamentary inquiry and said:

I desire to direct the attention of the Chair to House joint resolution 174, and to make a parliamentary inquiry. This is a joint resolution "for the purpose of promoting efficiency, for the utilization of the resources and industries of the United States, for lessening the expenses of the war, and restoring the loss caused by the war by providing for the employment of a discovery or invention called the 'Garabed,' claiming to make possible the utilization of free energy." Now, that is on the House Calendar. The Committee on Rules, I may state as the reason for making this inquiry, proposes to report a rule for the consideration of this measure, and the question has arisen with some of the members of the committee as to whether this should not be on the Union Calendar. The form of the rule will be determined by that proposition. I submit the inquiry to the Chair now as to whether it is properly on the House Calendar. It does not necessarily carry an expense upon the Treasury. But it may do it. The possibility exists.

The Speaker[2] said:

The Chair thinks the remarks made by the gentleman from Tennessee show that any expenditure is purely speculative. It says, "If", and so forth and so on; so that it is not plain that there ever would be an expenditure. The Chair leaves it on the House Calendar.

2391. In determining whether a bill comes within the purview of the rule requiring consideration in Committee of the Whole the Speaker is restricted to the provisions of the bill itself and may not take into consideration information derived from other sources.

Consent to construction of a bridge across a navigable stream was held to be a regulation of commerce and not a conveyance of public property or an easement therein.

Provision for contingent hearings conducted by Cabinet members to determine requirements for a bridge across navigable waters was held by the House (overruling the Speaker) not to be sufficiently patent as a charge upon the Government to require consideration in Committee of the Whole.

The length of time a House bill transmitted from the Senate with Senate amendments lies on the Speaker's table before reference is within the discretion of the Speaker.

On January 6, 1927,[3] Mr. Nicholas J. Sinnott, of Oregon, rising to a question of order submitted that the bill (H. R. 11608) granting consent of Congress to the construction of a bridge across the Columbia River, received from the Senate with amendments, should be referred to the appropriate committee.

Mr. Sinnott made the further point of order that the bill set in motion a train of circumstances destined ultimately to involve certain expenditures in that it authorized the Secretary of War, Secretary of Commerce, and Secretary of Agriculture, acting jointly, to hold hearings and should therefore be on the Union Calendar. In support of this contention Mr. Sinnott submitted a letter from the Secretary of War expressing the opinion that such hearings would cost from $2,000 to $5,000.

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[1] Second session Sixty-fifth Congress, Record, p. 246.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-ninth Congress, Record, p. 1178.

Mr. Finis J. Garrett, in controverting the point of order, said:

If the Chair can mentally dissever the information that has come to him from private conversations and from the letters read by the gentleman from Oregon from that which is contained in the bill itself, I respectfully submit the Chair would have to overrule the point of order. This is the very reason that a bill must show expenditures upon its face; that is why the Speakers have so held in the past. I respectively submit that it is not parliamentarily proper for the Chair to go outside the bill itself to determine the point of order and that the Chair has no right to rely upon information that has come to him other than from the bill, and no right to rely upon letters read from other officials of the Government.

The fact that there may be a hearing does not necessarily imply expense to the Government. Those gentlemen who are opposed to this measure are going to come before these Secretaries voluntarily. They are not going to have to be sent for. There is no authority given in the bill to subpoena witnesses. There is no power given to this board composed of the three Secretaries to compel the attendance of any person. The hearings which they are to have will be voluntary, and those who appear will voluntarily appear to make their statements, both those who are for and those who are against the proposition. That is a fair assumption. If it is otherwise, then the bill does not provide the machinery requisite to carry out the purposes of the act.

After further debate the Speaker [1] ruled:

The gentleman from Oregon has made several points of order, the first being against the Senate bill because it is improperly upon the Speaker's table, the second against the House bill on the ground that it appropriates public property, and the third against the House bill in that it necessarily involves a charge upon the Treasury.

In regard to the first point of order, the point of order being that the bill is improperly upon the Speaker's table, and should be referred to the committee, the Chair things that that matter is within the discretion of the Chair. As a matter of fact, in this instance the Chair was requested to hold that bill upon the Speaker's table by the gentleman from Washington, Mr. Johnson, representing his delegation, and the Chair held it with knowledge that a similar House bill had been reported by the Committee on Interstate and Foreign Commerce, but that such bill was reported without instructions to any Member to bring it up. The Chair thinks that even without such instructions, a bill similar to a Senate bill being on the calendar, it is entirely within the discretion of the Chair, at the request of the gentlemen interested, to retain the bill upon the table.

With regard to the second point, that the House bill appropriates public property, the Chair is in entire accord with the gentleman from Tennessee, Mr. Garrett. To hold otherwise would unquestionably be to hold that every bridge bill should be referred to the Union Calendar. The Chair would not so hold. The Chair thinks that bridge bills in general—in fact, practically every bridge bill he has ever seen—should be referred, as the custom is, to the House Calendar.

The only question in the Chair's mind is whether this bill does not so greatly differ from all other bridge bills that an exception must be made in this case, and the Chair thinks that, in view of the suggestion of the gentleman from Illinois that the committee, with his approval, will never report out another bill like this one, it is perfectly safe for the Chair to say that all future bridge bills reported from that committee will be referred to the House Calendar and not to the Union Calendar.

The Chair is in very grave doubt as to how he ought to decide the third point of order. He has been much interested in and instructed by the arguments made by gentlemen on both sides of this question. To the mind of the Chair, it comes down simply to one point, and that is whether or not the provision that public hearings are to be held and other provisions also do not necessarily involve or predicate a charge upon the Treasury. We know that in the case of this particular bill there is a great diversity of opinion as to whether or not it ought to pass. Of course, the Chair is not concerned with that; but we all know that one great State is practically unanimously in favor of the construction of this bridge, while another great State, in so far as we can judge by the opinion and actions of its Representatives here, is equally opposed to it. Thus on the face of the facts it seems to the Chair evident that there will be public hearings upon this bill, probably protracted

[1] Nicholas Longworth, of Ohio, Speaker.

and probably demanding the summoning of witnesses from different and distant points. Does that on the face of it show that a charge will be laid upon the Public Treasury? the gentleman from Oregon has read two letters which slow conclusively that this bill will in fact be a charge on the public Treasury. He has read a letter from the Secretary of Commerce saying that the three Secretaries have agreed to the demand for public hearings, and he has read a letter from the Secretary of War showing that the cost of the investigation will be considerable.

The Chair is in very grave doubt about this question. The Chair would be loath to set any precedent which would go further than the general precedent that a bill must show on its face that it will involve a charge. Of course, there is the precedent referred to by the gentleman from Illinois, that "where a bill sets in motion a train of circumstances destined ultimately to involve certain expenditures it must be considered in Committee of the Whole," and the Chair would be very loath to render a decision which would broaden that in any sense.

Do these provisions in this bill, unlike any other bridge bill, show conclusively upon their face that a public charge will be necessarily involved and that the bill should be on the Union Calendar? That is the question.

The Chair agrees with the gentleman from Tennessee, that knowledge of facts previously acquired should not be a factor in determining this parliamentary question.

The Chair, however, makes the distinction there that this is to be a public hearing which is to be held away from home and by a new organization, and will not come under a regular organization like the Committee on Rules, so it would involve expense.

The Chair is not relying on the definite statement of the Secretary of War that it will involve expense, through he happens to know that now. The only question in the Chair's mind is whether he should dismiss from his mind entirely knowledge of a definite fact which seemed very patent to him when he read the bill that public hearings held by three Secretaries thousands of miles away would necessarily involve expense. That is the only question in the Chair's mind.

The Chair, with very grave doubt as to the wisdom of his decision, but with knowledge that it will not create a precedent which will affect any other bridge bills or a precedent which will generally affect reference of bills to the House or Union Calendar, will overrule the first point of order made against the Senate bill and the first point of order made against the house bill in that it involves the appropriation of public property, and will sustain the third point of order against the bill in that it shows on its face it would create a charge on the public Treasury.

Mr. Garrett appealed from the decision of the Speaker on the third proposition as to whether the provision for public hearings constituted such an ultimate charge upon the Treasury as to require consideration in the Committee of the Whole.

The question being taken, it was decided without division in the negative, and the decision of the chair was not sustained.

2392. Reference of bills to calendars is governed by text of bills as referred to committees and amendments reported by committees are not considered.

A bill involving a charge upon the Treasury is referred to the Union Calendar notwithstanding a committee amendment striking out the charge upon the Treasury.

On January 27, 1908,[1] following the disposition of business on the Speaker's table, Mr. Samuel W. Smith, of Michigan, made the point of order that the bill (H. R. 11776) for the opening of certain streets in the District of Columbia was improperly on the Union Calendar and should be referred to the House Calendar.

[1] First session Sixtieth Congress, Record, p. 1126.

The Speaker [1] said:

The bill that the gentleman refers to, H. R. 11776, as it was introduced and referred to the Committee on the District of Columbia, did provide:

"SEC. 3. That there is hereby appropriated, one-half from the revenues of the District of Columbia and one-half from any moneys in the Treasury not otherwise appropriated, an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings taken pursuant hereto and for the payment of amounts awarded as damages, to be repaid to the District of Columbia from the assessments for benefits and covered into the Treasury to the credit of the revenues of the District of Columbia and the United States in equal parts."

Now, the Committee on the District of Columbia reports this bill back with an amendment striking out the clause that charges the Federal Treasury with the payment of the damages or the expenses. The Chair submits to the gentleman that the bill that the committee recommends for amendment does make a charge upon the Treasury.

So the Chair takes it that the bill is properly on the Union Calendar. If the bill introduced did not make a charge upon the Treasury, the Chair would sustain the point of order; but whether the House may adopt the amendment recommended by the committee the Chair, of course, can not tell.

2393. The giving of unanimous consent for the consideration of a measure waives any requirements as to consideration in committee of the whole. Consent to consideration of a measure may be given conditionally by reserving the right to consideration in Committee of the Whole.

On February 16, 1920,[2] during the call of the Unanimous Consent Calendar the House gave unanimous consent for the consideration of the bill (S. 2454) for the relief of members of the Flathead Nation of Indians.

Mr. Joseph Walsh, of Massachusetts, raised the question as to the requirement of consideration in the Committee of the Whole.

Mr. James R. Mann, of Illinois, said:

Mr. Speaker, for a great many years it was the practice of the House, where a bill was on the Union Calendar and unanimous consent was given for its consideration, to consider the bill in the House. For some years after that, while Mr. Clark was Speaker, he held that it still required unanimous consent to dispense with the consideration of the bill by the Committee of the Whole House on the state of the Union. If the Speaker announces his ruling on the subject, that, I think, disposes of it. We will know then that, if unanimous consent be given, the bill is not to be considered in the Committee of the Whole House on the state of the Union, although I suppose a request might be made for unanimous consent to consider the bill without interfering with the right to go into the Committee of the Whole House on the state of the Union.

The Speaker [3] ruled:

The Chair has been considering the precedents, and he finds that it was held some years ago that when the House gave unanimous consent for the consideration of a bill it thereby dispensed with consideration of it under the Union Calendar. The Chair is disposed to follow that precedent.

The Chair thinks that if any Member desires to go into the Committee of the Whole House he could state that and give unanimous consent only upon the condition that the bill would be considered in Committee of the Whole House on the state of the Union.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 2964.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

2394. The ruling holding that the giving of unanimous consent for consideration of a measure waives requirement as to consideration in Committee of the Whole was held not to apply to a bill not on the Unanimous Consent Calendar.

On May 17, 1920,[1] Mr. William R. Wood, of Indiana, from the Committee on Appropriations, reported, in lieu of a similar bill returned by the President without approval, the legislative, executive, and judicial appropriation bill, which was referred to the Union Calendar.

On motion of Mr. Wood, by unanimous consent, the bill was immediately called up for consideration, when Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked if the bill would be considered in the Committee of the Whole.

The Speaker[2] replied:

> The Chair ruled once recently—and the Chair thinks that it would apply to this request—that when a request is made for unanimous consent for the consideration of a bill on the Union Calendar that dispenses with the consideration in the Committee of the Whole.

Mr. Mann suggested:

> That is on the Unanimous Consent Calendar. I do not think the Chair has ever ruled on a bill of this sort.

Mr. Thomas L. Blanton, of Texas, made the point of order that the bill was in effect a new bill and required consideration in Committee of the Whole.

The Speaker sustained the point of order and entertained a request by Mr. Wood for unanimous consent to dispense with consideration in the Committee of the Whole.

2395. A joint resolution proposing an amendment to the Constitution is not required to be placed on a calendar of the Committee of the Whole.

On January 12, 1910,[3] the Speaker[4] called attention to the fact that on the preceding day the joint resolution (H. J. Res. 115) proposing an amendment to the Constitution of the United States, had been erroneously referred to the Committee of the Whole House on the state of the Union, and announced a change of reference of the joint resolution to the House Calendar.

Mr. John J. Fitzgerald, of New York, suggested that an indirect charge upon the Treasury was provided through the proposed extension of terms of certain officials.

The Speaker said:

> That would be purely a matter of argument. It does not appear on its face.

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[1] Second session Sixty-sixth Congress, Record, p. 7176.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 544.

[4] Joseph G. Cannon, of Illinois, Speaker.

2396. Bills providing for the reapportionment of Representatives in Congress have been referred to the Union Calendar.

An instance wherein the Speaker by unanimous consent reserved his decision on a point of order.

On January 13, 1911,[1] Mr. Edgar D. Crumpacker, of Indiana, by direction of the Committee on the Census, submitted the report[2] of that committee on the bill (H. R. 30566) for the apportionment of Representatives in Congress among the several States under the Thirteenth Decennial Census.

The Speaker,[3] addressing Mr. Crumpacker, inquired:

Is there any expenditure involved or authorization of expenditure that would send this bill, under the rule, to the Committee of the Whole House on the state of the Union?

After listening to conflicting opinion from several Members the Speaker said:

With the indulgence of the House, the Chair will examine the bill and make the proper reference to the calendar. Is there objection? [After a pause.] The Chair hears none.

Subsequently the Speaker referred the bill to the Committee of the Whole House on the state of the Union.

2397. On January 8, 1921,[4] Mr. Isaac Siegel, of New York, from the Committee on the Census, reported by delivery to the Clerk, the bill (H. R. 14498) for the apportionment of Representatives in Congress amongst the several States under the Fourteenth Census, which with the report was referred to the Committee of the Whole House on the state of the Union.

2398. A resolution requesting the President to invite foreign nations to participate in a national celebration was held not to require consideration in the Committee of the Whole.

On August 15, 1911,[5] the House gave unanimous consent to the consideration of the concurrent resolution (H. Con. Res. 11) requesting the President to extend to foreign nations an invitation to participate in a celebration at Key West, Florida.

The concurrent resolution having been read by the Clerk, Mr. James R. Mann, of Illinois, made the point of order, first, that the resolution should go to the Union Calendar because requesting the President to direct the Army and Navy to be present and participate and, second, that Congress could not by concurrent resolution direct the President to take action.

After debate, the Speaker[6] overruled the point of order.

2399. A bill which sets in motion a train of circumstances destined ultimately to involve certain expenditure must be considered in Committee of the Whole.

A bill leasing Government property falls within the class of bills requiring consideration in Committee of the Whole.

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[1] Third session Sixty-sixth Congress, Record, p. 1181.

[2] House Report No. 1911.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-first Congress, Record, p. 852.

[5] First session Sixty-second Congress, Record, p. 3990.

[6] Champ Clark, of Missouri, Speaker.

Where the purpose of a bill is to raise revenue, even though that purpose is affected indirectly, the bill should be considered in Committee of the Whole.

A bill authorizing officials in certain contingencies to alienate Government property was held to require consideration in the Committee of the Whole.

On June 30, 1914,[1] the Speaker announces that the regular order was the bill (H. R. 16053) to regulate construction of dams across navigable waters.

Mr. James R. Mann, of Illinois, made the point of order that the bill required consideration in the Committee of the Whole.

After extended debate, the Speaker[2] ruled:

The rule under which this reference is made is as follows:

"First, a Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred any bills raising revenue, general appropriation bills"—

That is a particular class—

"and bills of a public character directly or indirectly appropriating money or property."

The Chair is of the opinion that this bill raises revenue. That is the intention of a certain portion of the House, at least; it remains to be seen whether it constitutes a majority or not. Of course, it is an indirect way of raising revenue. That is proposition No. 1. The Chair thinks that it indirectly appropriates Government money or property. Now, it says in section 14, leaving out the part on which the gentleman raised the point of order that the Secretary of War shall lease, after consulting with the Chief of Engineers. Well, now, a lease may run for 999 years or 999,000,000 years, the Chair supposes. We have fallen into the habit in this country of making two kinds of long leases, one for 99 years and one for 999 years. Now, as far as this generation is concerned, a lease of 99 years is the same as selling, and the Chair believes that the bill ought to be on the Union Calendar for both reasons, that it intends to raise revenue and that it authorizes a lease of Government property. The latter part, of course, appropriates Government property indirectly. It may never make a lease, but still they have the power to do all the leasing they want to do, and therefore the Chair rules the bill ought to be on the Union Calendar.

The Chair desires further to call attention to another rule which has not figured in the discussion, but which has been privately called to the Chair's attention. Clause 3 of Rule XXIII provides as follows:

"All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

Under this rule it has been held that a bill which sets in motion a train of circumstances destined ultimately to involve certain expenditures must be considered in Committee of the Whole. It seems clear to the Chair that this bill authorizes an official, in certain contingencies, to make contracts which will cause the United States to part either temporarily or permanently with property belonging to the United States; and for this reason it seems that the bill should be considered in the Committee of the Whole.

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[1] Second session Sixty-third Congress, Record, p. 11404.

[2] Champ Clark, of Missouri, Speaker

2400. A provision authorizing payment of rewards from fines collected through the Department of Justice was held not to require consideration in Committee of the Whole.

When a House bill with Senate amendments is taken from the Speaker's table and laid before the House the Senate amendments must be reported, and any Member may demand a separate vote on any amendment.

On January 7, 1915,[1] the Speaker laid before the House the bill (H. R. 6060), the immigration bill, with Senate amendments thereto.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill must first receive consideration in the Committee of the Whole House on the state of the Union, and in support of that contention cited the following provision of the bill:

> The Department of Justice may from any fines or penalties received pay rewards to persons other than Government employees who may furnish information leading to the recovery of any such penalties, or to the arrest and punishment of any person, as hereinafter in this section provided.

The Speaker[2] overruled the point of order.

Before the Clerk could report the Senate amendments Mr. John L. Burnett, of Alabama, moved that the House disagree to the amendments and ask for a conference.

Mr. James R. Mann, of Illinois, made the point of order that the motion was not in order until the amendments had been read and opportunity afforded for any Member to demand a separate vote on any amendment.

The Speaker sustained the point of order, and directed the Clerk to read the Senate amendments.

2401. A bill authorizing an undertaking by a governmental agency which will incur an expense to the Government, however small, must be considered in the Committee of the Whole.

On September 3, 1919,[3] Mr. Edmund Platt, of New York, when the Committee on Banking and Currency was reached under the Calendar Wednesday call of committee, called up the bill (S. 2395) to amend the Federal Reserve Act.

Mr. Champ Clark, of Missouri, made the point of order that it was not in order to call up the bill on Calendar Wednesday for the reason that it was improperly on the House Calendar. Mr. Clark submitted that the bill required consideration in the Committee of the Whole House on the state of the Union for the reason that it authorized a charge upon the Government under the following provision in the concluding paragraph of the bill:

> The Federal Reserve Board may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

The Speaker[4] ruled:

> The Chair is disposed to think that it does impose a charge, although it may not be large. The Chair will order it changed from the House Calendar to the Union Calendar, and therefore

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[1] Third session Sixty-third Congress, Record, p. 1129.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 4790.

[4] Champ Clark, of Missouri, Speaker.

the House will automatically resolve itself into Committee of the Whole House on the state of the Union for the consideration of this bill.

2402. A bill ratifying a tax by the Philippine Legislature was held not to require consideration in the Committee of the Whole.

On January 28, 1925,[1] Mr. Benjamin L. Fairchild, of New York, under the Calendar Wednesday call of committees, called up the bill (H. R. 11956) to amend an act making appropriations to supply urgent deficiencies for the fiscal year ending June 30, 1909.

Mr. Thomas L. Blanton, of Texas, made the point of order that the bill must be first considered in the Committee of the Whole House on the state of the Union for the reason that it affected appropriations from the Treasury.

Mr. Finis J. Garrett, of Tennessee, explained:

Mr. Speaker, the Philippine Legislature passed an act levying a sales tax back in 1909, and under the organic act of the Philippines as then existing, it was necessary that the tax feature be validated by act of Congress; and so in the deficiency bill referred to in this measure there was inserted a legislative provision validating that act of the Philippine Legislature, and this act does not in any way carry a charge upon the Treasury of the United states. All these matters are administered entirely by the insular government. The Treasury of the United States has nothing to do with them.

The Speaker[2] said:

The Chair will state that, although this act was passed by Congress, because of the organic law of the Philippines compelling such action, the Chair does not see why that would require that this bill should be considered in the Committee of the Whole House on the state of the Union. The Chair will overrule the point of order.

2403. The granting of easements across military reservations is a subject requiring consideration in the Committee of the Whole.

On April 27, 1910,[3] the Speaker[4] announced that the recent reference of the bill (H. R. 24723) granting permission to the city of San Francisco to operate a pumping station on the Fort Mason Military Reservation, to the Private Calendar was erroneous.

He thereupon referred the bill to the Union Calendar under the rule.

2404. A bill authorizing cession of territory belonging to the United States requires consideration in the Committee of the Whole.

On May 7, 1912,[5] Mr. William A. Jones, of Virginia, rising to a question of order submitted that the bill (H. R. 12243) to establish a qualified independent government for the Philippines and to fix the date when such qualified independence shall become absolute and complete, did not properly belong on the Union Calendar.

Mr. James R. Mann, of Illinois, argued:

If it was a bill disposing of a part of the public domain it should go to the Union Calendar, and when the gentleman proposes to give it away to wholesale the same rule ought to apply.

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[1] Second session Sixty-eighth Congress, Record, p. 2593.

[2] Frederick H. Gillet, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 5476.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-second Congress, Record, p. 6046.

The Speaker [1] ruled:

There are two provisions of the rules that affect the matter. the first is the second subdivision of Rule XIII, which reads as follows:

"A calendar of the committee of the Whole House on the state of the Uuion, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property."

The second is subdivision 3 of Rule XXIII, which reads as follows:

"All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriations to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of the bill has commenced."

It seems to the Chair that if this bill provides for the release of the Philippine Islands, then it would fall under that rule and go to the Union Calendar.

2405. A bill authorizing the erection of a memorial on land belonging to the Government requires consideration in Committee of the Whole.

On February 13, 1918,[2] under the Calendar Wednesday call of committees, Mr. James. L. Slayden, of Texas, on behalf of the Committee on the Library, called up the joint resolution (H. J. Res. 70) authorizing the erection on the public grounds in the city of Washington, D.C., of a statue of James Buchanan, a former President of the United States.

Mr. William H. Stafford, of Wisconsin, made the point of order that the joint resolution was erroneously on the Union Calendar in that it involved no charge upon the Treasury.

The Speaker [1] overruled the point of order.

2406. A bill waiving a lien of the Government requires consideration in the Committee of the Whole.

A point of order that a bill called upon Calendar Wednesday from the House Calendar belongs on the Union Calendar being sustained, the Speaker transferred the bill to the latter calendar and the House automatically resolved itself into the Committee of the Whole for its consideration.

On January 23, 1918,[3] it being Calendar Wednesday, Mr. Edward T. Taylor, of Colorado, from the Committee on Irrigation of Arid Lands, called up the bill (H. R. 4954) to provide for the application of the reclamation law to irrigation districts.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill should be considered in the Committee of the Whole House on the state of the Union, and said:

Mr. Speaker, I wish to make a point of order as to this bill. This bill is on the House Calendar. As I construe the provisions of the bill it waives the lien that the Government now has to

[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 2081.

[3] Second session Sixty-fifth Congress, Record, p. 1174.

the extent of $100,000,000 on irrigated land, and waives that lien in favor of irrigation districts provided under State enactment. Under the act of 1910, whereby authorization was granted to the Reclamation Service to use $20,000,000 of Government money for the continuation of reclamation projects, it was provided that 50 per cent of all the funds arising from returns on reclamation projects should be paid into the United States Treasury to reimburse the amount of the advancement of $20,000,000. This bill seeks to lift the lien the National Government to-day has on all the lands of the reclamation projects and transfer that absolutely and allow State organizations to go ahead without any obligation under this law to repay that money, except a mere promise.

Afer further debate, the Speaker [1] ruled:

To guard the rights of the Government in the premises, the Chair decides that this particular bill ought to be on the Union Calendar; and he further decides that the House automatically resolves itself into the Committee of the Whole House on the state of the Union to consider the bill.

2407. A bill incorporating land from the public domain in a Federal forest reserve was held to require consideration in Committee of the Whole.

Bills on the wrong calendar are transferred to the proper calendar by direction of the Speaker without reference to the House.

On January 3, 1919,[2] Mr. Edward T. Taylor, of Colorado, raised a question of order as to the reference of the bill (S. 1847) to authorize the addition of certain lands to the Wyoming National Forest to the House Calendar, and explained:

I want to call attention to the reference of a bill, which has been wrongly referred. It is Senate bill 1847, referred to the House Calendar, and it should have been referred to the Union Calendar.

Mr. Taylor asked unanimous consent to have the bill transferred from the House to the Union Calendar.

Mr. James R. Mann, of Illinois, objected:

It is a matter of change of reference for the Speaker whether unanimous consent is given or not.

Thereupon the Speaker [1] directed that the bill be rereferred as requested.

2408. Bills for surveys are prima facie authorization for expenditures and require consideration in the Committee of the Whole.

On March 1, 1921,[3] Mr. Riley J. Wilson, of Louisiana, called up from the Speaker's table the bill (S. 5000), substantially the same as a House bill already favorably reported and on the House Calendar.

The Clerk read the bill as follows:

Be it enacted, etc., That an examination and survey, with a report to Congress, shall be made by the Mississippi River Commission, of the Atchafalaya, Black, and Red Rivers in Louisiana, specifying a general plan with recommendations for the execution thereof that will give the greatest measure of protection to the basins of said rivers from the flood waters of the Mississippi River consistent with all other interests of the lower Mississippi Valley.

Mr. James R. Mann, of Illinois, made the point of order that the surveys proposed to be authorized could not be made without expenditure of public funds, and must first be considered in the Committee of the Whole.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 1002.

[3] Third session Sixty-sixth Congress, Record, p. 4205.

Mr. Wilson took the position that appropriations had already been made for operations of the Mississippi River Commission and no additional expenditure was involved.

Mr. Mann held that passage of the bill would be authorization for immediate appropriations.

The Speaker[1] decided that the bill required consideration in the Committee of the Whole and recognized Mr. Wilson to ask unanimous consent to take the bill from the Speaker's table for consideration.

2409. A bill granting leave of absence to homesteaders was held not to come within the rule requiring consideration in Committee of the Whole.

On August 11, 1911,[2] Mr. Edward T. Taylor, of Colorado, by direction of the Committee on Public Lands, when that committee was reached in a call of committees, called up the bill (S. 3052) to grant leave of absence to certain homesteaders.

Mr. James R. Mann, of Illinois, made the point of order that the bill properly belonged on the Union Calendar and not on the House Calendar.

The Speaker[3] overruled the point of order.

2410. Under the former practice bills authorizing acceptance of land proposed to be ceded to the United States for park purposes were held not to require consideration in the Committee of the Whole.

On August 24, 1921,[4] Mr. Nicholas J. Sinnott, of Oregon, when the Committee on Public Lands was reached during a Calendar Wednesday call of the committees, called up the bill (H. R. 7109) to accept the cession by the State of Arkansas of exclusive jurisdiction over a tract of land within the Hot Springs National Park.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the bill involved a charge on the Treasury incident to maintenance of a public park, and should be considered in Committee of the Whole.

The Speaker[1] held:

> The Chair is inclined to think that the cession of land to the Government does not necessarily involve an expense, but on the contrary, a gift to the Government is an advantage to the Government rather than an expense, although, as the gentleman says, we probably know by experience that it will add to the expense.
>
> The Chair thinks that ceding lands to the Government is not a charge on the Government. The Chair overrules the point of order.

2411. Under the former practice, a bill providing for the withdrawal of public lands from the forest reserve to be set apart as a public park was held not to require consideration in the Committee of the Whole.

On February 27, 1929,[5] Mr. Samuel B. Hill, of Washington, by direction of the Committee on the Public Lands, proposed to call up the bill (S. 675) to establish the Ouachita National Park in the State of Arkansas, providing for the withdrawal of land from a national forest reserve to be dedicated as a national park.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-second Congress, Record, p. 3834.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 5671.

[5] Second session Seventieth Congress, Journal, p. 403; Record, p. 4625.

Mr. Don B. Colton, of Utah, made the point of order that the bill was improperly on the House Calendar in that it involved a charge on the Treasury.

Mr. Colton said:

In this case the lands are now embraced within a forest reserve. They are liquid assets of the United States, where the timber may be sold and the lands used for commercial purposes. This sets them apart as exclusive for a particular use, and comes squarely within the definition of the word "appropriated."

But, Mr. Speaker, there is an even stronger point. If you will notice, the bill refers in express terms to the act of August 25, 1916, which is the basic act for the creation of the national-park system.

The act of August 25, 1916, confers upon the Secretary of the Interior the right to incur necessary expenses in the administration of a park.

For the reason that the bill appropriates a great area of land now belonging to the United States, making direct reference to the act which authorizes the use of money by the Secretary of the Interior; and does appropriate property and money of the United States, it should be upon the Union Calendar and not upon the House Calendar.

The Speaker [1] read a letter from the Chief of Engineers of the War Department holding that the passage of the bill would involve eventually expenditures for maintenance, and indicated that he considered the information so transmitted sufficient grounds for sustaining the point of order but referred to a former decision [2] in which he had sustained a similar point of order and had been overruled by the House, and said:

The Chair thinks that he is bound by that decision, that he must examine the face of the bill alone, and not use any discretion or judgment or knowledge or information of any kind. The Chair, therefore, overrules the point of order.

2412. Under the later practice bills accepting donations of land, or apportioning public lands, for dedication as national parks must be considered in Committee of the Whole.

Overruling the Speaker, at his invitation, the House decided that a bill providing for the establishing of a national park and conferring authority of the Secretary of the Interior to administer, protect, and develop it, required consideration in the Committee of the Whole.

On February 21, 1931,[3] Mr. Don B. Colton, of Utah, by direction of the Committee on the Public Lands, proposed to call up from the Speaker's table, as privileged, the bill (S. 5410) to provide for the establishment of the Everglades National Park in the State of Florida, an identical bill being on the calendar.

Mr. Bertrand H. Snell, of New York, made the point of order that the bill involved a charge upon the Treasury and belonged on the Union Calendar and therefore could not be called up under the rule.

After debate, the Speaker [1] ruled:

The Chair states with entire frankness that were it not for the decision of the House in overruling the Chair on a previous occasion he would say, without hesitation, that it is quite apparent that this bill creates a charge upon the Treasury. Section 3 of the bill provides:

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] See section 2391, infra.

[3] Third session Seventy-first Congress, Record, p. 5648.

"The administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service."

Is it conceivable that it does not cost money to administer a national park? Is it conceivable that it does not cost money to protect it? Is it conceivable that it does not cost money and possibly very large sums of money to develop it, particularly such a park as this, embracing as it does, as I understand, some 2,000 square miles? Is there anyone who has any power of mental reasoning who would say it would not cost money to develop a park 2,000 square miles in extent? Yet this bill does not say so on its face; it has not, as the gentleman from New York said, the dollar mark upon it. The Chair does not believe it to be necessary that an immediate charge should be had. The Chair thinks the correct ruling is that of Mr. Speaker Cannon, on December 12, 1904, to be found in volume 4, Hinds' Precedents, section 4837:

"A bill which sets in motion a train of circumstances destined ultimately to involve certain expenditure must be considered in Committee of the Whole."

That was confirmed in almost the same language by Mr. Speaker Clark on June 30, 1914. (Cannon's Precedents, section 9352.) Is there anyone here who will say that a proposition to administer, protect, and develop a park, situated in swampy ground, 2,000 square miles in extent, does not set in force a train of circumstances—

"Destined ultimately to involve certain expenditure?"

Is there anyone who will say that? But the Chair under the decision of the House is not permitted to exercise even that very slight degree of intelligence which would be necessary to come to such a conclusion.

On January 6, 1927, a bridge bill was under consideration. The building of the bridge was a matter of great concern to two States. One State, the State of Oregon, was very strongly against it, and another State, the State of Washington, was very strongly in favor of it. The provision in the bill was that the work should be undertaken and estimates made, and so forth, by three different Secretaries—the Secretary of War, the Secretary of Commerce, and the Secretary of Agriculture. Provision was made for the summoning of witnesses from all parts of the country. It seemed to the Chair, on that occasion, exercising that very slight degree of intelligence to which he referred, that that on the face of it was going to cost money, but in order to be perfectly sure he corresponded with various Secretaries, and they submitted to the Chair preliminary estimates of the amount of money it was going to cost to make that investigation. It involved, they stated, a good many thousand dollars. The Chair thus had official information from the heads of the departments undertaking the work that a large sum of money would be necessary if the bill should become a law, and the Chair has been informed since then that very much money, many thousands of dollars, has been expended by the Government on this bridge proposition. The Chair knew as well as he knows that he is standing here to-day that that bill would create a charge on the Treasury, inevitably, but the argument used by the gentleman from Tennessee, Mr. Garrett, the former very able minority leader and an excellent parliamentarian, was apparently very appealing to the House. On that occasion [1] Mr. Garrett said:

"Mr. Speaker, take my own situation. The Chair speaks of the knowledge the Chair has of the controversy. The Chair I know is perfectly familiar with it. Now, I am not. It may be that inasmuch as there have been various publications in the papers in connection with this bill, I ought to have known more about it, but all I know of the matter, excepting what has been developed here this morning, I derive from the reading of the bill itself, from the bill only, and I dare say that every Member of the House who has not had personal knowledge touching the situation, such as naturally comes to the Chair, derives the information from the bill, and the bill does not show upon its face the fact that expenditures will be engendered."

The Chair finds himself in the position that, in order to agree with the statement of the gentleman from Tennessee and a subsequent decision of the House in matters of this sort, he must endeavor to be a profound ignoramus; and he feels that in the face of the decision of the House which he held two years ago binding upon him he can not undertake to overrule it. However, such action as the House might see fit to take, the Chair would abide by with equanimity. The Chair overrules the point of order.

[1] Second session Sixty-ninth Congress, Record, p. 1173.

Mr. Fiorello H. LaGuardia, of New York, appealed from the decision of the Chair, and Mrs. Ruth Bryan Owen, of Florida, moved to lay the appeal on the table.

The question being taken, the yeas were 59, nays 185, and the motion to lay on the table was not agreed to.

The question recurring on the appeal from the decision of the Chair, it was decided in the negative without division.

So the decision of the Chair was overruled.

2413. Indian lands have not been considered "property" of the Government within the meaning of the rule requiring consideration in Committee of the Whole.

A bill providing that Indian funds held in trust in the Treasury should draw interest was construed not to require consideration in Committee of the Whole.

On February 23, 1927,[1] Mr. Carl Hayden, of Arizona, by direction of the Committee on Indian Affairs, moved to take from the Speakers's table the bill (S. 4893) to authorize gas and mining leases upon unallotted lands within Executive order Indian reservations, substantially the same as a House bill already favorably reported and on the House Calendar.

Mr. W. H. Sproul, of Kansas, made the point of order that the bill provided for the alienation of Indian lands owned by the government and authorized a charge against the Treasury through the payment of interest on Indian funds, and should therefore be first considered in Committee of the Whole.

After debate, the Speaker[2] ruled:

The question presented is this: Is the House bill properly on the Union Calendar or might it not be properly on the House Calender? If it could be properly on the House Calendar, the motion of the gentleman from Arizona is in order; but if it should be properly on the Union Calendar it is not in order. The gentleman from Kansas makes the point of order that the bill should be on the Union Calendar or that it should be considered in the Committee of the Whole under paragraph 3, of Rule XXIII, which provides:

"All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

The gentleman from Kansas makes the point of order on two grounds. First, that the bill disposes of property owned by the United States and not owned by the Indians; and, second, that section 2 of the bill provides for an appropriation of money.

Section 2 of the bill provides that the proceeds from rentals, and so forth, of this property—

"Shall draw interest at the rate of 4 per cent per annum and be available for appropriation by Congress."

Query: Is this an appropriation?

The Chair will put it in another way. Does section 2 on its face provide a charge on the Treasury?

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[1] Second session Sixty-ninth Congress, Record, p. 4572.

[2] Nicholas Longworth, of Ohio, Speaker.

The Chair thinks it is a little doubtful on its face, but in view of the statement made by the gentleman from Illinois, Mr. Madden, that under the rules and procedure of his committee this is not an appropriation, the Chair will so hold. As the Chair understands it, this is not a direct charge on the Treasury, but is a fund which is kept to the credit of the Indians and available for all sorts of uses by the Treasury. A mere book account is kept and 2 per cent semiannually is credited to this fund, and the fund is available for any proper use by the Treasury and probably draws interest at the rate of 4 per cent or perhaps more than 4 per cent. Under these conditions the Chair does not think that section 2 of this bill of itself and on its face creates a charge on the Treasury.

As to the question whether this is public land or Indian land, the Chair listened attentively to the argument of the gentleman from Kansas; but if it was doubtful in the past as to whether there is a distinction between lands given to the Indians by treaty or by Executive order, all doubt is removed by the opinion of the Attorney General, as follows:

"When by an Executive order public lands are set aside, either as a new Indian reservation or an addition to an old one, without further language indicating that the action is a mere temporary expedient, such lands are thereafter properly known and designated as an Indian reservation; and so long, at least, as the order continues in force the Indians have the right of occupancy and use and the United States has the title in fee."

The following statement also occurs in his opinion:

"The important matter here, however, is that neither the courts nor Congress have made any distinction as to the character or extent of the Indian rights as between Executive-order reservations and reservations established by treaty or act of Congress."

Furthermore—

"In Spalding v. Chandler, which involved an Executive-order Indian reservation, the Supreme Court said (pp. 402, 403):

"'It has been settled by repeated adjudications of this court that the fee of the lands in this country in the original occupation of the Indian tribes was from the time of the formation of this Government vested in the United States. The Indian title as against the United States were merely a title and right to the perpetual occupancy of the land, with the privilege of using it in such mode as they saw fit until such right of occupation had been surrendered to the Government. When Indian reservations were created, either by treaty or Executive order, the Indians held the land by the same character of title, to wit, the right to possess and occupy the lands for the uses and purposes designated.'"

Under these circumstances the Chair thinks, first, that this bill does not create, on its face, a charge on the Treasury; second, that it disposes of lands which are held in trust for the Indians; and being convinced about these two propositions, the Chair thinks the bill does not require consideration in Committee of the Whole.

This being the case, the motion of the gentleman for Arizona is in order and the Chair overrules the point of order made by the gentleman from Kansas.

2414. Bills for the adjudication and payment of claims require consideration in Committee of the Whole.

A bill authorizing a court to enter judgment against the United States under certain contingencies was held to require consideration in Committee of the Whole.

On January 5, 1909,[1] when the Committee on the Judiciary was reached in the call of committees during the morning hour, Mr. John J. Jenkins, of Wisconsin, by direction of that committee called up the bill (S. 390) to confer jurisdiction on the circuit court of the United States for the ninth circuit to determine in equity the rights of American citizens under the award of the Bering Sea arbitration of Paris and to render judgment thereon.

[1] Second session Sixtieth Congress, Record, p. 496.

Mr. James R. Mann, of Illinois, made the point of order that the bill should be first considered in the Committee of the Whole.

The Speaker [1] decided:

The Chair notices the point of order made by the gentleman from Illinois, Mr. Mann. Clause 3 of Rule XXIII provides—

"All motions or propositions involving a tax or charge upon the people"—

And so forth—

"shall be first considered in a Committee of the Whole."

There have been many rulings under this clause of the rule. Where claims are referred to the Court of Claims in express language, they shall receive their first consideration in Committee of the Whole. This, however, as the gentleman from Illinois says, is not a reference to the Court of Claims, but is a reference to the circuit court. It is not necessary for the Chair to announce what the ruling might be if that were the only point of order, but the second point of order is that the bill provides—

"And the court shall enter judgment thereon."

Now, under the precedents such a provision has, so far as the Chair has been able to find, been uniformly held to subject the proposed legislation, or the bill, to the operation of clause 3 of rule XXIII, and requires the consideration of the same to be in Committee of the Whole House on the state of the Union. It is true, you may say, that Congress is not bound to appropriate, nor is Congress bound to appropriate for the public debt, or the interest on the same, or to pay any judgment. It is in the power of Congress to refuse to pay, but in the construction of the rule, so far as the Chair has been able to ascertain, it has never been assumed that Congress would resort to repudiation. Of course, the class of claims that are referred to the courts from time to time for investigation and report to Congress for its consideration present another question, but this provides for absolute adjustment, and therefore, in the opinion of the Chair, the point of order is well taken.

2415. Resolutions from the Committee on Accounts authorizing expenditures from the contingent fund do not require consideration in Committee of the Whole.

On April 24, 1911,[2] Mr. James T. Lloyd, of Missouri, by direction of the Committee on Accounts, reported the resolution (H. Res. 117) providing for payment out of the contingent fund of compensation for the services of a clerk to the Committee on the Disposition of Useless Executive Papers.

Mr. Charles L. Bartlett, of Georgia, raised the question of order that the resolution should be first considered in the Committee of the Whole House on the state of the Union.

The Speaker [3] held:

If it were an original question, the present occupant of the chair would hold that the point of order made by the gentleman from Georgia was well taken, but for the last 10 or 15 years resolutions similar to this one have been considered in the House with the universal acquiescence of Members on both sides. Therefore the point of order is overruled.

2416. Resolutions from committees other than the Committee on Accounts authorizing expenditures from the contingent fund require consideration in the Committee of the Whole.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-second Congress, Record, p. 574.

[3] Champ Clark, of Missouri, Speaker.

A point of order that a resolution was on the wrong calendar being sustained, the Speaker directed the Clerk to refer the resolution to the appropriate calendar.

On August 15, 1911,[1] under call of committees, the Committee on Labor called up the resolution (H. Res. 90) for investigation[2] of the "Taylor system" of shop management, containing this provision:

Said committee is hereby authorized to employ certain stenographic or clerical assistance as may be necessary for the purpose of carrying out the provisions and purposes of this resolution, and to pay the expense thereof, in a sum not to exceed in the aggregate $10,000, from the contingent fund of this House upon warrants signed by the chairman of said committee.

Mr. James R. Mann, of Illinois, made the point of order that this paragraph required consideration in the Committee of the Whole, and said:

I am familiar with the rulings of the Chair that resolutions reported from the Committee on Accounts providing for the payment of sums out of the contingent fund are not Union Calendar bills, although the wording of the rule would require the consideration of those resolutions in Committee of the Whole House on the state of the Union.

Now, because an exception has been made in these cases, although the wording of the rule requiring that all bills and resolutions providing for an expenditure of money should be considered in Committee of the Whole House on the state of the Union, because of the wording of the resolution and the exception made on reports from the Committee on Accounts, my opinion does not warrant any further exception. I think there has been no exception to the wording of the resolution, except in those cases where the Committee on Accounts has reported providing for the payment of money out of the contingent fund. Undoubtedly that ruling grew up because the House was constantly called upon to pay small sums of money out of the contingent fund on resolutions reported from the Committee on Accounts, and it would be a great waste of time to require on each occasion the House to go into Committee of the Whole House on the state of the Union. But when it comes to providing that there may be $10,000 paid out of the contingent fund by a resolution reported from a committee which ought not to have had jurisdiction of it at all, the shoe is on the other food.

After debate, the Speaker[3] ruled:

The gentleman from Illinois, Mr. Mann, raises the point of order that this resolution ought to be on the Union Calendar instead of the House Calendar.

The governing section about this is section 3 of Rule XXIII, found on page 413 of the Manual:

"All motions or propositions involving a tax or charge upon the people; all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced."

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[1] First session Sixty-second Congress, Record, p. 3986.

[2] Resolutions providing for investigations now are referred to the Committee on Rules and, if when reported from the committee they contain provisions authorizing payments from the contingent fund of the House, such provisions are subject to a point of order, and may be embodied in a separate resolution for reference to the Committee on Accounts. Usually, however, the Committee on Rules, in the light of the present practice, itself eliminates such objectionable matter as irrelevant to its jurisdiction.

[3] Champ Clark, of Missouri, Speaker.

Rule XIII, Calendars and Reports of Committee, section 729, page 361 of the Manual, says:

"There shall be three calendars to which all business reported from committees shall be referred, viz:

"First. A calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character, directly or indirectly appropriating money or property."

The third provision is Rule XI, section 56, the last clause on page 358, referring to privileged matters:

"And the Committee on Accounts on all matters of expenditures of the contingent fund of the House."

The Chair agrees thoroughly with the statements made by the gentleman that this bill ought to go to the Union Calendar. The ruling of the present occupant of the chair was simply on the question whether, when the Committee on Accounts reports a resolution segregating a part of the contingent fund or reappropriating it, it should go to the Committee of the Whole. The Chair stated that if it was an original proposition he would rule against it, but rulings of previous Speakers on both sides had been—and for 17 years, to the Chair's certain knowledge, nobody had raised that question—that where the Committee on Accounts reports a resolution taking a part of the contingent fund, it does not go to the Committee of the Whole House on the state to the Union. That is the exception to the general rule, and it would be inadvisable, it seems to the Chair, from every point of view, to enlarge the proposition so that you can consider resolutions or bills appropriating money or things of value beyond the Committee on Accounts. For these reasons the point of order made by the gentleman from Illinois is sustained.

Mr. William B. Wilson, of Pennsylvania, inquired if the sustaining of the point of order automatically referred the resolution to the Union Calendar.

The Speaker said:

The Chair directs the Clerk to put the bill on the Union Calendar. The gentleman from Illinois, Mr. Cannon, states the exact fact, that there are thousands of bills to be referred, and sometimes it happens that you can refer a bill with equal propriety to any one of two or three committees, and in the rush of matters it may go to the wrong committee. This bill is now on the Union Calendar.

Chapter CCXXXIX.[1]

REPORTS FROM THE COMMITTEE OF THE WHOLE.

2417. A series of bills reported from the Committee of the Whole are usually considered in the House not in the order in which taken up on the committee but in the order reported.

On December 19, 1918,[2] the Chairman of the Committee of the Whole House in reporting a series of bills from the Private Calendar, grouped them in accordance with the disposition recommended by the Committee of the Whole and not in the order in which considered in the committee.

He reported that the Committee of the Whole House on the state of the Union had had under consideration certain bills on the Private Calendar and had directed him to report the same back to the House, with the recommendation that as to some of them they be laid on the table, and that as to others, some with amendments and some without amendments, they be passed.

The House then proceeded to the several consideration of all bills reported with the recommendation that they lie on the table; next, those reported with amendments and, last, those reported without amendments.

2418. On February 6, 1914,[3] the Committee of the Whole House rose and the Chairman reported that the committee, having had under consideration sundry bills on the Private Calendar, had directed him to report back to the House with favorable recommendation, some with amendment and some without amendment.

The House thereupon severally considered all bills reported with amendments, and these having been disposed of, proceeded to the several consideration of all reported without amendments.

2419. When the Committee of the Whole reports, the question in the House is not on the acceptance of the report of the committee but on the bill and amendments reported, if any, and such amendments may be voted

[1] Supplementary to Chapter CIX.

[2] Third session Sixty-fifth Congress, Record, p. 695.

[3] Second session Sixty-third Congress, Record, p. 3074.

upon en grosse or any Member may demand a separate vote on any amendment.

Amendments reported to the House by the Committee of the Whole are subject to amendment and the bill itself is open to amendment in the House unless the previous question is ordered.

If the Committee of the Whole reports to the House a substitute for the entire bill the substitute is subject to amendment in the House unless the previous question is operating.

On May 10, 1910,[1] Mr. James R. Mann, of Illinois, called up the bill (H. R. 17536) to create an interstate commerce court, reported from the Committee of the Whole House on the state of the Union on a previous day, and offered an amendment to the substitute recommended by the Committee on the Whole.

Mr. John J. Fitzgerald, of New York, made the point of order that the question pending was on concurring in the recommendation of the Committee of the Whole, and it was not in order to offer an amendment.

The Speaker[2] said:

The first question is, on the report of the Committee of the Whole of a bill with amendments, as to whether a separate vote is asked on any amendment. That is where there is more than one amendment, and the unvarying practice of the House is to vote on the amendments separately if a separate vote is asked for, and not to take the question on concurring in the action or the recommendation of the Committee on the Whole. This amendment reported by the Committee of the Whole House on the state of the Union is an amendment to be acted on by the House, and subject, in the absence of the previous question being demanded and ordered, to amendment.

The general rule is in all the history of amendments reported from the Committee of the Whole, as the Chair recollects, and as the gentleman recollects as to appropriation bills, that the question is on the pending amendments, and the unbroken practice of the House has been that when a bill is reported from the Committee on the Whole with amendments it is in order to submit additional amendments; but the first question is on the amendments reported.

The Chair reads the following precedent:

"Instance wherein a substitute amendment was offered to a bill reported from the Committee of the Whole with amendments and the previous question was ordered on all the amendments and wills to the final passage."

That is an analogous case. There is no trouble about the practice of the House with the statement that there is no sanctity about a recommendation of the Committee of the Whole House on the state of the Union, which is the great committee of the House, but that the same rules, the same parliamentary usage as to amendments recommended by that committee are to be had as to amendments recommended by any other committee.

Mr. Charles L. Bartlett, of Georgia, submitted the further point of order that the substitute recommended by the Committee of the Whole proposed to strike out all after the enacting clause, and the amendment offered by Mr. Mann was not in order because it proposed to insert as a part of the substitute a section in the original bill stricken out by the substitute.

The Speaker ruled:

In reply to the parliamentary inquiry of the gentleman from Georgia, the Chair finds from the report of the Chairman of the Committee of the Whole House on the state of the Union that that committee has considered the bill committed to it, and has directed him to report an amendment in the nature of a substitute. It is one amendment in the nature of a substitute to the

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[1] Second session Sixty-first Congress, Record, p. 6029.

[2] Joseph G. Cannon, of Illinois, Speaker.

bill. That is all the Chair knows touching the proceedings of the Committee of the Whole. A substitute is always subject to an amendment, like any other amendment, and therefore the proposition of the gentleman from Illinois, Mr. Mann, to amend the substitute in the House is in order. But the gentleman can see at once, if his contention was right, that if the House must first vote upon the amendment recommended by the Committee of the Whole House, the House might agree to it or reject it, and there would be no opportunity to amend it.

The Speaker then read section 5472 from Hinds' Precedents and continued:

An amendment by way of a substitute is amendable just as much as the original bill is amendable so that the precedent is precisely in point. The Clerk will report the amendment.

2420. The Committee of the Whole having reported a Senate amendment with the recommendation that it be agreed to with an amendment, a separate vote was had on the amendment to the Senate amendment.

On September 23, 1918,[1] the Committee of the Whole House on the state of the Union reported to the House the bill (H. R. 11945), the food stimulation bill, with Senate amendments, and with the recommendation that a Senate amendment be agreed to with an amendment.

Mr. Julius Kahn, of California, demanded a separate vote on the amendment to the Senate amendment recommended by the Committee of the Whole.

Mr. William L. Igoe, of Missouri, made the point of order that the Senate amendment and the amendment recommended by the Committee of the Whole had been reported as one proposition and a division of the vote was not in order.

The Speaker[2] overruled the point of order and put the question separately on agreeing to the amendment to the Senate amendment.

2421. If a Committee of the Whole amend a paragraph and subsequently strike out the paragraph as amended, the first amendment falls and is not reported to the House or voted on.

On August 3, 1921,[3] the Committee of the Whole House on the state of the Union, rose and its Chairman reported that the committee having had under consideration the bill (S. 674) to provide for the distribution of captured war trophies, had directed him to report it back to the House with sundry amendments.

All amendments were agreed to en bloc with the exception of an amendment recommended by the committee as a substitute for section 5, which was rejected on a separate vote, yeas 120, nays 127.

Mr. James R. Mann, of Illinois, as a parliamentary inquiry, asked whether section 5 remained in the bill in its original form after the rejection of the committee substitute or in the form to which amended in perfecting it prior to vote on the substitute in the committee.

Mr. Mann suggested:

The amendments were not reported to the House. The amendments were agreed to in committee and then the committee struck out the whole section, so that the previous amendments were not reported to the House.

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[1] Second session Sixty-fifth Congress, Record, p. 10694.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-seventh Congress, Record, p. 4621.

Mr. Speaker, it seems to me that it is the duty of the Speaker of the House to determine what has been done and not the duty of the reading clerk to guess at what the House wanted to do. I do not know whether the reading clerk will certify to the enrolling clerk section 5 as originally passed by the Senate, or originally reported to the House, or with certain amendments. I want to see that question determined, although I am not in favor of section 5. These amendments have not been agreed to and there is no way to bring them before the House now because we are operating under the previous question. When the time comes I will move to recommit the bill.

The Speaker pro tempore [1] ruled:

The Chair thinks that the gentleman from Illinois is correct in his statement that the House has not taken any action on the amendments to the section. The Chair's impression would be that the section would remain unamended, and that is the statement of the Chair.

2422. It is not in order to demand a separate vote on perfecting amendments incorporated in amendments adopted by the Committee of the Whole and reported to the House.

On April 24, 1930,[2] the House was considering in the Committee of the Whole House on the state of the Union the bill (H. R. 10381) to amend the World War veterans' act of 1924.

During the consideration of the bill, Mr. John J. Cochran, of Missouri, offered a perfecting amendment to a pending amendment proposed by Mr. John E. Rankin, of Mississippi.

The perfecting amendment was adopted and the original amendment as amended was incorporated in the bill.

When the Committee of the Whole reported the bill to the House, Mr. Hamilton Fish, of New York, asked for a separate vote on the perfecting amendment proposed by Mr. Cochran.

The Speaker [3] said:

The Chair understands that the so-called Cochran amendment was incorporated as a part of the so-called Rankin amendment, and therefore is not an amendment that can be voted on separately.

2423. On May 20, 1920,[4] the Committee of the Whole House on the state of the Union rose and its Chairman reported that the committee having had under consideration the bill H. R. 13558, the war risk insurance bill, had directed him to report it back to the House with sundry amendments and favorable recommendation.

Mr. Alben W. Barkley, of Kentucky, rising to a parliamentary inquiry, stated that before the amendment reported by the Chairman, striking out the first section of the bill, was agreed to in the Committee of the Whole the committee had adopted an amendment to the section, and inquired if a separate vote could be secured on that amendment.

The Speaker [5] responded:

The Chair is of opinion that the House has no knowledge at all of any further amendment. The amendment before the House is the amendment to strike out the paragraph. It does not

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[1] Horace M. Towner, of Iowa, Speaker pro tempore.

[2] Second session Seventy-first Congress, Record, p. 7672.

[3] Second session Sixty-sixth Congress, Record, p. 7381.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

seem to the Chair that it gives the House the control it ought to have, but the decision is that if the Committee of the Whole amends a paragraph and subsequently strikes out the paragraphs as amended the first amendment falls and is not reported to the House or voted on.

2424. The House having rejected a substitute recommended by the Committee of the Whole, the section of the bill for which the substitute was proposed remains in the bill in its original form and not as amended.

An instance in which the Speaker announced to the House that after further consideration he did not desire a recent decision to be considered as a precedent.

Discussion as to the importance of observing precedent.

On March 31, 1922,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10864) to supply additional hospital facilities for ex-service men and women.

The first section of the bill having been perfected by amendment was stricken out in favor of a substitute for the entire section offered by Mr. Martin B. Madden, of Illinois.

The bill was reported back to the House with sundry amendments, and a separate vote being demanded on the amendment proposing a substitute for section 1, all remaining amendments were agreed to and the amendment by way of a substitute to section 1 was rejected, yeas 137, nays 167.

Whereupon, Mr. Horace M. Towner, of Iowa, rising to a parliamentary inquiry, asked if section 1, for which a substitute had been rejected, remained in the bill in its original form or as perfected by amendments agreed to before the adoption of the substitute in the Committee of the Whole.

In debating the point of order Mr. James R. Mann, of Illinois, argued:

The gentleman assumes, I think, that those amendments were adopted in gross. The only amendments which were agreed to in gross were the amendments which were reported to the House. Suppose some gentleman offers an amendment in Committee of the Whole and some other gentleman offers an amendment to the amendment, and the amendment to the amendment is agreed to, but the amendment as amended is disagreed to. Would the gentleman claim that the amendment that had been agreed to and reported to the House was adopted?

Mr. Joseph Walsh, of Massachusetts, supplemented:

Mr. Speaker, the House can not agree to something that has never been reported to it, and when the Chairman of the Committee of the Whole House on the state of the Union makes a report he does not say "I report a bill with certain amendments that have agreed to and certain amendments that have not been agreed to." The gentleman would have one believe that the House, when it has voted upon amendments in gross, voted to agree to a lot of amendments with a proviso that if the substitute was eliminated, then the amendments were in it; that if it was voted down in the House, therefore we have agreed to these amendments. Certainly the House is not in a position where a vote it has already taken must depend on the vote which follows it. The situation is as I have stated. The Chairman of the committee reported the bill back to the House with certain amendments. The amendments were among those with the substitute for the first section of the bill. It makes no difference what was done to the section in the Committee of the Whole, the effect of it was to strike out the language as proposed in the bill, and whether there were amendments or no amendments to it the House or the Speaker has no means of knowing, because the substitute is simply one amendment. If the House rejected that one amendment the text is left in the bill, because we do not report a negation or a negative to the House.

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[1] Second session Sixty-seventh Congress, Record, p. 4893.

It seems to me, having rejected the substitute which the committee agreed to and which it could have agreed to without amendment, we are not dependent on amendments which were agreed to in the committee and which the committee immediately negatived because that is the report to the House. Of course, the gentleman from Iowa will appreciate the fact that the Chairman, when he reports to the House the final action of the committee, does not report the successive stages, as pointed out by the gentleman from Illinois. If we have a dozen amendments and amendments thereto, it is only the final action of the committee that is reported.

The Speaker [1] held:

The gentleman made a parliamentary inquiry but the Chair supposes that the action of the clerks will probably depend upon the ruling of the Chair. When the gentleman first asked the question, the Chair was referred to a citation and answered the gentleman according to the precedent, that the original section would stand. During the roll call the Chair looked up that precedent. It was the only precedent that he could find. That is a precedent back in 1852, and it does not now seem to the Chair to entirely cover the matter. The Chair is informed by the parliamentary clerk that once or twice the present occupant of the chair has ruled in accordance with that precedent, but on reflection and on hearing the argument the Chair is disposed to rule the other way.

However, on April 3,[2] immediately after the approval of the Journal, the Speaker announced:

The Chair would like to make a statement in relation to a response to a parliamentary inquiry that he made on Friday last. The House will remember that after some slight discussion the Chair differed in some measure from some of the precedents and announced that inasmuch as the motion to strike out a section has passed in committee and been voted down in the House, that then the section stood as it had been amended in committee, and not in its original form. The Chair in making that statement thought, and still thinks, that he was following the dictates of equity and reason in that particular case, and he was also advised that there was a ruling by Speaker Clark in the same line. The Chair has not been able to discover any such ruling by Speaker Clark. There is an old legal maxim that "hard cases make bad law," and the Chair is not at all certain that his position Friday would be the wise one as a general precedent, although it seemed proper in the particular case. He therefore wishes to file a caveat and say that in the future that ruling will not be used or considered as a precedent to bind the present occupant of the chair; but if the question comes up again the Chair will carefully investigate and make a deliberate decision. Of course, we all recognize that it is extremely important that precedents should be followed. There may be occasions when it will be wise for the House to overrule old precedents and establish a new one. But it is important that the House should always know what the established law is and consequently know what to expect. The doctrine of stare decisis should be followed whenever possible, and therefore the Chair thinks it fair to the House to state that his action in the future will not be influenced by his statement of Friday.

2425. On March 5, 1932,[3] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee having had under consideration the Treasury and Post Office Departments appropriation bill had directed him to report it with sundry amendments.

Mr. James M. Mead, of New York, rose to a parliamentary inquiry and informed the Chair that in the course of the consideration of the bill in the Committee of the Whole he had proposed an amendment which had been agreed to but that

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Record, p. 4925.

[3] First session Seventy-second Congress, Record, p. 3505.

subsequently a further amendment by Mr.. Fiorello H. LaGuardia, of New York, had been offered and agreed to, striking out the entire section including the amendment.

Mr. Mead desired to know whether his amendment would remain in the bill if the amendment striking out the section was rejected by the House.

The Speaker [1] held:

The House has no knowledge of the gentleman's amendment. The House has knowledge only of the amendment offered by the gentleman from New York, Mr. LaGuardia. If the House should vote down the amendment of the gentleman from New York it will restore the section to the bill as it was reported by the Committee on Appropriations.

2426. If the Committee of the Whole perfect a bill by amendment and then adopt a substitute for the entire bill, only the substitute is reported to the House, and if the House rejects the substitute the original bill without amendment is before the House.

An amendment in the nature of a substitute for the entire bill may be offered either at the end of the bill or after the reading of the first paragraph with notice that if agreed to motions will be made to strike out the remaining paragraphs.

A proposition reported from the Committee of the Whole as an entire and distinct amendment may not be divided but must be voted on in the House as a whole.

The demand for the reading of the engrossed copy of a Senate bill can not be made in the House.

It is not in order to recommit, with instructions, a substitute for an entire bill adopted by the House.

On June 28, 1922,[2] the Committee of the Whole House on the state of the Union was considering the bill (S. 3425) to reinstate certain land offices.

After the consideration and adoption of sundry amendments the reading of the bill was being completed when Mr. James R. Mann, of Illinois, offered an amendment in the nature of a substitute for the entire bill.

Mr. Finis J. Garrett, of Tennessee, made the point of order that a substitute for the entire bill could not be offered at the end of the bill proposing thereby to strike out not only the original bill but all amendments adopted by the Committee of the Whole in its consideration.

The Chairman [3] ruled:

There are two methods by which substitutes for the entire bill may be offered. The first is to offer, after the first paragraph has been read, a substitute for the entire bill, with the notice that with regard to the succeeding sections of the bill as they are read a motion will be made to strike them out. That method had been used in a good many instances. In that case gentlemen will notice that, of course, there is no opportunity for amending any subsequent section of the bill, providing the substitute is agreed to.

The other method is to offer the substitute for the entire bill at the conclusion of the reading of the entire bill, as was done in this instance by the gentleman from Illinois. Of course in that

[1] John N. Garner, of Texas, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 9638.

[3] Horace M. Towner, of Iowa, Chairman.

case of all of the amendments that have been adopted by the committee, whatever they may be, are stricken out if the substitute is adopted. If the substitute contains in effect or in actual language some of the amendments that are already agreed to, that does not deprive the mover of the substitute of the consideration of his substitute. That applies practically to the case that we have before us, in the opinion of the Chair. No matter what the effect of this substitute may be, it is the right of the committee to vote down or to support the motion of the gentleman from Illinois. The point of order is, therefore, overruled.

The question is on the substitute offered by the gentleman from Illinois.

The question being taken on the substitute offered by Mr. Mann, it was decided in the affirmative and the committee reported the bill back to the House with the recommendation that the substitute be agreed to and the bill as amended be passed.

The yeas and nays having been ordered on the question of agreeing to the substitute for the bill recommended by the Committee of the Whole, Mr. Louis C. Cramton, of Michigan, requested a separate vote on each section of the substitute.

The Speaker [1] said:

The Chair has no authority to allow the amendment to be divided.

Mr. Homer Hoch, of Kansas, submitted a parliamentary inquiry as to whether, in event of the rejection of the substitute, the original bill would be before the House or the bill as amended in the Committee of the Whole before the adoption of the substitute.

The Speaker said:

This bill is reported with one amendment. There are no other amendments before the House; therefore if this amendment should be disagreed to, the original bill would be before the House not as amended. The only way the House could express itself, if it wished to amend it, would be by a motion to recommit. The Chair thinks it would be the original Senate bill. The question is on agreeing to the amendment.

The question being put, the substitute recommended by the Committee of the Whole was agreed to, when Mr. Cramton demanded the reading of the engrossed copy.

The Speaker overruled the request and said:

This is a Senate bill.

Thereupon Mr. Cramton offered a motion to recommit with instruction to strike out a portion of the substitute and insert in lieu thereof a certain amendment.

Mr. Mann made the point of order that instructions to strike out any portion of an amendment just inserted by the House were not in order.

The Speaker sustained the point of order and said:

This question has been settled by a uniform line of decisions and has been ruled upon by the present Speaker several times. The rule is laid down very conclusively. After the House has adopted an amendment, as it has in this case, it is not subject to amendment indirectly by a motion to recommit. The Chair thinks the only motion would be a motion to recommit without instructions.

The House has adopted this amendment. It is not the act of the committee, but an act of the House, and after it has been adopted the House can not amend it. The amendment is a substitute for the entire bill.

The Chair sustains the point of order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

2427. A separate vote in the House on a perfecting amendment offered in the Committee of the Whole and incorporated in an amendment reported to the House is not in order and may be had only by unanimous consent.

When a Senate bill is reported by the Committee of the Whole with an amendment in the nature of a substitute and the House rejects the substitute, and the previous question is operating, the vote recurs on the Senate bill without amendment.

The motion to recommit may not include instructions modifying an amendment agreed to by the House.

On May 14, 1930.[1] the Committee of the Whole House on the state of the Union reported to the House the bill (S. 108) to suppress unfair and fraudulent practices in the marketing of agricultural commodities in interstate and foreign commerce, with an amendment in the nature of a substitute, and with the recommendation that the amendment be agreed to and that the bill as amended be passed.

Mr. Frederick R. Lehlbach, of New Jersey, as a parliamentary inquiry, asked what would be before the House in event the amendment recommended by the Committee of the Whole was rejected.

The Speaker pro tempore[2] replied that if the amendment was rejected the vote would recur on the Senate bill as messaged to the House.

Mr. C. William Ramseyer, of Iowa, then referred to the desire of a number of Members for a separate vote in the House on perfecting amendments offered in the Committee of the Whole and incorporated in the substitute reported to the House, and asked the Chair to explain the parliamentary situation.

The Speaker pro tempore said:

> The House has been considering the bill S. 108. The Committee on Agriculture amended that bill by striking out all after the enacting clause and inserting an amendment of its own. That amendment has been perfected in the Committee of the Whole and has been reported to the House as a single amendment.
>
> There is only one amendment reported to the House. The House has no knowledge of any action taken by the Committee of the Whole, except as reported to it by the Chairman of the Committee of the Whole.
>
> From a parliamentary standpoint this is but a single amendment, and so far as the House is concerned the House is at liberty to vote on but one amendment.

In response to an inquiry from Mr. Fred S. Purnell, of Indiana, the Speaker pro tempore added that a vote on any proposition incorporated in the amendment reported by the Committee of the Whole to the House could be had by unanimous consent.

Thereupon, Mr. James B. Aswell, of Louisiana, asked if it would be in order to recommit the bill with instructions to modify certain provisions in the substitute just adopted by the House.

The Speaker pro tempore that held the House having adopted an amendment it would not be in order to move to recommit with instructions which could not have been offered as amendments in the Committee of the Whole, and if an amendment

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[1] Second session Seventy-first Congress, Record, p. 8934.

[2] John Q. Tilson, of Connecticut, Speaker pro tempore.

recommended by the Committee of the Whole was agreed to by the House it would not be in order to propose a motion to recommit with instructions modifying such amendment.

2428. Paragraphs ruled out in Committee of the Whole on points of order are not reported to the House.

On January 31, 1921,[1] the Chairman of the Committee of the Whole House on the state of the Union reported that the committee had had under consideration the river and harbor bill and had directed him to report it back to the House without amendment and with favorable recommendation.

Mr. Thomas L. Blanton, of Texas, made the point of order that the report of the Chairman was inaccurate in that it failed to report two paragraphs having been stricken from the bill on points of order.

The Speaker[2] said:

The Chair must be governed by the report made by the Chairman of the Committee of the Whole House on the state of the Union, and overrules the point of order.

2429. A matter alleged to have arisen in Committee of the Whole but not reported by the Chairman may not be brought to the attention of the House.

The Speaker has no official knowledge of proceedings in Committee of the Whole save as reported by its Chairman.

There is no appeal from a decision by the Speaker on a question of recognition.

On March 2, 1910,[3] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee having had under consideration the bill (S. 4639) concerning tonnage duties on lake vessels, had directed him to report the bill back to the House with the recommendation that it be passed.

Mr. Gilbert M. Hitchcock, of Nebraska, rising to a question of order, informed the Speaker that the bill had not been read for amendment in the Committee of the Whole under the five-minute rule.

The Speaker[4] said.

The Chair has no knowledge of what took place in Committee of the Whole House on the state of the Union except by the report of the chairman of that committee to the House. The bill is reported back by the chairman with the recommendation that it do pass. And the Chair has no knowledge, parliamentarily or in fact, except what the gentleman states. The Chair must rely upon the report of the Chairman of the Committee of the Whole House on the state of the Union.

Mr. Hitchcock and Mr. Sereno E. Payne, of New York, simultaneously demanded recognition to move to recommit the bill.

The Speaker having recognized Mr. Payne, Mr. Hitchcock appealed from the decision of the Chair.

The Speaker ruled:

On a question of recognition the Chair declines to entertain the appeal, in conformity with the precedents of the last 40 years.

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[1] Third session Sixty-sixth Congress, Record, p. 2357.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 2639.

[4] Joseph G. Cannon, of Illinois, Speaker.

2430. When a bill is reported from the Committee of the Whole with an adverse recommendation, an opponent of the bill is recognized to make a motion as to its disposition.

The Speaker is not presumed to have knowledge of proceedings had in the Committee of the Whole and not reported to the House through its Chairman.

On March 2, 1910.[1] the Committee of the Whole House on the state of the Union at the conclusion of its consideration of the bill (H. R. 15814) for the purchase of embassy buildings abroad, rose and reported the bill back to the House through its Chairman[2] with the recommendation that the enacting clause be stricken out.

The Speaker[3] announced:

The Committee of the Whole House reports, through its Chairman, that that committee struck out the enacting clause. Now, while the Chair is supposed not to know, and does not know as Speaker, upon whose motion the enacting clause was stricken out, or what discussion took place in the Committee of the Whole House, yet that action is evidently adverse to the bill and therefore the Chair would recognize an opponent of the bill.

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[1] Second session Sixty-first Congress, Record, p. 2648.

[2] William H. Stafford, of Wisconsin, Chairman.

[3] Joseph G. Cannon, of Illinois, Speaker.

Chapter CCXL.[1]

CONSIDERATION ''IN THE HOUSE AS IN COMMITTEE OF THE WHOLE.''

1. **Consideration is under 5-minute rule. Sections 2431–2434.**
2. **Unfinished business. Section 2435.**

2431. Consideration "in the House as in Committee of the Whole" comprises reading for amendment and debate under the five-minute rule without general debate.

On May 26, 1911,[2] during a call of the committees, Mr. S.A. Roddenbery, from the Committee on Accounts, called up the joint resolution (H.J. Res. 75) reducing the number of Capitol police.

On motion of Mr. Oscar W. Underwood, of Alabama, by unanimous consent, the joint resolution was considered in he House as in Committee of the Whole.

In response to a parliamentary inquiry by Mr. Robert L. Henry, of Texas, as to the procedure when considering a measure in the House as in the Committee of the Whole, the Speaker[3] said:

> The precedents show that there is no general debate when considering a resolution in the House as in the Committee of the Whole. According to the rule you are pursuing debate under the five-minute rule.
>
> The gentleman from Georgia, Mr. Roddenbery, has the floor for the first five minutes.

2432. On October 17, 1921,[4] the bill (H.R. 7761) relative to proceedings in contested-election cases, was being considered in the House as in the Committee on the Whole.

The bill having been read the first time in full, through inadvertence, was at the instance of the Speaker pro tempore,[5] by unanimous consent, again read by sections for amendment under the five-minute rule.

2433. When a bill is considered "in the House as in Committee of the Whole" it is read the first time by title only and immediately thereafter by sections for amendment under the five-minute rule.

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[1] Supplementary to Chapter CX.

[2] First session Sixty-second Congress, Record, p. 1611.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 6393.

[5] Cassius C. Dowell, of Iowa, Speaker pro tempore.

On August 28, 1922,[1] on motion of Mr. Benjamin K. Focht, of Pennsylvania, by unanimous consent, the bill (S. 3086) for the removal of snow from sidewalks in the District of Columbia, was considered in the House as in Committee of the Whole.

The Clerk proceeded to read the bill by sections for amendment, when Mr. William H. Stafford, of Wisconsin, by way of a parliamentary inquiry, asked if it was not necessary in reading the bill for the first time to read it in full.

The Speaker[2] said:

Where a bill is considered in the House as in Committee of the Whole, the reading by title is the first reading.

2434. Union Calendar bills considered in the House as in the Committee of the Whole are read for amendment under the five-minute rule by section and not by paragraphs.

On January 22, 1930,[3] it being Calendar Wednesday, Mr. George S. Graham, of Pennsylvania, for the Judiciary Committee, called up the bill (H. R. 6807) establishing two institutions for the confinement of United States prisoners.

On motion of Mr. Graham, by unanimous consent, the bill was considered in the House as in the Committee of the Whole.

The Clerk having reported the bill, Mr. William H. Stafford, of Wisconsin, asked, as a parliamentary inquiry, if it was the practice of the House to consider Union Calendar bills under the circumstances in their entirety, or by paragraphs or sections.

The Speaker[4] said:

The bill is considered by sections under the five-minute rule.

2435. When the House, considering a bill as in the Committee of the Whole, by unanimous consent, adjourns with the bill still pending, that consent obtains when the bill is again taken up as the unfinished business.

On Monday, February 11, 1929,[5] the House was considering bills reported by the Committee on the District of Columbia.

Mr. Frederick N. Zihlman, of Maryland, by direction of that committee, called up the bill (H.R. 6664) to establish a woman's bureau in the Metropolitan police department of the District of Columbia, and asked unanimous consent that it be considered in the House as in the Committee of the Whole.

The Speaker[6] held:

The Chair will state the parliamentary situation in reference to this bill as he understands it. On last March 26 the bill was being considered in the House as in the Committee of the Whole House on the state of the Union by unanimous consent. A number of committee amendments had been offered and are now pending. The chair thinks the consent hitherto granted would prevail during the consideration of the bill at this time, so the bill is called up to be considered in the House as in Committee of the Whole House on the state of the Union.

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[1] Second session Sixty-seventh Congress, Record, p. 11880.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventy-first Congress, Record, p. 2141.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Second session Seventieth Congress, Record, p. 3271.

[6] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXLI.

THE QUESTION OF CONSIDERATION.

1. In relation to other motions and debate. Sections 2436, 2437.
2. In relation to adjournment. Section 2438.
3. In relation to questions of order. Section 2439.
4. As to reports from the Committee on Rules. Sections 2400, 2441.
5. Not in order against motions relating to the order of business. Sections 2442, 2443.
6. May be demanded against Calendar Wednesday business. Sections 2444–2447.

2436. It is not in order to raise the question of consideration against a bill until the bill has been read.

It is not in order in the House to move to postpone or otherwise consider a bill which is still in the Committee of the Whole.

The first reading of a bill in Committee of the Whole may be dispensed with by unanimous consent only, and a motion to that effect is not in order.

In Committee of the Whole amendments are not in order on the first reading of the bill.

The Chairman's count of a quorum is not subject to verification by tellers.

The Committee of the Whole having risen to report proceedings incident to securing a quorum the Speaker declined to entertain a motion to adjourn.

On April 15, 1914,[2] the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

The Clerk read the title of the bill when Mr. Mann proposed to raise the question of consideration.

The Chairman[3] held that the question of consideration could not be raised until the bill had been read in full.

Presently, the committee rose and reported to the House having come to no resolution, and Mr. John T. Watkins, of Louisiana, moved that further consideration of the bill be postponed until the fourth Wednesday in May, 1914.

[1] Supplementary to Chapter CXI.

[2] Second-session Sixty-third Congress, Record, p. 6766.

[3] Joseph J. Russell, of Missouri, Chairman.

Mr. James R. Mann, of Illinois, made the point of order that the motion to postpone was not in order while the bill was pending in Committee of the Whole.

The Speaker [1] sustained the point of order.

The House again resolved into the Committee of the Whole and after the Clerk had proceeded for some time with the reading of the bill, Mr. J. Hampton Moore, of Pennsylvania, asked recognition to move to strike out the last word.

The Chairman declined to recognize for that purpose on the ground that the motion to amend is not in order on the first reading of a bill.

Mr. Moore then moved to dispense with the first reading of the bill.

The Chairman stated:

A motion of that sort is not in order. The first reading of the bill can only be dispensed with by unanimous consent.

Mr. Martin B. Madden, of Illinois, made the point that there was not a quorum present, and the Chairman having announced the presence of a quorum, Mr. Madden demanded tellers to ascertain if a quorum was present.

A point of order by Mr. Finis J. Garrett, of Tennessee, that the count of a quorum by the Chair is not subject to verification by tellers, was sustained by the Chairman.

After further reading of the bill, a second point of no quorum was sustained and the roll was called. The committee having risen to report proceedings incident to securing a quorum, Mr. Martin D. Foster, of Illinois, moved that the House adjourn.

The Speaker declined to recognize for that purpose, and after receiving the report of the Chairman, directed that the committee resume its sitting.

2437. The question of consideration may be demanded against the motion to reconsider.

A motion to reconsider is debatable if the motion proposed to be reconsidered was debatable and the previous question is not operating.

On January 19, 1925, [2] Mr. Daniel R. Anthony, Jr., of Kansas, moved to reconsider the vote by which the bill (H. R. 5084) amending the national defense act had been passed earlier in the same day.

In that connection Mr. Anthony inquired if the motion to reconsider was debatable.

The Speaker [3] held that as the proposition sought to be reconsidered was debatable the motion to reconsider was debatable.

Mr. Thomas L. Blanton, of Texas, demanded the question of consideration on the motion to reconsider.

The Speaker took the question under advisement and subsequently announced:

The Chair perhaps ought to state now, although it is a little late, that the Chair has looked the matter up in respect to the question of consideration raised by the gentleman from Texas, and he thinks the question of consideration can be raised, if the gentleman wishes to make it.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-eighth Congress, Record, p. 2100.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

2438. Although the question of consideration has been once decided in the affirmative it may nevertheless be raised on a subsequent day when the bill is again called up as unfinished business.

A point of order against taking from the Speaker's table a Senate bill substantially the same as a House bill already reported favorably and on the House Calendar, comes too late after actual consideration has begun.

On July 24, 1919,[1] Mr. George S. Graham, of Pennsylvania, called up from the Speaker's table as the unfinished business, the bill S. 180, the Near East relief bill, against which the question of consideration had been raised on a previous day.

Mr. J. Hampton Moore, of Pennsylvania, having again raised the question of consideration, Mr. Graham submitted that the question of consideration had been passed upon by the House when the bill was first taken from the Speaker's table, and was not again in order.

The Speaker[2] overruled the point of order and said:

The Chair thinks that the fact that the question has been raised on one day does not preclude its being raised another day.

Mr. Louis C. Cramton, of Michigan, advanced the further point of order that the House bill of like import was improperly on the House Calendar and it was consequently not in order to call up the Senate bill from the Speaker's table for consideration.

The Speaker held that however meritorious the point of order might be it was too late to present it after consideration had actually begun, and said:

The Chair without examination of the bill can not decide whether the gentleman's point of order is well taken, but it is too late now to make that point of order, the bill having already been considered by the House. The question is, Shall the bill be now considered by the House?

2439. A point of order relating to a proposition against which the question of consideration had been demanded was held in abeyance until the House had decided the question of consideration.

On January 17, 1913,[3] Mr. John L. Burnett, of Alabama, called up the conference report on the bill (S. 3175), the immigration bill. The Clerk having completed the reading of the report, Mr. James R. Mann, of Illinois, proposed to make the point of order that the conferees had exceeded their jurisdiction.

Mr. J. Hampton Moore, of Pennsylvania, claimed the floor to raise the question of consideration.

In declining to recognize Mr. Mann to make the point of order the Speaker[4] said:

The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

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[1] First session Sixty-sixth Congress, Record, p. 3112.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-second Congress, Record, p. 1684.

[4] Champ Clark, of Missouri, Speaker.

2440. The question of consideration may not be raised against a report from the Committee on Rules relating to the order of considering individual bills.

On December 15, 1919,[1] Mr. Philip P. Campbell, of Kansas, called up a resolution (H. Res. 416) reported from the Committee on Rules providing for the consideration of House Report No. 487, from the Select Committee on Expenditures in the War Department.

Mr. Thomas L. Blanton, of Texas, raised the question of consideration against the resolution.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the question of consideration could not be raised against a report from the Committee on Rules.

The Speaker[2] sustained the point of order and said:

The Chair thinks the question of consideration can not be raised upon a report from the Committee on Rules. The Chair sustains the point of order.

An appeal by Mr. Blanton from the decision of the Chair was, on the motion of Mr. Walsh, laid on the table.

2441. On February 19, 1925,[3] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, reported a resolution relating to the consideration of the bill (H. R. 745) for the establishment of migratory bird refuges.

Mr. Thomas L. Blanton, of Texas, demanded the question of consideration.

Mr. Snell submitted that it was not in order to raise the question of consideration on a report from the Committee on Rules.

The Speaker[4] said:

You can not raise the question of consideration on a report from the Committee on Rules.

2442. The question of consideration may not be raised on a motion relating to the order of business.

The question of consideration may not be raised against a motion to resolve into the Committee of the Whole.

On May 27, 1920,[5] Mr. William R. Green, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 14197) to amend the revenue act of 1918.

Mr. Sydney Anderson, of Minnesota, proposed to raise the question of consideration.

Mr. James R. Mann, of Illinois, made the point of order that the question of consideration was decided by the vote of the House on going into the Committee of the Whole and to permit it to be again raised was unwarranted duplication and not in order.

The Speaker[6] ruled:

A vote not to go into the Committee of the Whole House would be tantamount to a refusal to consider. The point of order is sustained. The question is on the motion to go into the committee.

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[1] Second session Sixty-sixth Congress, Record, p. 598.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-eighth Congress, Record, p. 4181.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Sixty-sixth Congress, Record, p. 7759.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

2443. The question of consideration may not be raised on a motion to take from the Speaker's table Senate bills substantially the same as House bills already favorably reported and on the House Calendar.

On March 1, 1921,[1] Mr. Carl E. Mapes, of Michigan, moved to take from the Speaker's table the bill (S. 5023) closing a road in the District of Columbia, a House bill of similar tenor having been previously reported favorably and being on the House Calendar.

Mr. Thomas L. Blanton, of Texas, proposed to raise the question of consideration.

The Speaker[2] held that the question of consideration might not be raised and said:

The Chair would state that the gentleman has moved to take up this bill, which was agreed to, and the Chair thinks that that is equivalent to a question of consideration.

2444. The question of consideration is admitted in the Committee of the Whole on Calendar Wednesday.

On February 16, 1910,[3] the House resolved into the Committee of the Whole House on the state of the Union under the Calendar Wednesday rule for the consideration of the resolution (H. Res. 163) for painting portraits of certain ex-Speakers of the House of Representatives.

Mr. John J. Fitzgerald, of New York, demanded the question of consideration against the resolution.

Mr. Charles H. Burke, of South Dakota, made a point of order against the request for the question of consideration.

After debate, the Chairman[4] ruled:

The gentleman from New York raised the question of consideration. As to whether this may be the proper time or not, the Chair rules that this is the first opportunity on which the question could be raised. As touching the question of the effect of the raising of the point of order and the discussion of that proposition, the Chair reads now from the Index of the Digest as follows:

"A point of order which, if sustained, might prevent the consideration of the bill, should be made and decided before the question of consideration is put."

The question of consideration, therefore, can be now considered and the question is, Will the committee consider the resolution?

2445. Under the later practice it has been held that the question of consideration may be raised against a Union Calendar bill in the House on Calendar Wednesday.

On December 17, 1924,[5] it being Calendar Wednesday, Mr. Fiorello H. LaGuardia, of New York, by direction of the Committee on the Post Office and Post Roads, called up the bill (H. R. 6942) establishing an air mail service.

Mr. Thomas L. Blanton, of Texas, raised the question of consideration against the bill.

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[1] Third session Sixty-sixth Congress, Record, p. 4201.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 1974.

[4] Charles G. Washburn, of Massachusetts, Chairman.

[5] Second session Sixty-eighth Congress, Record, p. 738.

The question being taken, on a division, the yeas were 106, nays 23, and the Speaker [1] announced:

The House automatically resolves itself into Committee of the Whole House on the State of the Union.

2446. It is in order on Calendar Wednesday to raise the question of consideration against a Union Calendar bill when called up for consideration in the House and before resolving into the Committee of the Whole.

The question of consideration against a bill being decided in the affirmative on Calendar Wednesday, the House automatically resolves into the Committee of the Whole, and no intervening business, as the motion to adjourn or questions of privilege, are in order.

On April 28, 1926,[2] when the Committee on Foreign Affairs was reached in the Calendar Wednesday call of committees, Mr. Hamilton Fish, jr., of New York, in behalf of that committee, called up the bill (H. R. 9694) to erect an American military monument in France.

Mr. Tom Connally, of Texas, offered as privileged a motion to dispense with proceedings in order on Calendar Wednesday under the Calendar Wednesday rule.

The Speaker pro tempore [3] ruled:

In the opinion of the Chair, the motion of the gentleman from New York is of higher privilege than the motion of the gentleman from Texas. It is within the province of the committee to call up any bill it has on the calendar. Of course, the gentleman from Texas can raise the question of consideration.

Thereupon, Mr. Connally raised the question of consideration against the bill.

The question being put, it was decided in the affirmative, yeas 224, nays 91.

Pending the announcement resolving the House into the Committee of the Whole, Mr. Connally moved that the House adjourn.

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that the question of consideration having been decided in the affirmative the House automatically resolved into the Committee of the Whole, and no intervening motion was in order.

The Speaker [4] sustained the point of order and announced:

The Chair sustains the point of order made against the motion to adjourn, and the House automatically resolves itself into Committee of the Whole House on the state of the Union for the consideration of the bill.

2447. The question of consideration may be raised against unfinished business on the House Calendar in order under the Calendar Wednesday rule.

The question of consideration is not debatable.

On Wednesday, December 14, 1910,[5] the Committee on the Revision of the Laws having been reached under the Calendar Wednesday call of committees,

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 8383.

[3] Bertrand H. Snell, of New York, Speaker pro tempore.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Third session Sixty-first Congress, Record, p. 297.

Mr. Reuben O. Moon, of Pennsylvania, from that committee, called up as the unfinished business the bill (H. R. 23377) to amend the laws relating to the judiciary.

Mr. William Hughes, of New Jersey, asked recognition to raise the question of consideration against the bill.

Mr. Moon was proceeding in debate when Mr. Marlin E. Olmsted, of Pennsylvania, made the point of order that the question of consideration was not debatable.

The Speaker [1] sustained the point of order.

Mr. Olmsted submitted the further point of order that the question of consideration might not be interposed touching a bill under consideration.

After debate, the Speaker ruled:

Calendar Wednesday was set aside for the consideration of bills called up by committees, each committee being entitled to two days at least for the consideration of business so presented. The question of consideration under the general practice of the House and under the rules and precedents of the House could not be raised except at the proper time, and the proper time would be prior to the beginning of debate.

The question of consideration of this bill was not raised on last calendar Wednesday, but this is another day, and the House, in pursuance of the business on calendar Wednesday, is met by a question of consideration upon the bill which came over as unfinished business from last calendar Wednesday. So that, while under the practice of the House the question of consideration might not have been raised last Wednesday after debate had begun on this bill, yet on this day, before debate begins again, we have the question presented whether the question of consideration can be raised upon the bill.

There are no precedents exactly in point, and yet the rule should receive the construction that would enable the House to have the greatest liberty to determine what it will do on a given day. The object of the question of consideration is to enable the House to protect itself on any day against business which it may not wish to consider on that day. Should the House to-day be constrained to consider a bill against its will simply because it has begun consideration of the bill on a preceding day? It has been well said by the gentleman from Illinois that unless the House can at the proper time dispose of this bill by refusing to consider it, it may, under the rule, be bound to consider it until its consideration can be completed, unless it be willing to postpone it indefinitely or to defeat it entirely by a proper motion.

The Chair finds little to guide him in the precedents in disposing of this point of order. The Chair is inclined, however, to say that the House may at the proper time—and if there be the any proper time before we enter upon the consideration of this bill to-day, this would be the proper time—determine whether it will refuse to consider unfinished business. There are two decisions which involve cases somewhat similar. They are to be found in the Precedents, volume 5, sections 4967, 4968. The Chair does not care to again put them in the Record. The House ought not to be deprived of the right to do what it desires to do, or what a majority of the House desire to do, on any day [applause] to a greater extent than is absolutely necessary for the orderly conduct of business. Therefore the Chair overrules the point of order.

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[1] Joseph G. Cannon, of Illinois, Speaker.

Chapter CCXLII.[1]

CONDUCT OF DEBATE IN THE HOUSE.

2448. The hour rule applies to debate on a question of privilege as to debate on other questions.

A Member in addressing the House on a question of privilege is presumed to confine his remarks to limits within the spirit of the rule and not to use the privilege as a vehicle for discussions otherwise not in order.

On May 7, 1910,[2] Mr. Dorsey W. Shackleford, of Missouri, claimed the floor to discuss a question of privilege.

The Speaker[3] in recognizing Mr. Shackleford, said:

> Under the rules of the House the gentleman from Missouri is entitled to an hour on the question of privilege. It is exceedingly difficult for the Chair to determine what is in order touching the question of privilege, and the Chair will have to suggest to the gentleman from Missouri, that, with his long experience in the House, he substantially must be the judge of whether in good faith he is speaking to the question of personal privilege or whether, under the guise of a question of personal privilege, he is imposing upon the House. The gentleman will proceed in order.

2449. A Member who has spoken once to the main question may speak again to an amendment.

On May 8, 1912,[4] the House was considering the bill (H. R. 17756) providing civil government in the Philippine Islands, when Mr. Marlin E. Olmsted, of Pennsylvania, who had previously been recognized for an hour on the bill, offered an amendment and proceeded to debate it.

Mr. Charles N. Fowler, of New Jersey, made the point of order that Mr. Olmsted had exhausted the hour to which he was entitled for debate and was not entitled to further recognition while others who had not spoken desired the floor.

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[1] Supplementary to Chapter CXII.

[2] Second session Sixty-first Congress, Record, p. 5921.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-second Congress, Record, p. 6076.

The Speaker [1] overruled the point of order and said:

The gentleman from Pennsylvania, having offered his amendment, is entitled to his hour. The House had the privilege of cutting off all this debate and did not do it. If the gentleman were trying to speak on the bill the Chair would rule that anybody who had not spoken should have the right of way. But the gentleman from Pennsylvania has offered an amendment, and he has the right to an hour on the amendment.

2450. A Member being recognized for debate may consume a portion of the time allotted to him and reserve the remainder, but such reservation must be made at the time the floor is yielded.

On March 16, 1910,[2] during the consideration in the House of the joint resolution (H. J. Res. 172) amending the Census Act by authorizing inquiries respecting the nationality or mother tongue of all persons born in foreign countries, Mr. Edgar D. Crumpacker, of Indiana, was recognized for one hour.

After consuming a portion of the hour in debate, Mr. Crumpacker yielded the floor.

Subsequently, Mr. Crumpacker addressed the Speaker and proposed to use the remainder of the time allotted to him.

The Speaker inquired:

Did the gentleman from Indiana reserve the balance of his time?

Being answered in the negative, the Speaker said:

The time is gone if the gentleman did not reserve it.

2451. A Member was held not to have yielded the floor until he resumed his seat.

On April 6, 1912,[3] Mr. Choice B. Randell, of Texas, was recognized to discuss a question of personal privilege. After proceeding for some time in debate Mr. Randell paused and asked unanimous consent to extend his remarks in the Record.

Consent having been given by the House, Mr. Randell entered into colloquy with various Members, when Mr. James M. Cox, of Ohio, made the point of order that having yielded the floor he was not entitled to resume.

The Speaker pro tempore [4] said:

The gentleman from Ohio made the point of order that the gentleman had already yielded the floor. The Chair holds that the gentleman had not yielded the floor, because he had not taken his seat.

2452. The display of exhibits in debate by way of illustration is subject to the will of the House and any Member may object.

The rule [5] prohibiting the reading of papers in debate was held to apply to the exhibition of articles as evidence or in exemplification in debate.

On February 1, 1929,[6] the House in the Committee of the Whole House on the state of the Union, had under consideration the naval appropriation bill.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-first Congress, Record, p. 3248.

[3] Second session Sixty-second Congress, Record, p. 4371.

[4] Oscar W. Underwood, of Alabama, Speaker pro tempore.

[5] Rule XXX.

[6] Second session Seventieth Congress, Record, p. 2636.

During debate, Mr. Emanuel Celler, of New York, said:

Mr. Chairman, I have brought here something to show the anomalous situation of which I told you at the inception of my talk. I show you here something called a "tonic." It is produced and bottled in my town in great quantities. You can readily identify it in any drug store. It is alleged to be a "tonic"—maybe it is. It is good to drink. It is made from white Tokay wine and bottled under a permit—permit N.Y.H. 13369—authorized by the Commissioner of Prohibition. What a farce! What a joke!

Whereupon, Mr. Cellar exhibited a filled bottle.

Mr. Robert A. Green, of Florida, raised a question of order.

The Chairman [1] held:

The Chair refers to section 427 of Jefferson's Manual where he finds this statement, which seems to be controlling:

"A Member has not a right even to read his own speech, committed to writing, without leave."

And further, from section 891 of the rules, the Chair finds this statement:

"The reading of papers other than the one on which the vote is about to be taken is usually permitted without question, and the Member in debate usually reads or has read such papers as he pleases, but this privilege is subject to the authority of the House if another Member objects."

Objection has been made by the gentleman from Florida, and it seems to the Chair that the statements from the manual and from the rules are controlling, and therefore the Chair sustains the point of order, that if the gentleman from Florida objects to the gentleman from New York displaying this article the gentleman from New York must remove it, and the gentleman from New York will proceed in order.

Subsequently, another Member having assumed the Chair, and the question being again raised, the Chairman [2] ruled:

Objection is made to the display of the article in question. The gentleman from New York can not proceed until the article is removed from the Chamber.

2453. The introduction of exhibits, demonstrations, or other unusual adjuncts to debate are subject to the will of the House.

On January 17, 1930,[3] during the consideration of the Treasury and Post Office Departments appropriation bill, in the Committee of the Whole House on the state of the Union, Mr. William I. Sirovich, of New York, in discussing denaturants of industrial alcohol, said:

Here is a bottle containing pyridine. Mr. Chairman, may I pass this around for Members to smell, not to drink?

The Chairman [4] submitted the request to the Committee as a request for unanimous consent.

2454. The proponent of a resolution is entitled to prior recognition for motions and debate.

The Member in charge of a measure may not be deprived of the floor by a Member proposing a preferential motion.

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[1] John C. Ketcham, of Michigan, Chairman.

[2] Robert Luce, of Massachusetts, Chairman.

[3] Second session Seventy-first Congress, Record, p. 1820.

[4] Bertrand H. Snell, of New York, Chairman.

On January 12, 1916,[1] Mr. Frank Buchanan, of Illinois, rising in his place, proposed a resolution impeaching H. Snowden Marshall, United States district attorney for the southern district of New York.

At the conclusion of the reading of the resolution by the Clerk, Mr. Buchanan moved the passage of the resolution.

Mr. John J. Fitzgerald, of New York, proposed to offer, as preferential, a motion to refer the resolution to the Committee on the Judiciary, and claimed the floor to debate the motion to refer.

Mr. Buchanan submitted that he had not yielded the floor and was entitled to debate the resolution.

The Speaker[2] held:

The Chair thinks that the gentleman from Illinois had not yielded the floor. If he has anything to say on his resolution, the Chair will hear it. Before the gentleman from Illinois begins, the Chair will state that the gentleman from New York has a perfect right to make a motion to commit—not right now, but when the time comes.

2455. A Member may not prefer a parliamentary inquiry while another Member is in possession of the floor.

On September 12, 1918,[3] the House was in the Committee of the Whole House on the state of the Union for the consideration of the revenue bill.

Mr. J. Thomas Heflin, of Alabama, had the floor during general debate, when Mr. Edward E. Dension, of Illinois, sought to interrupt him for the purpose of propounding a parliamentary inquiry.

The Chairman[4] declined to recognize for the interruption and held:

The gentleman can not propound a parliamentary inquiry; he can make a point of order.

2456. On January 30, 1923,[5] the House was considering the resolution (H. Res. 498) providing for an order of business.

Mr. Thomas L. Blanton, of Texas, had been recognized and was proceeding in debate when Mr. Rufus Hardy, of Texas, preferred a parliamentary inquiry.

The Speaker[6] held:

The gentleman has no right to prefer a parliamentary inquiry without the consent of the gentleman occupying the floor.

2457. On June 23, 1917,[7] the bill H. R. 4961, the food conservation bill, was being considered in the Committee of the Whole House on the state of the Union.

Mr. M. Clyde Kelly, of Pennsylvania, had been recognized, and was proceeding in debate.

Mr. Edward L. Hamilton, of Michigan, asked recognition to submit a parliamentary inquiry.

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[1] First session Sixty-fourth Congress, Record, p. 965.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 10232.

[4] Edward W. Saunders, of Virginia, Chairman.

[5] Fourth session Sixty-seventh Congress, Record, p. 2733.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

[7] First session Sixty-fifth Congress, Record, p. 4176.

The Chairman [1] refused recognition and said:

The gentleman can not take the gentleman from Pennsylvania off his feet by a parliamentary inquiry.

2458. On February 6, 1918,[2] during the consideration of the bill (H. R. 5667) for the deportation of certain aliens, Mr. Joseph Walsh, of Massachusetts, offered an amendment which he proceeded to discuss.

Mr. Charles C. Kearns, of Ohio, interrupted with a request that he be permitted to make a parliamentary inquiry.

The Chairman [3] said:

The gentleman from Massachusetts has the floor and the gentleman can not take him off the floor for that purpose.

2459. A Member rising to a question of personal privilege was not permitted to take from the floor another Member who had been recognized for debate.

On April 12, 1924.[4] the House was in the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7995, the immigration bill.

Mr. Henry W. Temple, of Pennsylvania, was recognized for debate on a pending amendment.

Mr. Fiorello H. LaGuardia, of New York, interposed a demand for recognition to present a question of personal privilege.

The Chairman [5] held:

The gentleman can not rise to a question of personal privilege when some other gentleman has the floor.

2460. In the House the Member reporting a measure is entitled to recognition for one hour during which he may yield to others as he may choose, and at the close of which, unless the previous question is moved, the ranking Member in opposition may be recognized for an hour with the same privilege, after which other Members favoring and opposing the measure are recognized alternately, preference being given members of the committee reporting the measure.

Form of special order for consideration of a resolution declaring war.

On April 4, 1917,[6] during disposition of business on the Speaker's table, Mr. Henry D. Flood, of Virginia, asked unanimous consent that the joint resolution (S. J. Res. 1) declaring a state of war to exist between the Imperial German Government and the Government and the people of the United States, be taken up for consideration under the general rules of the House on the following day.

Mr. Frank Clark, of Florida, submitting a parliamentary inquiry, asked who would control the time for debate under the general rules of the House.

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[1] Courtney W. Hamilton, of Missouri, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 1788.

[3] Joseph J. Russell, of Missouri, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 6254.

[5] Everett Sanders, of Indiana, Chairman.

[6] First session Sixty-fifth Congress, Record, p. 264.

The Speaker [1] said:

The gentleman from Virginia, Mr. Flood, asks unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow morning, and that after the reading of the Journal and the disposition of business on the Speaker's table, the so-called war resolution shall be taken up for debate under the general rules of the House. Under the general rules of the House the gentleman from Virginia would have the first hour. He can move the previous question at any time within that hour. If he lets his hour run out, then the Chair would feel that he ought to recognize the gentleman from Wisconsin, Mr. Cooper, the ranking Republican member of the Committee on Foreign Affairs. After the hour of the gentleman from Wisconsin has expired, if there is no particular agreement or rule about it, the next ranking Democratic member should have an hour, and then the next Republican. That is on the Committee on Foreign Affairs. The members of the committee have priority of recognition. Of course it depends on whether they are for or against the resolution. The whole time may be occupied by the gentleman from Virginia, Mr. Flood, if at any time within his hour he moves the previous question and the House shall vote the previous question; but the House has a right to vote down the previous question if it wants to do so. If the House goes into the Committee of the Whole House on the state of the Union, the Chairman, whoever he is, would construe the rules of the House already established.

2461. Where a special order for the consideration of a bill limited general debate to one hour without providing for control of the time it was held that the Member in charge should be recognized to control the time in favor of the bill; the ranking minority Member to control the time in opposition; and if none of the minority opposed the bill the minority leader should control the time in opposition.

On December 3, 1918 [2], Mr. Frank Clark, of Florida, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 12917) to establish a sanatorium for discharged soldiers and sailors, under a special order limiting general debate to one hour without providing for control of the time.

Mr. Joseph Walsh, of Massachusetts, inquired who would control the time for debate in opposition to the bill.

The Speaker [3] replied:

The practice has been that the ranking minority Member, if he is opposed, takes charge, and if he is not it goes down the line, and if nobody on that committee is here, if the Chair were going to preside over the committee, he would recognize the gentleman from Illinois, Mr. Mann.

2462. The time of a debate having been divided and assigned to the control of the two sides, it must be allotted to Members in accordance with the rules, no Member being allowed more than one hour.

On November 24, 1922,[4] the Committee of the Whole House on the state of the Union was engaged in general debate on the bill (H. R. 12817) to supplement the merchant marine act, it having been agreed, by unanimous consent, that the time should be equally divided and should be controlled by Mr. William S. Greene, of Massachusetts, and Mr. William B. Bankhead, of Alabama.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 51.

[3] Champ Clark, of Missouri, Speaker.

[4] Third session Sixty-seventh Congress, Record, p. 143.

Mr. Ewin L. Davis, of Tennessee, having consumed one hour yielded by Mr. Bankhead, the Chairman [1] announced:

The time of the gentleman from Tennessee has expired.

Mr. William B. Bankhead inquired if it would not be in order to yield further time to Mr. Davis.

The Chairman ruled:

Under the rules of the House and the unbroken precedents, so far as the present occupant of the chair has been able to ascertain, the Chair holds that the gentleman can proceed only by the unanimous consent of the committee.

The Chairman then read sections 5004 and 5005 from Hinds' Precedents and continued:

The rulings in the precedents have been made largely under special rules and unanimous-consent agreements. If the gentleman wishes to have the decisions cited, the Chair will be very glad to do so.

By permission of the committee the Chair submits a number of precedents in line with the ruling just indicated.

2463. It is entirely within the discretion of the Member occupying the floor in debate to determine when and by whom he shall be interrupted.

It is a breach of order for Members from their seats to interject remarks into the speech of a Member having the floor.

On June 22, 1916,[2] the Speaker,[3] speaking extemporaneously, referred to a tendency upon the part of some to interject remarks into the speeches of those occupying the floor in debate and called attention to the rule requiring Members to rise and address the Chair for permission to interrupt the Member having the floor.

2464. On May 13, 1916,[4] while the bill S. 2986, the rural credits bill, was being considered in the Committee of the Whole House on the state of the Union, Mr. Carter Glass, of Virginia, the Member in charge of the bill, interrupted Mr. Caleb Powers, of Kentucky, who had the floor, with a request for unanimous consent to close debate.

Mr. Simeon D. Fess, of Ohio, submitted that the request was not in order as Mr. Powers had not yielded for the interruption.

The Chairman [5] ruled that it was not in order to interrupt a Member having the floor for debate without his permission.

2465. A Member desiring to interrupt another in debate should address the Chair for permission of the Member speaking, but the latter may exercise his own discretion as to yielding.

If a Member having the floor yields for interruption the remarks of the Member yielded to must appear in the Record, but if the Member having the floor declines to yield he may strike from copy for the Record remarks so interjected.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 9790.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-fourth Congress, Record, p. 7909.

[5] John N. Garner, of Texas, Chairman.

If a Member transgress the rules of the House in speaking the Chair may call him to order, but in the later practice the Speaker does not pass upon the question as to whether words requested to be taken down in debate are within the rule.

If the point of order is made against words spoken in debate without the demand that they be taken down, the Chair ordinarily admonishes the offender and, if he continues to transgress the rules, stops him.

The vote of the House tabling a motion to strike from the record words taken down in debate was held to carry to the table the entire proposition.

The motion to lay on the table is not debatable.

In the House a motion may be withdrawn before action thereon, but in Committee of the Whole withdrawal of motions or amendments is by unanimous consent only.

An inquiry as to whether a Member defended the owners of bonds in a "rotten, osbolete canal" proposed to be sold to the Government was held by the House not to be unparliamentary.

On June 11, 1917,[1] the Committee of the Whole House on the state of the Union, having under consideration the river and harbor bill, rose and the Chairman reported to the House that during debate in the committee Mr. J. Hampton Moore, of Pennsylvania, had objected to certain words spoken by Mr. Martin B. Madden, of Illinois, and had demanded that they be taken down, and the words objected to were reported to the House as follows:

Mr. MADEN. Provision is made in the bill for the condemnation of this rotten, obsolete canal to be owned by the Government of the United States.

Mr. MOORE of Pennsylvania. I ask that the gentleman's words be taken down.

Mr. MADDEN. Why does the gentleman want to defend the owners of these stocks and bonds?

Mr. MOORE of Pennsylvania. I ask that the gentleman's words be taken down.

Mr. MADDEN. That is all right. I am not reflecting on the gentleman.

Mr. MOORE of Pennsylvania. He is reflecting on the truth. I withdraw my request.

Mr. MADDEN. I insist on their being taken down.

Mr. Carl E. Mapes, of Michigan, inquired if discretion was not lodged in the Speaker to refuse to have the words taken down on demand when it clearly appeared that they were parliamentary, and asked for an interpretation of the following passage from Jefferson's Manual:

Then the person objecting to them and desiring them to be taken down by the Clerk at the table must repeat them. The Speaker then may direct the Clerk to take them down in his minutes; but if he thinks them not disorderly, he delays the direction.

The Speaker[2] said:

Long since that proposition has become obsolete by the practice of the House. If the Chair observes that a Member is speaking out of order, that, of course, is in his judgment and he can call him to order himself. The Chair has seen that done several times and has done it once or twice himself. The practice of the House has been—how long the Chair does not know, but ever since the Chair has been here—that whenever a Member says things that another Member objects to sufficiently to ask that the words be taken down, that immediately the House takes charge of the matter and proceeds to straighten it out.

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[1] First session Sixty-fifth Congress, Record, p. 3459.

[2] Champ Clark, of Missouri, Speaker.

Mr. Moore asked to withdraw his request that the words be taken down.

The Speaker said:

In the Committee of the Whole you can not withdraw a motion without the consent of the committee, but in the House, if a motion is made, the gentleman has a right to withdraw it up to the time the vote is taken on it. This occurred in the committee. His request to take the words down is tantamount to a motion. In the committee he had to have unanimous consent to do it but in the House a Member can withdraw a motion or any other proposition or amendment up to the time it is voted on without asking consent.

Mr. Jacob E. Meeker, of Missouri, moved that the words of both Mr. Moore and Mr. Madden be stricken from the Record.

Mr. William H. Stafford, of Wisconsin, moved to lay that motion on the table.

Mr. Madden and Mr. Moore rose to address the House.

The Speaker said:

This motion to table is not debatable.

Mr. Finis J. Garrett, of Tennessee, submitted that it was within the province of the Speaker to decide whether the language taken down under the rule was parliamentary.

The Speaker held:

Ordinarily in debate if A complains that the remarks of B are out of order, the Chair admonishes B to keep within the limits, and if he does not do so the Chair stops him. That is before the motion to take down the words is made. The Chair undoubtedly has a good deal of discretion about that. I remember very well one day, a long time ago, when Speaker Reed was in the Chair and Mr. Allen of Mississippi was making a speech. In the course of his remarks he attacked the Senate, and the Speaker tapped his desk with the gavel and suggested to him that he was out of order. Now, Mr. Allen was a seasoned Member. He seemed puzzled. He did not know what he was out of order about. He started in again with the very same line of talk, and Speaker Reed went through the same performance again, rapping with his gavel, and told him he was out of order, but did not tell him why. Mr. Allen started in the third time, and speaker Reed stopped him and explained to him that be was out of order because he was lashing the Senate.

Time and again a Member objects to remarks that some other Member makes, and the Chair in that case passes on whether the words are in order or out of order and admonishes the Member to proceed in order. But when this motion to take the words down is made, an entirely different situation arises; and, it being in the Committee of the Whole, they could not deal with it in this case, so they referred it back to the House. The gentleman from Missouri, Mr. Meeker, made a very proper motion to strike out these words about which this controversy has arisen and the gentleman from Wisconsin, Mr. Stafford, made a motion to lay that motion on the table. That motion is not debatable, and the question is on the motion to lay on the table.

The question being taken, it was decided in the affirmative and the entire question was laid on the table.

Mr. Edward W. Sanders, of Virginia, as a parliamentary inquiry, inquired what disposition that vote made of the question.

The Speaker said:

That is absolutely settled by the adoption of the motion to table. That means that the words are not stricken out. In the opinion of the House the gentleman was not out of order when he made those remarks.

Mr. Madden inquired if remarks made by Mr. Moore could be inserted in his speech without his consent.

The Speaker ruled:

The Chair will state the case to the gentleman from Illinois out of his own experience. At one time I was making a speech that I had carefully prepared, I think with reference to the value of wooden and iron ships. I wound up that speech with a long and rhetorical sentence which I thought was a fine finish. [Laughter.] Right in the middle of the sentence Governor Steele, of Indiana, without asking my permission, injected a remark of his own into the middle of the sentence, spoiling the sentence. After I had answered him I began the sentence over again, and it went through without interruption. So when I received the notes of my speech I struck out Governor Steele's question and my answer. He rose the next morning to a question of privilege and wanted to know why I did it. Speaker Reed harnessed me up and interrogated me, and I told him that there was no sense in the question, that it ruined the last sentence of my speech, and I did not propose to stand for it. [Laughter.] Then Mr. Speaker Reed kindly told me what the rule was, and I have never forgotten it, and it will answer the gentleman's question. When a Member has the floor and somebody wants to interrupt him he has the right to do one of two things: He can decline to yield, and then if the other Member insists upon injecting remarks into his speech he can cut out those remarks without asking anybody's consent. But if he yields to the interruption he has to put it in as it occurs.

2466. A Member having the floor for debate may be interrupted for the presentation of a proper point of order.

On February 4, 1914,[1] during debate in the Committee of the whole House on the state of the Union, on the bill H. R. 6060, the immigration bill, Mr. Frank W. Mondell, of Wyoming, proposed to interrupt Mr. Adolph J. Sabath, of Illinois, who had the floor for debate, for the purpose of submitting a parliamentary inquiry.

The Chairman[2] having declined to recognize for that purpose, Mr. Mondell submitted a point of order.

The Chairman said:

The gentleman can interrupt another with a point of order. The gentleman will state his point of order.

2467. On December 15, 1919,[3] Mr. Frank W. Mondell, of Wyoming, asked unanimous consent that the business in order on that day be in order on the following day. Mr. Mondell was proceeding in debate when Mr. Thomas L. Blanton, of Texas, rose to a question of order.

Mr. Mondell declined to yield and submitted that he was entitled to the floor and could not be interrupted by a point of order.

The Speaker said:

Any Member of the House has a right to make a point of order.

2468. In the House a Member may not yield even temporarily for other business without losing the floor.

On August 3, 1917,[5] Mr. Asbury F. Lever, of South Carolina, called up the conference report on the bill (H. R. 4188), the food survey bill.

During debate Mr. Lever, as a parliamentary inquiry, asked if it would be in order to yield the floor temporarily to permit Mr. William C. Adamson, of Georgia, to present a conference report for printing under the rule.

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[1] Second session Sixty-third Congress, Record, p. 2903.

[2] James Hay, of Virginia, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 598.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] First session Sixth-fifth Congress, Record, p. 5771.

The Speaker [1] held that to yield even temporarily for the consideration of other business, however formal, would forfeit the floor.

2469. The Member in charge of a bill in the House does not lose the floor by offering an amendment.

On February 22, 1923,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the resolution (H. Res. 514) providing for the consideration of a bill to amend the trading with the enemy act.

After brief debate Mr. Campbell offered an amendment to the resolution.

Mr. Finis J. Garrett, of Tennessee, made the point of order that in offering the amendment Mr. Campbell had yielded the floor and asked recognition.

The Speaker [3] said:

If he yields the floor to another to offer an amendment he loses the floor, but not if he offers the amendment himself.

2470. Unless otherwise provided a Member recognized for general debate in Committee of the Whole is recognized for one hour and may yield all or any portion of that time even though the Member to whom he yields has just occupied an hour in his own right and objection is made to his continuing.

Time yielded to another may in turn be yielded to a third Member with the consent of the Member first yielding.

A Member may yield time for amendment in the House, but a Member yielding relinquishes the floor.

On January 31, 1921,[4] the House was in the Committee of the Whole House on the state of the Union for the consideration of the diplomatic and consular appropriation bill.

During general debate Mr. John H. Small, of North Carolina, who had been recognized for debate, yielded time to Mr. Clarence F. Lea, of California, who in turn yielded time to Mr. Marvin Jones, of Texas.

Mr. William J. Sears, of Florida, submitted a parliamentary inquiry as to whether a Member recognized in general debate in the Committee of the Whole was recognized for a full hour and if he might yield such time.

The Chairman [5] said:

The gentleman is informed that that has been, in the opinion of the Chair, the practice of the House.

Mr. James W. McClintic, of Oklahoma, made the further point of order that one to whom time was yielded by another Member might not yield to a third.

Mr. James R. Mann, of Illinois, in debating the point of order said:

Mr. Chairman, I have been in the House now for nearly 24 years. This has been the practice of the House ever since I have been a Member of it. In general debate the man who gets time in his own right can yield it as he pleases for debate. He can yield it for amendment if he chooses when we are in the House, but if he yields for amendment, he loses the floor.

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[1] Champ Clark, of Missouri, Speaker.

[2] Fourth session Sixty-seventh Congress, Record, p. 4277.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Third session Sixty-sixth Congress, Record, p. 2340.

[5] Mr. James W. Husted, of New York, Chairman.

That has been the practice always in the House. I have just as much right when I am recognized for an hour to yield it as I please as any other Member, and I have frequently seen the case where a Member's time was exhausted when he was on the floor, and on more than one occasion have myself been recognized and have yielded to that gentleman the hour that I have obtained, against protest of Members who objected to his continuing.

The Chairman affirmed:

The Chair thinks that the gentleman from Illinois has stated the practice of the House correctly and the Chair overrules the point of order. The gentleman from Texas is recognized for five minutes.

2471. A Member receiving time in debate from another may not yield such time to a third Member without the consent of the original possessor.

A Member desiring time in general debate in opposition to a bill may accept time from one favoring the measure or he may decline to accept such time, and if the latter does not yield to another or consume the time himself, may demand recognition in his own right.

A Member yielding to another to offer an amendment thereby relinquishes control of the time allotted to him.

A Member securing time from another in which to offer an amendment is recognized in his own right.

On January 13, 1910,[1] Mr. James A. Hughes, of West Virginia, from the Committee on Accounts, reported the resolution (H. Res. 228) authorizing messengers for committees, and after brief debate yielded to Mr. Ernest W. Roberts, of Massachusetts, to offer an amendment.

Mr. Charles L. Bartlett, of Georgia, having raised a question of order, the Speaker[2] held that Mr. Hughes in yielding for an amendment had relinquished the floor, and recognized Mr. Roberts in his own right.

After ten minutes debate, Mr. Roberts yielded the remainder of the hour allotted to him to Mr. Hughes.

Mr. Bartlett raised a point of order.

The Speaker held:

If the gentleman, having an hour, yielded back the remainder of his time, or yielded the remainder of his time to any Member, that Member would be entitled to it; but if he did not, then some other Member would be recognized.

Mr. Bartlett then demanded the floor in his own right.

Mr. Hughes offered to yield him time from the remainder of the hour yielded by Mr. Roberts.

Mr. Bartlett declined to accept time thus yielded and insisted on being recognized for an hour.

The Speaker said:

The gentleman yielded the floor when he yielded to the gentleman from Massachusetts to offer an amendment. Then the gentleman from Massachusetts had one hour. The gentleman from Massachusetts states that he yielded the remainder of that hour to the gentleman from West Virginia, so that the gentleman would have fifty minutes on the amendment; but if there is to be a fresh recognition, and the gentleman from Georgia is opposed to the amendment, and the gen-

[1] Second session Sixty-first Congress, Record, p. 608.

[2] Joseph G. Cannon, of Illinois, Speaker.

tleman from West Virginia is not, the Chair would recognize the gentleman from Georgia. The gentleman from West Virginia, however, is entitled to fifty minutes if he desires to use that time.

Mr. Swagar Sherley, of Kentucky, made the point of order that Mr. Hughes having received the time from another could not in turn yield to a third member.

The speaker overruled the point of order and said:

The chair was under the impression, growing out of the usual practice, that the gentleman from West Virginia could yield time that had been yielded to him, but that practice may be one that prevails by sufferance of the House. The Chair will have the precedents examined to see. The Chair finds the following decision:

"A Member who receives time in debate from another may yield to a third only with the consent of the original possessor."

2472. A Member recognized for an hour may yield time to others at will until the entire hour is consumed, although another demands recognition in his own right.

On August 9, 1921,[1] during the general debate in the Committee of the Whole House on the state of the Union on the bill (S. 1358) for maintaining the Corps of Cadets at West Point at maximum strength, Mr. Daniel E. Garrett, of Texas, was recognized for an hour. After consuming a portion of the time Mr. Garrett yielded five minutes to Mr. James T. Begg, of Ohio.

Mr. Frank L. Greene, of Vermont, addressed the Chair and was recognized, when Mr. Garrett submitted that he was entitled to use or to yield the entire hour without interruption.

The Chairman[2] said:

The Chair is of opinion that if the gentleman from Texas demands the use of his time, he is entitled to the hour. Then the gentleman will be recognized in lieu of the gentleman from Vermont. The gentleman from Texas is recognized.

2473. On May 22, 1922,[3] the Committee of the Whole House on the state of the Union was engaged in general debate on the bill (S. 2919) for the extension of the District of Columbia rent act.

Mr. Ralph Gilbert, of Kentucky, who had been recognized for an hour, having concluded his remarks on the bill, yielded the remainder of his time to Mr. J. Charles Linthicum, of Maryland.

Mr. Philip P. Campbell, of Kansas, protected:

Mr. Chairman, the time can not be taken by any one man to control absolutely. The gentleman from Kentucky has yielded the floor. He can not shut off another man from getting the floor.

The Chairman[4] said:

The gentleman from Kentucky can use his hour in any way he sees fit. He still has 22 minutes. The Chair has recognized the gentleman from Kentucky for one hour.

2474. A Member may not offer an amendment in time secured for debate only.

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[1] First session Sixty-seventh Congress, Record, p. 4797.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 7415.

[4] Nicholas Longworth, of Ohio, Chairman.

On March 27, 1920,[1] while the District of Columbia appropriation bill was being considered in the Committee of the Whole House on the state of the Union, Mr. William W. Rucker, of Missouri, was recognized to debate an amendment offered by Mr. Charles R. Davis, of Minnesota.

After proceeding in debate, Mr. Rucker offered an amendment to the pending amendment.

The Chairman[2] declined to recognize for the amendment, and said:

The gentleman can not get the floor for that purpose. The gentleman, under the rule of the House, is not entitled to recognition for that purpose after making a speech on another subject. The gentleman should have offered his amendment before he made his speech if he desired to get the floor for that purpose.

The Chair understands that the gentleman can not take the floor to make a speech and then get recognition for the purpose of offering an amendment under the rules of the House. The gentleman from Missouri can get recognition later on.

2475. On April 3, 1918,[3] during consideration of the bill (H. R. 10691) relating to loans secured by Liberty bonds, in the Committee of the Whole House on the state of the Union, Mr. Henry I. Emerson, of Ohio, having control of the time, yielded to Mr. William H. Stafford, of Wisconsin, for debate.

Mr. Stafford inquired as to the offering of amendments to the bill.

The Speaker pro tempore[4] said:

When a measure is being considered in the House any gentleman who has the floor in his own right has the right to offer amendments; but the gentleman from Wisconsin is well aware that under the rules of the House, when time is yielded for the purpose of debate, it is not in order for the person having the floor for debate to offer an amendment.

2476. A Member having control of the time may not yield for an amendment without losing the floor, and is not entitled to a second hour if another demands recognition.

On January 11, 1910,[5] the bill (H. R. 16223) extending time to homesteaders in which to establish residence was being considered in the House.

Mr. Frank W. Mondell, of Wyoming, in charge of the bill, yielded for an amendment, and subsequently addressed the Chair asking recognition.

Mr. James R. Mann, of Illinois, rose to a parliamentary inquiry and asked if Mr. Mondell was entitled to a second recognition and, if so, whether he was recognized for an hour.

The Speaker[6] replied:

Undoubtedly the gentleman is entitled to an hour on a second recognition. But if the gentleman yields for an amendment he loses the floor, and he can not be recognized again if another Member addresses the Chair.

2477. A Member may yield to permit an amendment to be read for information, or to be voted upon at the close of general debate, without losing control of his time.

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[1] Second session Sixty-sixth Congress, Record, p. 4932.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 4540.

[4] Charles R. Crisp, of Georgia, Speaker pro tempore.

[5] Second session Sixty-first Congress, Record, p. 514.

[6] Joseph G. Cannon, of Illinois, Speaker.

On May 4, 1921,[1] while the Committee of the Whole House was engaged in the consideration of the bill (H. R. 2373) to authorize association of producers of agricultural products, Mr. Joseph Walsh, of Massachusetts, was recognized.

Mr. Fred H. Dominick, of South Carolina, asked recognition to offer an amendment.

The Speaker[2] ruled:

The gentleman can do so if the gentleman from Massachusetts yields for that purpose; but, of course, if he yields, the gentleman from Massachusetts loses the floor.

Mr. Walsh said:

I have no objection to the gentleman offering his amendment now, to be voted on at the close of general debate.

After the amendment had been read Mr. Walsh resumed, when Mr. Otis Wingo, of Arkansas, made the point of order that Mr. Walsh having yielded for an amendment to be offered had relinquished the floor.

The Speaker said:

The gentleman from Massachusetts yielded to have it read for information. He had no objection to that, but he did not yield the floor. Is not that correct?

2478. A Member who, having the floor in debate, yields to another to offer an amendment loses his right to resume, and the Member to whom the floor is yielded is recognized for one hour.

On January 24, 1929,[3] the House was considering the bill (H. R. 16352) providing that no lands owned by an religious organization within any national park can be purchased by condemnation or otherwise by the Government.

Mr. Don B. Colton, of Utah, who had been recognized for one hour, yielded to Mr. Scott Leavitt, of Montana, for the purpose of offering an amendment.

The amendment being disposed of, Mr. Colton proposed to resume control of the time, when Mr. Cassius C. Dowell, of Iowa, made the point of order that having yielded for an amendment he had yielded the floor.

The Speaker pro tempore[4] ruled:

As the Chair understands it, the gentleman from Utah yielded to the gentleman from Montana for the purpose of offering an amendment. The Chair will rule that when the Member in charge of the bill yields to another Member for the purpose of offering an amendment, he also yields the floor. The member who offers the amendment is then entitled to an hour to debate his amendment. The Chair will say that this ruling follows the decisions that are found in Hind's Precedents, Volume V, sections 5029, 5030, and 5031.

2479. While the Member must confine himself to the question under debate, a certain latitude is permitted in the refutation of charges reflected upon him in his representative capacity.

In discussing a question of personal privilege based upon newspaper charges personal letters refuting such charges were admitted as relevant.

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[1] First session Sixty-seventh Congress, Record, p. 1037.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventieth Congress, Record, p. 2212.

[4] Bertrand H. Snell, of New York, Speaker pro tempore.

Reference in a newspaper article to a Member as a "congressional slacker" was held to present a question of personal privilege.

On February 22, 1926,[1] Mr. Martin L. Davey, of Ohio, rising to a question of privilege, sent to the desk to be read by the Clerk an article from a newspaper referring to him as a "congressional slacker" and otherwise reflecting upon him in his Representative capacity.

Mr. Davey was addressing the House on the question of privilege and proposed to have read by the Clerk certain telegrams in refutation of charges contained in the newspaper article when Mr. R. Walton Moore, of Virginia, made the point of order that the article read from the desk did not give rise to a question of privilege, and it was not in order to read the telegrams offered.

The Speaker[2] said:

The Chair thought the margin was rather narrow, but he did think that one or two of the expressions alluding to the gentleman as a congressional slacker did impugn him in his capacity as a Member, and therefore the Chair without question permitted him to proceed. The Chair thinks, however, that the reading of these telegrams, which are merely written in advocacy of a certain bill introduced by the gentleman, comes very near the line as to whether he is proceeding to address himself to a question of personal privilege. The Chair thinks the gentleman is in order.

After further discussion of the question of privilege by Mr. Davey, Mr. Bertrand H. Snell, of New York, raised a question of order and said:

Mr. Speaker, I make the point of order that the gentleman from Ohio is trying to maintain his position in regard to certain legislation that he has introduced in the House rather than to refute charges made against him by the newspaper article read at the desk. I think on the question of privilege he must discuss the charges made in that article and not his position on certain legislation that he has introduced before certain committees of the House. I think he has gone far afield, and the Speaker should hold him down to a discussion of the only question he is allowed to speak upon at this time.

The Speaker held:

The gentleman has been attacked by a newspaper article which reflects on his reputation and capacity, saying things which are likely to injure him in his representative capacity, and they are based on a bill which the gentleman has introduced and which he is discussing. The Chair thinks that some little latitude at least ought to be allowed to the gentleman in discussing a matter of this sort under a question of privilege.

2480. Debate in the House on proposed articles of impeachment is not confined to evidence of record but may refer to any germane fact pertinent to the subject.

On March 20, 1926,[3] the report[4] of the Committee on the Judiciary on the proposed impeachment of George W. English, United States district judge for the eastern district of Illinois, was under debate in the House.

Mr. William P. Holaday, of Illinois, in the course of debate, in referring to certain facts connected with the subject, said:

Now, what are the facts? There was in the United States district court at St. Louis one Gardner, identified here as "Dressed-up Johnny Gardner"—and this is outside of the record.

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[1] First session Sixty-ninth Congress, Record, p. 4345.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 6603.

[4] Report No. 653.

Mr. George S. Graham, of Pennsylvania, made the point of order that debate on the proposition must be confined to evidence of record.

The Speaker [1] held:

This is not a proceeding, as the Chair views it, where men are bound by the record alone. The Chair regards the presentation of facts, whether in the record or not, that are perfectly germane to the subject to be in order.

2481. The Member shall confine himself to the question under debate, avoiding personality.

In presenting a case of personal privilege arising out of charges made against him, the Member must confine himself to the charges and may not take advantage of the privilege to prefer charges against others.

If the Member digress or otherwise transgress the rules in the discussion of a question of privilege, it is the duty of the Speaker to call him to order.

On September 24, 1917,[2] Mr. Patrick D. Norton, of North Dakota, presented, as involving a question of the privileges of the House, a printed version of an interview by Mr. J. Thomas Heflin, of Alabama, appearing in a Washington newspaper and reading in part as follows:

I believe some of this money has reached some Members of Congress I know. I could name 13 or 14 Members of the House and the Senate who have acted in a very suspicious fashion, and I feel that this matter should be very fully investigated.

The Speaker [3] recognized Mr. Norton to speak to the question of privilege.

Upon the conclusion of Mr. Norton's remarks, Mr. Heflin claimed the floor for a question of privilege on the ground that he had been misquoted in the press, and said:

Mr. Speaker and gentlemen of the House, it is not a pleasant thing to me to have to criticize the men with whom I serve. It is very unpleasant. I regret that things have happened to cause me to have the views that I have expressed on one or two former occasions about the conduct of certain men who sit with me in this body. But, gentlemen, the soldiers are going off to flight; they are going to do unpleasant things.

Mr. Philip P. Campbell, of Kansas, submitted that the statement was not in order.

The Speaker sustained the point of order.

Mr. Heflin proceeded and at various times the Speaker without suggestion from the floor called him to order for irrelevant remarks.

Subsequently, in response to a question of order raised by Mr. Campbell, the Speaker said:

The Chair has listened very closely and whenever the gentleman from Alabama has strayed from the question of privilege the Chair has been trying to get him back to it. If the gentleman from Alabama grossly offends the rules about privilege the Chair will stop him.

2482. In addressing himself to a question of personal privilege the Member may not under guise of defending himself against accusations

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-fifth Congress, Record, p. 7362.

[3] Champ Clark, of Missouri, Speaker.

introduce matter attacking another even though relevant to the matter under discussion.

On March 3, 1919,[1] Mr. Louis T. McFadden, of Pennsylvania, was addressing the House on a question of personal privilege predicated upon an official statement issued by the Comptroller of the Currency.

As a part of his remarks Mr. McFadden proposed to incorporate resolutions passed by a convention of bankers in Pennsylvania criticizing the Comptroller.

Mr. Otis Wingo, of Arkansas, made the point of order that while the Member might defend himself against charges by the Comptroller he might not bring in resolutions attacking the Comptroller.

The Speaker[2] sustained the point of order.

2483. On August 8, 1919,[3] Mr. Thomas L. Blanton, of Texas, in addressing the House on a question of personal privilege, said:

> The President of the United States is the greatest man living to-day, in my judgment, and yet he is human. We are now experiencing the fruits of our Nation's truckling in the passage of the Adamson law, the most colossal blunder of Woodrow Wilson's whole life.

Mr. Edward J. King, of Illinois, made the point of order that in attacking the President the Member was exceeding his privilege and should confine himself to the question under debate.

The Speaker[4] sustained the point of order.

2484. Personal explanations are allowed only by unanimous consent.

On February 10, 1930,[5] in the Senate, Mr. Wesley L. Jones, of Washington, proposed to have read at the desk, in order that it might appear in the Congressional Record, by way of personal explanation, an open letter addressed to a Member of the House relative to a statement made by the latter in an interview given to the public press.

The Vice President submitted the proposal as a request for unanimous consent, and there being no objection, the letter was read by the Clerk.

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[1] Third session Sixty-fifth Congress, Record, p. 4911.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 3723.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Seventy-first Congress, Record, p. 3334.

Chapter CCXLIII.[1]

REFERENCES IN DEBATE TO COMMITTEES, THE PRESIDENT, THE STATES, OR THE OTHER HOUSE.

2485. It is not in order in debate to refer to the proceedings of a committee unless the committee have formally reported their proceedings to the House.

On March 18, 1909,[2] the House had under consideration a concurrent resolution authorizing the printing of extra copies of the tariff bill.

Mr. Champ Clark, of Missouri, proceeded in debate to relate the circumstances occurring in the Committee on Ways and Means under which the tariff bill was ordered to be reported.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to state what took place in the committee unless it had been formally reported to the House.

The Speaker[3] sustained the point of order.

2486. On February 18, 1911,[4] the bill S. 7971, the omnibus claims bill, was under consideration in the House.

In the course of the debate, Mr. George W. Prince, of Illinois, in response to an inquiry by Mr. Claude Kitchin, of North Carolina, was discussing the number of members of the Committee on Claims in attendance at the time the bill was reported out.

Mr. David E. Finley, of South Carolina, raised the point of order that it was not in order to refer in the House to matters transpiring in the committee and not reported to the House.

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[1] Supplementary to Chapter CXIII.

[2] First session Sixty-first Congress, Record, p. 78.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-first Congress, Record, p. 2858.

The Chairman [1] said:

The gentleman from South Carolina makes the point of order that it is not proper in the House or in the Committee of the Whole to refer to proceedings which took place in a standing committee. The Chair sustains the point of order.

2487. On February 16, 1914,[2] during consideration of a motion to suspend the rules and pass the Indian appropriation bill, Mr. Sam R. Sells, of Tennessee, having the floor, recounted in detail certain proceedings which had taken place in the Committee on Indian Affairs during consideration of the bill in that committee.

Mr. John A. Key, of Ohio, submitted that matters taking place in the committee room and not reported might not be discussed in the House.

The Speaker pro tempore [3] said:

The rule is explicit. The gentleman can not discuss what happened in the committee. The gentleman is discussing what happened in the committee, and the Chair sustains the point of order and admonishes the gentleman he must proceed in order. The rule of the House is that what transpires in committee can not be discussed in the House.

2488. On May 31, 1917,[4] the House was considering the conference report on the bill (H. R. 291) to punish espionage.

Mr. Charles C. Carlin, of Virginia, having the floor in debate, proposed to inquire how members of the Committee on the Judiciary voted while the bill was under consideration in that committee.

Mr. James R. Mann, of Illinois, raised a question of order as to the propriety of such an inquiry in the absence of any reference to the subject in the report of the committee to the House.

The Speaker [5] held that the inquiry was out of order.

2489. On July 19, 1919,[6] the House considering the bill H. R. 6810, the prohibition enforcement bill.

During the debate Mr. W. M. Morgan, of Ohio, proceeded to discuss the vote by which certain amendments to the bill had been agreed to in the Committee of the Judiciary.

Mr. Joseph Walsh, of Massachusetts, made the point of order that such matters could be discussed only when the committee had reported them to the House.

The Chairman [7] sustained the point order.

2490. On June 6, 1921,[8] while the House had under consideration the bill (S. 86), amending the Federal reserve act, Mr. T. Frank Appleby, of New Jersey, and Mr. Edward J. King, of Illinois, engaged in a colloquy relating to the length of time the bill had been under consideration in the Committee on Banking and Currency before being reported.

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[1] Frank D. Currier, of New Hampshire, Chairman.

[2] Second session Sixty-third Congress, Record, p. 3543.

[3] John J. Fitzgerald, of New York, Speaker pro tempore.

[4] First session Sixty-fifth Congress, Record, p. 3141.

[5] Champ Clark, of Missouri, Speaker.

[6] First session Sixty-sixth Congress, Record, p. 2897.

[7] Cassius C. Dowell, of Iowa, Chairman.

[8] First session Sixty-seventh Congress, Record, p. 2169.

Mr. William H. Stafford, of Wisconsin, raised a question of order on the right of Members to discuss transactions in the committee not reported to the House.

The Speaker pro tempore [1] sustained the point of order.

2491. On April 18, 1924,[2] Mr. Samuel E. Winslow, of Massachusetts, was addressing the House under a special order granting him 30 minutes for that purpose.

In the course of his remarks Mr. Winslow read verbatim from the minutes of the Committee on Interstate and Foreign Commerce.

Mr. John E. Raker, of California, made the point of order that these minutes of the committee had not been reported to the House and could not be read or discussed in debate in the House.

The Speaker [3] ruled:

The Chair has always supposed that the main purpose of the rule forbidding the disclosure of what transpired in committees was to protect the membership of the committee so that discussions in the committee, where members were forming their opinions upon legislation, might be absolutely free and unembarrassed. Whereas, in this House men are making records, in a committee men ought to act with a consciousness that their attitude would not be published, so that they could consult and discuss with perfect freedom and the committee would have the first as well as the final judgment of all the members of the committee without fear of seeming inconsistent. The Chair has always supposed that was the real purpose, and it is extremely important that the members of the committee should in its proceedings be mutually confidential. But the Chair in inspecting the decisions finds that they go much further than that, and they hold not that simply what was said in the committee was confidential but that the records of the committee could not be quoted without the previous authorization of the committee. Now, it has been argued, and very plausibly, that the new rule makes it important for the House to know what transpired in the committee in order that the House could judge better whether or not action should be taken under the rule, and the Chair recognizes that certainly in equity that is very impressive; in fact, the Chair can not conceive of a case where the equities would seem to be more strongly in favor of citing the proceedings in committee than in this, where a member of the committee has made charges on the floor against the neglect of the committee and followed up those charges here by filing a petition under the new rule, and then when the chairman of the committee proposes to answer those charges to have the point of order raised that he can not state what the proceedings of the committee have been.

If it was a new question the Chair would be strongly inclined to hold that it is in order. But the decisions are very conclusive, from 1884, to the effect that the records of the committee are not available for comment in the House, and therefore the Chair under the precedents feels constrained to sustain the point of order.

2492. On April 25, 1930,[4] the river and harbor bill was being considered in the Committee of the Whole House on the state of the Union.

During the debate, Mr. S. Wallace Dempsey, of New York, referred in detail to proceedings in the Committee on Military Affairs had at a night session on April 11.

Mr. Fiorello H. LaGuardia, of New York, made a point of order against reference in debate to committee proceedings.

The Chairman [5] held:

The point of order is well taken, and the Chair sustains the point of order. The gentleman will proceed in order.

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[1] James W. Husted, of New York, Speaker pro tempore.

[2] First session Sixty-eighth Congress, Record, p. 6659.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Seventy-first Congress, Record, p. 7773.

[5] William P. Holaday, of Illinois, Chairman.

2493. On May 14, 1930,[1] it being Calendar Wednesday, Mr. Gilbert N. Haugen, of Iowa, by direction of the Committee on Agriculture, called up the bill (S. 108) to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce.

During debate on the bill in the Committee of the Whole House on the state of the Union, Mr. Fred S. Purnell, of Indiana, referred to proceedings had in the sessions of the Committee on Agriculture and not reported to the House.

Mr. James B. Aswell, of Louisiana, made the point of order that it was not permissible to refer to committee proceedings of which the House had no official knowledge.

The Chairman[2] sustained the point of order and admonished Members to proceed in order.

2494. The rule prohibiting reference in debate to proceedings of a committee not reported to the House applies to proceedings in Committee of the Whole as well as in other committees.

On March 21, 1908,[3] the House was considering the fortifications appropriation bill. The first amendment recommended by the Committee of the Whole was read by the Clerk, when Mr. Swagar Sherley, of Kentucky, asked that the language originally in the bill but stricken out by the committee amendment be read for the information of the House.

The Speaker[4] said:

> The Chair knows nothing about what took place in committee except the report of the chairman of the committee. It could only be by unanimous consent.

2495. Instance in which a Member rising to a question of privilege was permitted in refutation of charges made against him to detail happenings in committee not reported to the House.

On December 7, 1911,[5] Mr. Reuben O. Moon, of Pennsylvania, rose to a question of privilege and requested the Clerk to read an article appearing in a Washington newspaper under the following heading:

> Near fight in House—Moon and Thomas separated before blows are stuck—Former starts the row—Calls Kentuckian "anarchist" during committee debate on contempt bill, and is told he might be considered clever if he were not a Republican—Fists shaken, but neither is injured.

Mr. Moon, being recognized, addressed himself to the question of privilege and, in denying the accuracy of the published statement, related the circumstances actually occurring during the session of the committee.

Mr. David E. Finley, of South Carolina, made the point of order that it was not permissible to discuss what had taken place in the committee unless reported to the House.

The Speaker[6] overruled the point of order and held it in order to detail actual occurrences in committee in refutation of charges based on unreported committee proceedings.

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[1] Second session Seventy-first Congress, Record, p. 8931.

[2] Scott Leavitt, of Montana, Chairman.

[3] First session Sixtieth Congress, Record, p. 3741.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Second session Sixty-second Congress, Record, p. 112.

[6] Champ Clark, of Missouri, Speaker.

2496. The House authorized the clerk of a committee to produce committee records in response to legal process.

On August 23, 1921,[1] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, reported the following resolution authorizing the clerk of the Ways and Means Committee and the Clerk of the House of Representatives to appear before competent tribunal and produce the records and files of the committee in response to legal process:

Whereas in a case of libel now pending in the Circuit Court of Putnam County, Tenn., at Cookeville, styled Cordell Hull against Oscar Clark and Wynne F. Clouse, in which, among other questions, the vote of the said Cordell Hull, who was a Member of the Sixty-sixth and prior Congresses, with respect to proposed bonus legislation for the benefit of certain American ex-soldiers and sailors of the World War is involved; and in which also it is the contention of defendants that the vote or votes of said Cordell Hull as a member of the Ways and Means Committee of said House during the second session of the Sixty-sixth Congress in the executive sessions of said committee with respect to the said proposed soldier and sailor bonus legislation, and particularly with reference to the consideration and reporting out by said committee of H. R. 14089, is material to the issues raised in the above-styled case; and in which it is the contention of the plaintiff that if testimony as to his said votes in the executive sessions of said committee is offered it then becomes material for the entire context to be shown in evidence, viz, the various motions, bills considered, questions arising on each, and votes of each member of said committee thereon with respect to all of the said proposed soldier and sailor bonus legislation and tax measures to pay for same pending before the said committee during the said Sixty-sixth Congress: Now, therefore be it

Resolved, That the clerk of the Ways and Means Committee of the House of Representatives of the Sixty-sixth and Sixty-seventh Congresses of the United States and the Clerk of the House of Representatives be authorized to respond to any subpoena or subpoena duces tecum, or to appear before any person authorized by law to take depositions, at the instance of either party to the above-styled case, but neither of said clerks shall take with him any book, document, or paper on file in his office or under his control or in his possession as such clerk;

That either of the parties to the above-styled lawsuit have full permission to take the depositions of either or both of the said clerks in respect to any and all phases of the executive and other proceedings of the said Ways and Means Committee in connection with its consideration of each and all the proposed soldier and sailor bonus measures referred to said committee under H. Res. 470 during the Sixty-sixth Congress, including evidence as to all motions made, questions arising, measures considered, and votes of each member thereon, the purpose and effect of each, and to this end permission to either party to the lawsuit aforesaid is given to take copies of any documents or papers in possession or control of either of said clerks so as, however, the possession of said documents and papers by the said clerk or clerks shall not be disturbed, or the same shall not be removed from their place of custody under said clerk or clerks.

Mr. Snell said in explanation:

Mr. Speaker, the reason for this resolution has been fully stated in the preamble. It seems that a present Member of the House has been sued by a former Member of the House, and the material evidence of the case is in the possession of the clerk of the Committee on Ways and Means and the Clerk of the House, and it can not be used in this case without a resolution of this kind. I understand that both parties to the suit are desirous of getting possession of this evidence, and it seems to the Committee on Rules that no harm will be done to anyone to allow the truth to be made public in regard to this matter.

The resolution was agreed to without further debate and without division.

2497. It is not in order in debate to refer to the President of the United States in terms of opprobrium.

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[1] First session Sixty-seventh Congress, Record, p. 5572.

Remarks in debate charging the President with "persistent defamation" of an officer was held by the House to constitute a breach of order.

Under the practice of the House it was held that the Committee of the Whole might, at its option, take action on a point of order against words spoken in debate or might rise and report them to the House.

A motion that a Member called to order for words spoken in debate be allowed to proceed in order being rejected, the Member was required to take his seat.

A question of the privilege of the House is properly raised through presentation of a resolution.

The principles of decorum and courtesy governing the relations of the two Houses should extend to the relations of the House with the President.

Debate in the House may refer to the motives of the President but personal criticism, innuendo or ridicule are not in order.

The right to criticise official acts and policies of the President in debate in the House should not be denied or abridged but such debate is subject to proper rules requiring decorum in debate.

A select committee appointed to consider the propriety of remarks made by a Member in debate invited him to submit suggestions in writing.

Instance wherein the House struck from the Record a speech containing language reflecting personally on the President of the United States.

On January 18, 1909,[1] while the pension appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. William Willett, Jr., of New York, in the course of his remarks in discussing official actions of the President of the United States, used the phrase:

"The persistent defamation of Admiral Schley, who really fought the battle of Santiago Bay."

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that this language transgressed the rules of the House.

The Chairman[2] ruled:

The gentlemen will please permit the Chair to rule. In few of the other remarks that the gentleman has made, and in the general tenor of his remarks respecting the President of the United States, the Chair has already expressed an opinion, and has requested the gentleman to proceed in order, but the Chair will now ask the gentleman, if he sees proper, to explain what he means.

Mr. James R. Mann, of Illinois, rose to a point of order and called attention to the rule providing that when a Member is called to order for words spoken in debate the words objected to shall be taken down and reported.

The Chairman said:

The Chair will state his recollection as to the application of the rule. That rule is enforced where some punishment is proposed, but ordinarily it is not enforced. The gentleman simply

[1] Second session Sixtieth Congress, Record, p. 1047.

[2] Thomas S. Butler, of Pennsylvania, Chairman.

takes his seat until some gentleman moves that he be permitted to proceed in order. Will the gentleman from New York kindly take his seat?

Mr. Ezekiel S. Candler, Jr., of Mississippi, moved that Mr. Willett be allowed to proceed in order.

The question being submitted to the committee by the Chairman, the vote, by tellers, was yeas 78, nays 126, and the Chairman said:

The committee has concluded that the gentleman from New York shall not proceed.

Mr. John J. Fitzgerald, of New York, made the point of order that the Committee of the Whole could take no action save to report the words to which objection had been made to the House.

The Chairman said:

The practice of the House is the practice of the committee. If the committee had desired more stringent action, the words might have been taken down and reported to the House; but as the gentleman from New York quoted his language, and has been dealt with, therefore it would seem to the Chair that the committee having already acted it is not necessary to refer the subject to the House. The committee has authority to report the words to the House if they were taken down. No gentleman asked that the words be taken down until we had proceeded with business, on the question of order, which is now disposed of. It is simply a question of order, and the committee has now disposed of it. The Chair is of the opinion that the committee has jurisdiction, and the committee had authority to act just as the committee did act.

On the following day [1] Mr. James A. Hughes, of West Virginia, rising to a question of the privileges of the House, moved to expunge Mr. Willet's speech from the Record.

The Speaker [2] held:

The Chair will call the attention of the gentleman to the fact that nor resolution has been offered. It seems to the Chair that a resolution should be offered reciting what is proposed to be stricken out. The House is entitled to something, either a motion or a resolution, that will disclose the breach of privilege, if it be a breach of privilege, that has been referred to. At present there is just the bare motion to strike out the speech of the gentleman from New York. Unless gentlemen heard the speech, and unless perchance that is the only speech the gentleman from New York has made, there is nothing to identify it. It seems to the Chair something should be offered in shape of a motion or a resolution that would show that this is a matter of privilege, so that the House could deal with it as may seem proper.

Mr. Hughes thereupon offered the following:

Whereas the speech of Mr. Willett printed in the Congressional Record of January 18, 1909, contains language improper and in violation of the privilege of debate: Be it

Resolved, That a committee of five Members be appointed to consider the remarks aforesaid and report to the House within ten days.

Mr. Oscar W. Underwood, of Alabama, made the point of order that the resolution was not privileged because it failed to set forth the language deemed improper and to specify wherein the privileges of the House were alleged to be involved.

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[1] Record, p. 1105.

[2] Joseph G. Cannon, of Illinois, Speaker.

The speaker said:

The Chair will again read the resolution, as well as the whereas, as follows:

"Whereas the speech of Mr. Willett, printed in the Congressional Record of January 18, 1909"—

That identifies the speech—

"contains language improper and in violation of the privileges of debate: Be it

"Resolved, That a committee"—

And so forth.

The gentleman recollects the legal maxim, "Certum est quod certum reddi potest"—that is certain which may be rendered certain. This refers to remarks of Mr. Willett in the Record of yesterday. And when the Chair turns to the Record, it refers to the whole speech.

The Chair again reads:

"Whereas the speech of Mr. Willett, as printed in the Congressional Record of January 18, 1909, contains language improper and in violation of the privileges of debate"—

Now, that refers to the whole speech, and alleges that it contains language that is in violation of the privileges of debate, and then follows the resolution, providing for a special committee to investigate. It seems to the Chair that the resolution is sufficiently definite to enable the Chair to say that it is the duty of the Chair to entertain it as a question of privilege.

The gentleman is aware that there are many precedents. Where there is a question of rumor or allegation in a journal or a magazine the House has entertained from time to time resolutions not exactly in the words, but in substance as contained in this resolution. Of course it is for the House to dispose of the resolution as it may see fit. It is only for the Chair to determine whether the resolution on its face does present a question of privilege upon the point of order made, and the Chair thinks it does.

The question being taken, the resolution was agreed to.

On January 27 [1] the unanimous report of the select committee was presented by Mr. James R. Mann, of Illinois.

The committee reported that in response to their invitation to submit in writing any suggestions he desired to make, Mr. Willett had filed the following statement:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 22, 1909.

To the Honorable Special Committee having in Charge the Matter Contained in House Resolution No. 494, Adopted January 19, 1909.

GENTLEMEN: I have received information through your chairman that your committee will meet on Monday next to consider any statement in writing I may desire to present, and in pursuance therewith I desire to respectfully submit the following:

It is my serious and earnest contention that I was entirely within my rights to make the speech, under the order of general debate, and in availing myself of the freedom of debate and the uniformly recognized latitude of discussion I but followed the established custom and practice of the House, and did in nowise transcend the rules of the House as they have always heretofore been understood by the Members of the House.

It will serve no useful purpose for me to cite numerous instances where personal reference has been made by Members to nonmembers, Members to Members, and Members to the Chief Executive in the course of debate in language, taken separately or collectively, infinitely stronger than my own—this committee is composed of Members of long service in this House—and a citation of cases is unnecessary.

Freedom of speech has always been held so sacred that the utmost latitude has been allowed in debate, and I respectfully submit that to strike my speech from the Record in this instance will establish a precedent extremely dangerous, because it will mean, in the light of past precedents, that the House has at last surrendered to the proposition that no Member can discuss any subject the discussion of which happens to displease the majority.

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[1] Record, p. 1465.

Urging again my sincere conviction that my speech should remain on record, I assure the committee of my

Sincere respect,

WM. WILLETT, Jr.

Replying to Mr. Willett's argument with reference to freedom of speech, the report says:

The freedom of speech in debate in the House of Representative should never be denied or abridged, but freedom of speech in debate does not mean license to indulge in personal abuse or ridicule. The right of Members of the two Houses of Congress to criticise the official acts of the President and other executive officers is beyond question, but this right is subject to proper rules requiring decorum in debate. Such right of criticism is inherent upon legislative authority. The right to legislate involves the right to consider conditions as they are and to contract present conditions with those of the past or those desired in the future. The right to correct abuses by legislation carries the right to consider and discuss abuses which exist or which are feared.

It is however, the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members or antagonism from those other branches of the Government with which the House is correlated.

The report then draws an analogy between the relations of the two Houses and the relations of the House and the President as follows:

It has been constantly decided that it was not in order in debate in the House to refer in criticism to a speech in the Senate or to the proceedings or motives of the Senate. This is upon the well-established principle that legislative proceedings dependent upon two coordinate branches might be greatly impeded if personal and improper reflections were allowed in one body concerning the Members of the other.

The two Houses of Congress are independent in the action to be taken by each, but each House is dependent upon the other for final results of legislation. The relationship of the two bodies is such that animosity, undue friction, or antagonism between them might easily prevent wise legislation and result in serious consequences.

The Constitution requires the President from time to time to give to Congress information of the state of the Union and to recommend such measures as he shall judge necessary and expedient. It also provides that every bill which shall pass the two Houses of Congress shall, before it becomes a law, be presented to the President of the United States, and gives the President the right to veto. The Constitution also confers upon the House of Representatives power of impeaching the President. In matters of legislation the Constitution therefore makes the House of Representatives, the Senate, and the President coordinate, dependent, and interdependent powers, and the principles of proper decorum and due courtesy governing the relations of the two Houses of Congress should also, to a certain extent, govern the relations of the House of Representatives and the President.

The committee maintain the right of the House to discuss in debate the acts, conduct, and motives of the President, but draws this distinction between such discussion and criticism of a merely personal nature:

Since the House of Representatives has the sole power of impeaching the President, it follows that his acts and conduct must be subject to free and full debate in the House, and since the President's motives may be involved in impeachment, debate in the House may refer to his motives. In this respect the House has a function and privilege peculiar to itself and peculiar to the subject. The House may not enter into discussion of the motives of Senators in their official acts, nor may the Senate or the President in official capacity properly discuss the motives of Representatives in their official acts or debates. It would seem, however, that the peculiar constitutional duties of the House in relation to the power of impeaching the President do not preclude a clear line of distinction between that criticism of acts and conduct necessary for performance of the constitutional duties of the House and a criticism merely personal and

irritating, having no legitimate connection with the duties or powers of the House and tending only to produce ill feeling, estrangement, and loss of respect between two coordinates branches of the Government which should, for the public good and the upholding of the Government, stand before the people in relations of personal courtesy, mutual respect, and proper dignity.

The committee therefore conclude:

Since, under the Constitution the Members of the House may not be questioned elsewhere for speeches in the House, and the President ought not therefore to criticise or comment officially upon speeches in the House, it becomes especially the duty of the House itself to protect the President from that personal abuse, innuendo, or ridicule tending to excite disorder in the House itself and to create personal antagonism on the part of the President toward the House, and which is not related to the power of the House under the Constitution to examine into the acts and conduct of the President.

Applying this conclusion to the case presented, the committee find:

Your committee has carefully considered the remarks of the gentleman from New York, as directed by the resolution, and, testing the same by the foregoing principles, find that his remarks concerning the President are not justified by any considerations of the constitutional duties or powers of the House; that they transcend proper limits of criticism in debate; that they are destructive of that courtesy, respect, and dignity which ought to be preserved, and that they ought not to remain in the permanent official record of the proceedings in the House.

Your committee finds it impossible to separate those portions of the gentleman's remarks which are open to objection from those which may be parliamentary, and that the only way to eliminate from the record the remarks which were improper and out of order is to strike the entire speech from the record.

The committee then refer to precedents and, in conformity with the practice of the House thus established, recommend the adoption of the following resolution:

Resolved, That the speech of Mr. Willett, printed in the daily Congressional Record of January 18, 1909, contains language improper and in violation of the privileges of debate, and that the same be stricken from the permanent Record.

The resolution was agreed to by the House without division or debate.

2498. It is a breach of order in debate to refer to the President disrespectfully.

On January 23, 1933,[1] Mr. Louis T. McFadden, of Pennsylvania, rose to a question of personal privilege. Having been recognized to discuss the question of privilege, Mr. McFadden said in the courses of his remarks:'

Under Hoover the United States has lost its financial independence. Under him the United States Treasury has been looted and the control of United States Treasury funds has passed into the hands of foreign nations and foreign central banks of issue.

Mr. Beck submitted the following question of order:

Mr. Speaker, I rise to another point of order. The gentleman from Pennsylvania who is now addressing the House has on more than one occasion in the course of his address referred to the President of the United States as "Hoover." My point of order is that it does not accord with the dignity of this House that the President of the United States should be contemptuously referred to by his last name.

The Speaker pro tempore [2] ruled:

The gentleman is correct in his position, and the Chair sustains the point of order. The gentleman from Pennsylvania will proceed in order on the matters embraced in his resolution.

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[1] Second session Seventy-third Congress, Record, p. 2297.

[2] Thomas L. Blanton, of Texas, Speaker pro tempore.

2499. Criticism of the manner in which the President discharged the duties of his office was decided by the House not to violate the rules of decorum in debate.

A statement made in debate to the effect that the President considered himself the Government and used pork as the crude material of his administration was held not to involve a breach of order.

A resolution providing for investigation of the propriety of language referring to the President of the United States and said to violate the privileges of debate was considered as privileged.

A newspaper statement that remarks of a Member on the floor "were said at the White House" to be inspired by the President's opposition to a measure favored by the Member was held not to give rise to a question of privilege.

A select committee appointed to consider the propriety of remarks delivered in the House reported that they contained no language in violation of the privileges of debate, and asked to be discharged.

On February 25, 1909,[1] during consideration of the sundry civil appropriation bill, Mr. George W. Cook, of Colorado, having the floor in debate, said:

President Roosevelt seems to think that he alone is the Government and that his ipse dixit must rule everybody, including the poor and friendless black soldiers of Brownsville, who were insulted, dismissed, and degraded without proof or trial by executive order and without any warrant of reason or law.

President Roosevelt runs the Government on the same principle that the beef trust runs its sausage factory, from a personal standpoint, using legislative and judicial pork as the crude material of his fantastic administration. While imitating Rienzi and Cromwell in fooling the people, he is practicing the hypocrisy and dictatorship of Cleon and Dionysius.

On February 26,[2] Mr. James A. Tawney, of Minnesota, offered as privileged the following resolution:

Whereas the speech of the Hon. George W. Cook of Colorado, delivered in the House of Representatives on February 25, 1909, and printed in the Congressional Record on pages 3203 and 3204, contains language in violation of the privileges of debate:

Resolved, That a committee of five Members be appointed to consider the remarks aforesaid and report to the House not later than the calendar day of Monday, March 1, 1909.

Mr. John J. Fitzgerald, of New York, made the point of order that the resolution did not present a question of privilege in that it did not specify in what manner the remarks referred to violated the rules of debate or the privileges of the House.

The speaker[3] overruled the point of order.

The question on agreeing to the resolution being submitted to the House, it was decided in the affirmative and the speaker appointed as members of the committee thus authorized, Mr. James R. Mann, of Illinois, Mr. James B. Perkins, of New York, Mr. David J. Foster, of Vermont, Mr. Henry D. Clayton, of Alabama, and Mr. William M. Howard, of Georgia.

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[1] Second session Sixtieth Congress, Record, p. 3132.

[2] Record, p. 3260.

[3] Joseph G. Cannon, of Illinois, Speaker.

On the following day[1] Mr. Cook rose to a question of privilege and sent to the desk an article from a Washington newspaper reading in part:

It was said at the White House yesterday that Mr. Cook's recent outburst may have been inspired by the President's opposition to a measure which he has been endeavoring to have become a law, dealing with a question of the boundary of Colorado. It was pointed out to Mr. Cook that, under the Constitution it was necessary to have affirmative action of the Colorado legislature, before Congress could act in the matter, but that difficulty did not seem to appeal to him as of sufficient weight.

Mr. Sereno E. Payne, of New York, submitted that no question of privilege was raised by any statement in the article.

The Speaker held that the article did not reflect upon Mr. Cook in his representative capacity and sustained the point of order.

On March 1, Mr. James R. Mann, of Illinois, submitted the following report from the select committee:

The select committee appointed to consider the remarks of Hon. George W. Cook, delivered in the House on February 25 last and printed in the Congressional Record, on pages 3203 and 3204, and alleged to be in violation of the privileges of debate, beg leave to report that we have carefully and critically examined the speech of Mr. Cook referred to, and are of the opinion, and so report, that said speech does not, when treated as a whole, contain language in violation of the privileges of debate, and does not call for further action by the House; and your committee, therefore, respectfully requests to be discharged.

JAMES R. MANN.
JAMES B. PERKINS.
DAVID J. FOSTER.
HENRY D. CLAYTON.
WILLIAM M. HOWARD.

On motion of Mr. Mann, the select committee was discharged.

2500. It has been held in order to refer in debate to the President of the United States in terms of criticism provided such reference be in language conformable to the rules of the House.

On February 13, 1925,[2] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Fred M. Vinson, of Kentucky, in the course of his remarks, read from a newspaper article entitled:

Coolidge rides on "Horse"—Mechanical mount got wires twisted, but he's good again for exercise.

Mr. Vinson then proposed to read an improvised poem captioned:

Cal's "Hobbyhorse."

Mr. Robert Luce, of Massachusetts, made the point of order that the title of the verses indicated an intention to cast ridicule upon the President and therefore was in violation of the established practice of the House.

The Chairman[3] ruled:

Under Jefferson's Manual, there is the following:
"In Parliament, to speak irreverently or seditiously against the King, is against order."

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[1] Record, p. 3384.

[2] Second session Sixty-eighth Congress, Record, p. 3667.

[3] Bertrand H. Snell, of New York, Chairman.

Under that is this comment:

"This provision of the parliamentary law is manifestly inapplicable to the House of Representatives; and it has been held in order in debate to refer to the President of the United States or his opinions, either with approval or criticism, provided that such reference be relevant to the subject under discussion and otherwise conformable to the rules of the House."

The gentleman from Kentucky, Mr. Vinson, obtained unanimous consent to proceed out of order, so that there is no special subject before the House. Under these references the Chair would not undertake to rule the mater out of order. There is another way open to the gentleman from Massachusetts. He can ask that the words be taken down and then that the House may decide. At present, the Chair overrules the point of order.

2501. It is not permissible in debate to read from the Record reports of debate in the other House relating to the subject under discussion.

Jefferson's Manual is recognized, in as far as applicable, as a part of the rules of the Senate.

On August 26, 1912,[1] in the Senate during consideration of the conference report on the deficiency appropriation bill, Mr. Charles A. Culbertson, of Texas, having the floor in debate, said:

I ask that the Secretary may read from the Record the marked paragraph which I send to the desk, from page 13016, in the debate in the House of Representatives.

The Secretary read as follows:

Mr. FITZGERALD. Mr. Speaker, I move the House adhere——

Mr. John Sharp Williams, of Mississippi, made the point of order that under the rules of the Senate it was not permissible to animadvert upon the proceedings of the other House.

The President pro tempore [2] said:

The Chair thinks it will be found in Jefferson's Manual, not in the rules of the Senate.

Mr. Culbertson submitted that Jefferson's Manual, while persuasive in determining procedure, was not in fact a part of the rules of the Senate.

The President pro tempore ruled:

The Chair always has been of opinion that Jefferson's Manual, so far as it is pertinent, is and has been recognized as a part of the rules of this body, and the Chair finds in Jefferson's Manual this statement:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or to the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting of them might beget reflections leading to a misunderstanding between the two Houses."

While undoubtedly in debate in this body, and perhaps in the other body, that rule has not been strictly adhered to, yet, the point of order having been made, the Chair feels constrained to sustain it.

2502. On February 20, 1933,[3] the House was considering the joint resolution (S. J. Res. 211) proposing an amendment to the Constitution of the United States repealing the eighteenth amendment.

Mr. Henry T. Rainey, of Illinois, having been recognized for debate announced that he would read a brief extract from a speech delivered in the Senate on July 30,

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[1] Second session Sixty-second Congress, Record, p. 11878.

[2] Jacob H. Gallinger, of New Hampshire, President pro tempore.

[3] Second session Seventy-second Congress, Record, p. 4508.

1917, when the joint resolution proposing the eighteenth amendment was under consideration.

Mr. John E. Rankin, of Mississippi, objected that reference to proceedings in the Senate was not admissible.

The Speaker [1] sustained the point of order.

2503. It is a breach of order in debate to refer to proceedings in the other House whether reported in the Congressional Record or elsewhere.

Reference to reprints inserted inserted in the Senate proceedings involves reference to Senate debates, and is not in order.

Each House exercises exclusive control of the report of its proceedings in the Record.

On May 11, 1932,[2] the joint resolution (H. J. Res. 149) to correct the spelling of the name of the island of Puerto Rico was under consideration in the Committee of the Whole House on the state of the Union, when in the course of debate, Mr. Fred A. Britten, of Illinois, proposed to read the following excerpt from the Record reporting the proceedings of the Senate on the preceding day:

> When the Congress granted that inappreciable measure of branch banking which is contained in the so-called McFadden bill, the most strenuous opposition came from the bankers in Chicago outside the loop. They hired a skillful and persuasive professional lobbyist and paid him a high salary to come here to Washington—worse than that, they hired some Congressmen, to my positive documentary knowledge—to oppose even that small measure of branch banking.

Mr. Thomas L. Blanton, of Texas, objected that it was not in order to read a report of the debate in the Senate.

The Chairman [3] sustained the point of order.

Mr. Charles L. Underhill, of Massachusetts, submitted that while it was not in order to read reports of debate in the proceedings of the other House, the rule did not apply to reprints inserted in the Senate proceedings.

The Chairman ruled that comments on such reprints were in effect comments on speeches in the Senate and were therefore not in order.

Mr. Britten explained that the matter referred to had been widely printed in the morning newspapers, and inquired if it was in order to read such reports from the daily papers.

The Chairman held that reference to Senate debates whether reported in the Record or elsewhere were not in order.

Mr. Leonidas C. Dyer, of Missouri, inquired if under the rules it would be in order to expunge from the Record statements made in the Senate in criticism of Members of the House.

The Chairman held:

> The House has no control over the proceeding of the Senate or what they put in the Record.

2504. It is a breach of order in debate to refer to debate or votes on the same subject in the other House.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Seventy-second Congress, Record, p. 10019.

[3] Gordon Browning, of Tennessee, Chairman.

On July 15, 1911,[1] Mr. William W. Rucker, of Missouri, having unanimous consent to make a personal statement, sent to the Clerk's desk to be read in his time an excerpt from the Congressional Record reporting a colloquy in the Senate.

The Clerk read as follows:

Mr. BORAH. Mr. President, I desire to call attention to another matter for a moment. I should like to ask, if proper to do so, and I presume it is, whether the conference committee on House joint resolution 39 can advise me if there is likely to be a report from that committee soon?

The VICE PRESIDENT. The chairman of the conference committee is not in the Senate Chamber at the present time.

Mr. John Dalzell, of Pennsylvania, made the point of order that it was not proper to discuss in the House the proceedings of the Senate.

The Speaker pro tempore [2] sustained the point of order.

2505. It is a breach of order in debate to refer to debate or votes on the same subject in the other House.

On January 31, 1929,[3] the House was considering the resolution (H. Res. 303) to send the first deficiency appropriation bill with Senate amendments to conference.

In the course of debate, Mr. Louis C. Cramton, of Michigan, said:

Now, as to the amendment. What is this thing? It is to increase the prohibition enforcement fund by $24,000,000, to be allocated as the President desires, "to the departments or bureaus charged with the enforcement of the national prohibition." That was adopted in the Senate with the vote of 13 Republicans, most of them fairly unfriendly to Secretary Melon, and 39 Democrats and 1 Farmer-Labor. I will put them all in in the extension of my remarks. Against the amendment were 3 Democrats and 29 Republicans, the vote being as follows:

Among those Republicans opposing this extravagance in the Senate, this ill-considered spending of $24,000,000 were Senator Curtis—no fairer, truer dry in the country; Senator Jones of Washington, who in his last election was fought by the wets because of his dryness.

Mr. John C. Schafer of Wisconsin, interrupted and raised the question of order that reference to Members of the other House by name was not in order.

The Speaker pro tempore [4] held:

Under the rules of the House it is a breach of order to refer to debates or votes on the same subject in the other House.

The gentleman from Wisconsin is within his rights when he rises to make a point of order. It will not be taken out of the gentleman's time. The Chair wishes to state that it is a breach of the rules of the House to refer to the votes on the same subject in the other House. The Chair wishes to direct the attention of the Members of this House to the rule on this subject. It is found in the House Rules and Manual, paragraph 364, which reads:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."

In the opinion of the Chair the point of order is well taken. The gentleman from Michigan will proceed in order.

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[1] First session Sixty-second Congress, Record, p. 2945.

[2] Thetus W. Sims, of Tennessee, Speaker pro tempore.

[3] Second session Seventieth Congress, Record, p. 2554.

[4] C. William Ramseyer, of Iowa, Speaker pro tempore.

2506. It is not in order in debate to read from the record of the proceedings of the Senate or to refer in terms to action taken in the Senate.

On June 19, 1930,[1] Mr. Robert G. Simmons, of Nebraska, called up the District of Columbia appropriation bill and asked unanimous consent that the House further disagree to Senate amendments thereto.

Mr. Louis C. Cramton, of Michigan, under reservation of the right to object, inquired if it would be in order to read excerpts from the Senate proceedings in considering the bill.

The Speaker[2] held that it was not in order to read in the House any record of proceedings in the Senate.

Thereupon, Mr. Cramton inquired if it would be in order to refer to the proceedings of the Senate in the consideration of the bill.

The Speaker said:

> The Chair will read the rule. Under the existing conditions the Chair thinks it is the duty of the Chair not only to adhere to the spirit of the rule but also to the letter. I read:
>
> "It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the Houses."
>
> The Chair thinks that there should be at least one House observing the rule.

2507. The inhibition against the reading in debate of the Record of proceedings in the other House does not extend to decisions of presiding officers on questions of procedure and parliamentary law or to proceedings in another Congress.

On January 20, 1913,[3] in the Senate, Mr. Henry Cabot Lodge, of Massachusetts, called up the conference report on the bill S. 3175, the immigration bill.

During the debate a question arose as to certain modifications agreed to by the conferees, and Mr. William J. Stone, of Missouri, made the point of order that matter not committed to the conferees by either House had been included in their report.

Mr. Lodge took issue with this contention and proposed to read an extract from the Record giving the decision of the Speaker of the House rendered on August 14, 1911, on a similar point of order.

Mr. James O'Gorman, of New York, made the point of order that the rules of the Senate did not permit the introduction in debate of records of proceedings transpiring in the other House.

After brief debate, Mr. Lodge was permitted to incorporate in the Record as a part of his remarks the rulings of Speakers of the House on the jurisdiction of conferees and debate adducing the decisions.

2508. While it is not in order to discuss the functions or criticize the acts of the other House, it was held admissible to identify certain remarks reported in the Record and cited as precedents by mentioning the name of the Senator delivering them.

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[1] Second session Seventy-first Congress, Record, p. 11197.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Third session Sixty-second Congress, Record, p. 1766.

On August 15, 1912,[1] Mr. Theron Akin, of New York, in speaking to a resolution proposing to strike from the Record certain remarks he had made in the House on a former occasion, said:

I, for one, would like to know where the line is to be drawn. Will you condemn a few sentences and tolerate the balance of a speech? If you assume the power and right to expunge from the Record my remarks, why should you stop there? Why not expunge from the Record the unjust attack of Representative Moss upon me some little time ago? Why not remove from the permanent Record the speeches of Representatives Mondell, Bartholdt, and Norris on the Chicago convention, where the principal text was, "Thou shalt not steal, or if in stealing, steal lots of it"? Why leave in the Record of August 10 the letter of B.B. Cohoon, Sr., in which he slurs Representative Cannon and alleges that Taft is politically corrupt and a fraud or a fool? Why allow Senator La Follette in the Record to accuse the postal authorities with rifling his letters?

Mr. Marlin E. Olmsted, of Pennsylvania, raised a question of order and said:

Mr. Speaker, I make the point of order that it is not in order for any Member of the House to mention by name any Member of this body, and particularly it is out of order to mention the name of a Member of the body at the other end of the Capitol.

Mr. Speaker, against the gentleman from Virginia I read the language from a gentleman of fully as great renown, one Thomas Jefferson, who said, as will appear on page 184 of the Manual:

"No person, in speaking, is to mention a Member then present by his name, but to describe him by his seat in the House, or who spoke last, or on the other side of the question; nor to digress from the matter to fall upon the person, by speaking, reviling, nipping, or unmannerly words against a particular Member."

Now, I want the gentleman from New York to be permitted to make his own defense, fully and freely and at length; but I do not think he is warranted in making his defense in calling other gentlemen by name and accusing them of violating the rules of the House. He does not point to any page in the Record, but makes accusations.

The Speaker[2] pro tempore ruled:

While the Chair is clearly of opinion that the statement made by the gentleman from Pennsylvania, Mr. Olmsted, is correct and is the rule now being applied, still the gentleman from New York, Mr. Akin, is referring to the Record, and he must of necessity have the right, if he refers to the Record and a name is there which refers to a particular speech, and he undoubtedly has the right to use that name, because it is in the Record. [Applause.] The Chair is of opinion, therefore, that the point of order is not well taken. The gentleman from New York will proceed.

2509. It is not in order to refer to a Member of the other House even for the purpose of complimenting him.

On June 27, 1918,[3] Mr. Ben Johnson, speaking by unanimous consent, in discussing the bill H. R. 9248, the antiprofiteering rent bill, referred to Mr. Atlee Pomerene, a Member of the Senate from Ohio.

Mr. Oscar William Swift, of New York, made the point of order that it was not permissible to refer to a Senator in debate.

Mr. Johnson argued that the rule applied to criticism only and was not applicable to his remarks in praise of the Senator.

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[1] Second session Sixty-second Congress, Record, p. 11019.

[2] John E. Raker, of California, Speaker pro tempore.

[3] Second session Sixty-fifth Congress, Record, p. 8360.

The Speaker [1] ruled:

The rule is that a Member of the House can not discuss a Senator at all, not even compliment him, because if you do compliment him somebody might jump up and say he was the grandest rascal in the country, and you would then have on your hands a debate of a very acrimonious nature.

2510. The rule governing reference to Members of the other House in debate was held to apply to language used on the floor of the House only and not to statements made elsewhere.

A Member having referred to the Senate in a public address, it was held in order to reply on the floor of the Senate, avoiding personalities and criticism of the other House.

On March 24, 1924,[2] Mr. Allen T. Treadway, of Massachusetts, rose to a question of privilege and offered a resolution declaring improper and unparliamentary the following statement, made in the Senate on March 22 preceding, by Mr. T.H. Caraway, of Arkansas:

I think the New York Times is without justification in its criticism of the Speaker of the House on his violating the proprieties and the rules of the body over which he presides, because I never knew that anyone thought that the Speaker understood or had any regard for the rules of the body over which he presides. He never has given any evidence that he knew what the rules were or that he had any respect for them.

After speaking briefly to the question of privilege, Mr. Treadway, in compliance with a request from the Speaker, withdrew the resolution.

Whereupon Mr. John E. Rankin, of Mississippi, asked for an interpretation of the rule forbidding reference in debate to Members of the other House.

The Speaker [3] said:

Well, the Chair thinks a person attacked has a right outside to say what he pleases and has a right also on the floor of the House to answer any argument or attack, provided he does not violate the rule as to personalities. As to them the Chair thinks the rules apply, no matter what the provocation may be.

2511. Instance wherein a Member in discussing the practice of extending remarks in the Record was permitted to refer to a Member of Congress without naming him.

On May 14, 1914,[4] Mr. Henry A. Barnhart, of Indiana, chairman of the Joint Committee on Printing, speaking by unanimous consent, said:

Mr. Speaker, I rise to call the attention of the membership of the House to the edition of the Congressional Record under date of Tuesday, May 12, which came to you this morning as a separate volume from the regular daily publication. It contains the speech and extension of remarks of one Member of Congress and covers 368 pages, mostly printed in fine, solid type. The cost of this publication as computed by the Government Printing Office is $9,941.85, and the additional necessary cost for the permanent and bound edition will be $3,819, a total cost to the taxpayers of the country of $13,760.85. If each of the 531 Members of the Congress were to pad the Congressional Record like that, it would cost the country $7,307,011.35, and to this could safely be added several more thousands as the cost of the wrapping and franking necessary to get this publication out to the reading public—in all a colossal expense.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 4813.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-third Congress, Record, p. 8592.

The publication is made up almost entirely of communications from individuals and organizations on the railroad freight-rate question.

As to the merits of the question involved I have nothing to say, as that is not here under consideration. But as to the justice and propriety of such printing and franking extravagance I want to be heard. There has never been such an abuse of the Congressional Record printing and franking privilege since I have been a Member of this House. That the substance of the communications and the names of the authors would have been all sufficient any sensible man can readily see. That the purpose of the bulky publication is to exploit a name or an issue many will surmise; and that the unnecessary, extravagant expense is an outrage upon the taxpayers of the country everybody will admit.

Mr. Victor Murdock, of Kansas, made the point of order that reference to a Member of another body is in violation of the rules of debate.

The Speaker [1] ruled:

If he were commenting on what a Senator said, if the rule were strictly construed, it would shut him out, and yet I have Senators quoted here time and again, and have referred to them myself without objection. It is against the rule; but in this case the House has as much jurisdiction over the Congressional Record as has the Senate, and the gentleman from Indiana was not discussing any gentleman in the Senate by name. He is discussing what he finds in the Congressional Record. The gentleman from Indiana did not say he was a Senator, but he said he was a Member of Congress. The point of order is overruled, and the gentleman from Indiana has the floor.

2512. Reference to a Member of the Senate in terms of criticism is not in order even though the Senator referred to is not mentioned by name.

A statement by a Member in debate that "a gentleman in another body" had made an "unwise and unwarranted attack on the Commander in Chief of the Army and Navy" was held to be a breach of order.

On September 12, 1918,[2] during consideration on the revenue bill in the Committee of the Whole House on the state of Union, Mr. J. Thomas Heflin, of Alabama, said in debate:

A gentleman in another body makes an attack upon the war program of the administration. Gentlemen, you and I know that you have to do things in war times that you would not think of doing in time of peace. It is necessary to mobilize the forces of the country, to call the boys to the colors, and to take over the great public utilities of the country when a strike might paralyze the arm of the Government and render it unable to carry on the war.

Gentlemen, will the patriotic people of Illinois stand for that unwise and unwarranted attack upon the Commander in Chief of the Army and Navy?

Mr. Edward E. Denison, of Illinois, made the point of order that the remarks referred to a Senator from Illinois.

Mr. Heflin submitted that he had not named a Member of another body.

The Chairman [3] said:

The rule on that subject is as follows:

"A Member may not in debate in the House read the record of speeches and votes of Senators in such connection of comment or criticism that might be expected to lead to recrimination, and it was even held out of order to criticize words spoken in the Senate by one not a Member of that body in the course of an impeachment trial.

"While the Senate may be referred to properly in debate it is not in order to discuss its functions or criticize its acts to refer to a Senator in terms of personal criticism."

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 10232.

[3] Edward W. Saunders, of Virginia, Chairman.

Such references should not be made in this body to another body which would lead to recrimination on the part of other Members and to ill feeling between the two bodies. The gentleman will proceed in order. The Chair said that the gentleman from Alabama must proceed in order and avoid such references to another body as would impinge upon this rule.

2513. It was held out of order in the Senate to refer to a Member of the House in opprobrious terms or to impute to him improper conduct or unworthy motives.

It was held out of order to read in the Senate, or to insert in the Record without reading, a letter reflecting upon the honor, integrity, or good faith of a Member of the House.

On July 31, 1917,[1] the Senate, as in Committee of the Whole, had under consideration the joint resolution (S. J. Res. 17) proposing an amendment to the Constitution prohibiting the sale, manufacture, and transportation of intoxicating liquor.

Mr. Wm. H. Thompson, of Kansas, being recognized for debate, proposed to have read at the desk a letter certifying that Mr. Jacob E. Meeker, a Representative for Missouri, was formerly a Congregational minister and had resigned under censure.

Mr. Lee S. Overman, of North Carolina, made the point of order that the rules of the Senate did not permit the introduction of matter reflecting upon a Member of the House of Representatives.

The Presiding Officer[2] sustained the point of order and said:

There is a rule that would make it improper and out of order to refer to a Member of the House of Representatives in opprobrious terms and to impute to him unworthy motives. No Senator ought to make any statement that would be a reflection upon any Member of the House or impute to him improper conduct or an unworthy motive. He is not here to defend himself. It would seem to the present occupant of the chair unfair for any Senator to make any comment upon the life or character or political conduct of a Member of the House of Representatives that would reflect upon his honor or his integrity or his good faith. The point of order is sustained.

Mr. Thompson submitted that Mr. Meeker had himself on a previous occasion violated the privileges of debate by inserting in the Record an extension of remarks reflecting on the State of Kansas.

The Presiding Officer said:

The Chair will say that an infraction of the rules of the House by a Member of the House would not, in the opinion of the Chair, warrant an infraction of the rules of the Senate by an attack upon a Member of the House. In the opinion of the Chair nothing should be stated by a Senator that would be a reflection upon the integrity or moral character of a Member of the other House or impute to him improper or unworthy motives. The Chair hopes the Senator will conform to that view.

Mr. Thompson then proposed to insert the letter as a part of his remarks without having it read.

In passing upon a point of order raised by Mr. Overman, the Presiding Officer rule:

The Chair is of opinion that an attack may be made upon the honor or the integrity of a Member of the other House by having read an article to the same extent as if the attack were made orally by a Senator. The point of order is sustained.

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[1] First session Sixty-fifth Congress, Record, p. 5597.

[2] William H. King, of Utah, Presiding pro tempore.

2514. Criticism of a Senator by Member in debate was held by the House to be in violation of its rules and the Public Printer was directed to exclude it from the permanent Record.

A manager on the part of the House on the disagreeing votes of the two Houses on a bill in conference having addressed the House in criticism of the Senate member so the committee of conference, the Senate notified the House that conferees on the part of the Senate had been excused from further service on the committee.

A communication from the Senate designating as "untrue" statements made by a Member of the House in debate and requesting action upon the part of the House relative thereto, was respectfully returned to the Senate with a message characterizing it as a breach of privilege.

On June 22, 1918,[1] Mr. Ben Johnson, of Kentucky, having leave, by unanimous consent, to address the House, read an article from a Washington newspaper reporting that the conferees on the part of the Senate would refuse to hold conference on the antiprofiteering rent bill while Mr. Johnson remained a member of the committee of conference, and that it was proposed to deny him the privileges of the floor of the Senate.

Mr. Johnson then read portions of a letter which he had addressed to each of the Senate conferees and inserted a copy in the Record as a part of his remarks.

On June 24,[2] the Senate transmitted to the House the resolution (S. Res. 266), reading, in part, as follows:

Whereas H.R. 9248, a bill "To prevent extortion, to impose taxes upon certain incomes in the District of Columbia, and for other purposes," duly passed by the House of Representatives March 12, 1918, was considered in the Senate and passed with a reported amendment in the nature of a substitute May 11, 1918; and

Whereas on said May 11, 1918, a conference was asked and managers on the part of the Senate were appointed thereon; and

Whereas of June 14, 1918, the chairman of the Committee on the District of Columbia of the House of Representatives called said bill from the Speaker's table, and made thereon certain remarks seriously reflecting upon the honor and integrity of the Senate, as appears on pages 8452 to 8457 of the Congressional Record; and

Whereas subsequently on said June 14, 1918, managers were appointed on the part of the House of Representatives, of whom said chairman of said committee was one; and

Whereas said chairman of said House committee subsequently sent to each manager on the part of the Senate under date of June 19, 1918, the following letter:

* * * * * * *

And

Whereas on June 21, 1918, said chairman of said House committee sent to each of the managers on the part of the Senate the following letter:

COMMITTEE ON THE DISTRICT OF COLUMBIA,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, DC., June 21, 1918.

To the Senate Conferees on H.R. 9248

(the antiprofiteering rent bill),
Washington, DC

GENTLEMEN: The Washington newspapers of yesterday contained the statement that at least some of the Senate conferees on the antiprofiteering rent bill contemplated having one denied

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[1] Second session Sixty-fifth Congress, Record, p. 8139.

[2] Record, p. 8202.

the privileges of the Senate floor because of the criticism made by me of the Senate amendment which has come to be known as the "Pomerene bill."

I do not care a continental about that—run along and get through with it, and then permit the Senate to vote on a measure that will prevent the profiteers from driving nearly a thousand war workers out of Washington every week. I am not interested in the least in your undertaking to deny me the privileges of the Senate Chamber, but I am deeply concerned for the war worker, who is being robbed and then sent out of Washington and because of which our boys in France must suffer.

The newspaper articles referred to state also at least some of the Senate conferees may decline to go into conference because I am one of the House conferees. May I not suggest that by such a course, either intentionally or unintentionally, you play right into the hands of the profiteers, as delay in the passage of a good bill is what they seek?

May I not also suggest that your skins should be thicker, or your bill better? I not only invite the severest criticism of all my official acts, but I am quite anxious, indeed, to have the acid test applied to my endeavors in this particular matter, and you will not only not offend me but you will do me a favor by wading into both me and it without gloves, since I, and not the landlords, am its author.

This is not a time for "senatorial dignity' but one for action. Rearing back on your "pastern joint" don't bet the opposed anything. I do not intend to permit your attitude toward me, because of my criticism of your "rotten" bill, to in the least deter me in my efforts to prevent the profiteer from fattening off of your country's needs.

Your amendment—the Pomerence bill—had to be criticized, "senatorial dignity" to the contrary notwithstanding.

My contempt for such of you as may resort to pretext to evade full responsibility for not giving our war workers protection from the miserable profiteers in just as great as yours may be for me; but as I said, that shall not stop me from following my plain duty in the premises.

Let us get to work on the bill, and then you can have your revenge on me to your hearts' content. You have my full consent to deny me the privileges of the Senate Chamber, or even to take our spite out of my hide, if you will only go ahead and let the Senate vote on a good bill instead of a subterfuge.

While I am sending this letter to each of the conferees, it is really intended for those only who are responsible for the article in yesterday afternoon's local newspapers.

Very truly, yours,

(SIGNED) BEN JOHNSON,

And

Whereas on June 22, 1918, the said chairman of said House committee presented the foregoing letters to the House of Representatives, and in presenting them used the following language:

"I take if for granted that the thought of 'ousting' me from the Senate Chamber is the result of a close association with those who have been 'ousting' the Government workers from houses in the District of Columbia."

Therefore be it

Resolved, That the conferees on the part of the Senate on said bill be, and they are hereby, excused from further service as such conferees until otherwise ordered by the Senate; and that the Secretary of the Senate is directed to transmit a copy of this resolution to the House of Representatives.

Attest:

JAMES M. BAKER, *Secretary.*

On June 27, Mr. Johnson, by direction of the Committee on the District of Columbia, submitted as a report [1]thereon:

The Committee on the District of Columbia, to whom was referred the resolution (S. Res. 266) excusing the conferees on the part of the Senate on the bill (H. R. 9248) to prevent

[1] Report No. 707.

extortion, to impose taxes upon certain incomes in the District of Columbia, and for other purposes, from further service until otherwise ordered by the Senate, having considered the same, re-refers it to the House, with the recommendation that it do lie upon the table.

On June 24, 1919,[1] Mr. Johnson, in discussing the bill (H.R. 1713) to appoint a commission to investigate the water supply for the District of Columbia, said:

There is another matter which I wish to mention. When the war came on, and when clerks to serve our Nation in time of war were called here by the thousands, profiteering commenced and it has run rampant from that day until this. I introduced a bill to curb it, and I proposed in that measure to levy an income tax of 100 per cent on all over and above a fair rental value for property set out in the bill. The real-estate people objected to that very strenuously, for the very good reason that it struck at profiteering. Then the real-estate people went before the District of Columbia committee at the other end of the Capitol. There they presented a bill of their own drafting.

The measure was fostered, as I said, by an eminent gentleman from the State of Ohio. That in my judgment was the most infamous piece of contemplated legislation that has ever been offered to the American people. I say that profiteering was running rampant in this city while thousands of the poor and hundreds among the rich were compelled either to sleep in the railroad station on their arrival here or spend the last cent for a few nights' lodging in the house of a profiteer. The man who became responsible for that condition hailed from the State of Ohio. I say that the facts justify me in asserting that his conduct fully warrants the statement that he, by his friendly attitude toward the profiteer and his extortion, stands to-day as the worst internal enemy that America had during the war. I say deliberately, and I say it thoughtfully, that when our boys were in France he stood against their mothers and sisters who were driven from houses here into the stormy night.

And yet, as the result of that man's protection of and friendship for the profiteer; as the result of his deliberate and preconceived purpose to oppress the poor and drive the war workers into the street, he became even worse than the Hun who threw the bomb in this city only a few weeks ago. The latter sought to destroy only one person, while this Ohio criminal sought to starve and freeze thousands for the benefit of the profiteers.

On June 26,[2] the Senate transmitted to the House this resolution:

Resolved, That the language published in the Congressional Record Tuesday, June 24, 1919, pages 1785 and 1786, in the report of an address to the House of Representatives by the gentleman from Kentucky, Mr. Johnson, imputing dishonorable motives and conduct to the Senator from Ohio, Mr. Pomerene, is unwarranted, unjust, and untrue, and that said language constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House or Representatives and the Senate.

Resolved further, That a copy of this resolution be transmitted to the House of Representatives and that the House be requested to take appropriate action concerning the subject.

On June 28,[2] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the following resolution, which was agreed to by the House:

Resolved, That Senate resolution 94 be respectfully returned to the Senate, with the advice that, without passing upon the question as to whether the matter therein complained of constitutes, as is therein alleged, a breach of privilege, the House must courteously decline to predicate any action on the same for the reason that said Senate resolution itself involves a breach of privilege by declaring that language used by a Member of the House is untrue.

The House then agreed to this resolution also reported by the Committee on Rules:

Resolved, That the House of Representatives deems that portion of the remarks of the Hon. Ben Johnson, a Representative from the State of Kentucky, made in the House the 24th day of

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[1] First session Sixty-sixth Congress, Temporary Record, p. 1785.

[2] Record, p. 1825.

[3] Record, p. 2016.

June, 1919, and published in the Record of that date, beginning with the words "There is another matter which I wish to mention," being the third paragraph in column 1 on page 1785, and ending with the word "profiteers" at the conclusion of the sixth paragraph in column 1 on page 1786, to be in violation of the rules of the House. It is therefore ordered that the Public Printer be directed to exclude that portion of said remarks from the permanent Congressional Record.

2515. It is not in order in debate to name a Senator in terms of personal criticism of actions outside the Senate but connected with his representative capacity.

Reference in debate to actual or probable action of the Senate is not in order.

Reflection upon the motives actuating the Chairman of the Committee of the Whole in rendering a decision constitutes a breach or order.

It is the duty of the Chairman of the Committee of the Whole to call to order a Member violating the privileges of debate in criticism of the Senate or its Members.

On February 5, 1929,[1] the agricultural appropriation bill was being considered in the Committee of the Whole House on the state of the Union. Mr. J. Thomas Heflin, of Alabama, having the floor in debate, said:

When the President called an extra session of Congress and it was announced that the treaty providing for an international tribunal to prevent the cruel and useless slaughter of human beings would soon be submitted for ratification to the Senate of the United States, this same Senator Lodge, of Massachusetts, sent a telegram to Senators requesting them not to pledge their support to the league treaty that had been made to conform to the objections that he and they had made. He requested them to remain silent until a secret caucus could be held to determine the fate of this nonpartisan and great international question that vitally affects the welfare and destiny of the whole human race. That was the conduct of Republican Leader Lodge upon that serious occasion. God forgive him and those who have followed him in delaying and playing politics with this all-important world question. The American people will not forgive them.

The Chairman[2] interposed:

The gentleman will proceed in order and refrain from mentioning Members of the other body by name or from indulging in remarks that can be construed as a criticism upon that branch.

Mr. Heflin inquired:

Does the Chair hold that I can not refer to what a Senator does outside of the Senate? If the Chair so holds, I will appeal from the decision of the Chair.

The Chairman replied:

The Chair rules that the gentleman must desist from making remarks that consist of criticisms of Members of the other body.

Mr. Heflin said:

I hold that I have not transgressed the rule in that regard. So there is a difference of opinion between myself and the Chair, but, of course, I can understand how the Chair, who is a good parliamentarian, will every now and then be a little partisan, and especially so when you go to treading upon the toes of some who hail from the same State.

The Chairman called Mr. Heflin to order and said:

The gentleman will suspend. The gentleman will either proceed in order or will yield the floor.

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[1] Second session Sixty-sixth Congress, Record, p. 2521.

[2] Joseph Walsh, of Massachusetts, Chairman.

Mr. Otis Wingo, of Arkansas, rose to a point of order and insisted that under the rules the proper procedure was to demand that words objected to be taken down and reported to the House.

The Chairman ruled:

The Chair would state that if a Member on the floor charges the Chair with improper conduct, it is not necessary for a Member on the floor to ask that those words be taken down. The Chair understood the remarks of the gentleman from Alabama to be clearly reflective upon the ruling of the Chair. The Chair has no desire to be partisan, but the rules of the House provide the limit within which Members may go in discussing matters upon the floor of the House. The Chair feels that when it involves the prerogatives of the house, as well as the prerogatives of the coordinate branch of the Congress, it is not necessary for the Chair to have the matter called to his attention by a Member on the floor, but it is the duty of the Chair to direct the gentleman's attention to that matter and to caution him to proceed in order. That the Chair had done, and he was then charged with indulging in a partisan bias, which the Chair thinks is a reflection upon the Chair, and is not a proper remark for a Member to indulge in under the circumstances. The Chair is not the occupant of his position as a partisan. It is the duty of the Chair to enforce the rules of the House free from any partisan or political bias or interpretation. He is here as the presiding officer of this committee, and he feels that it is his duty to interpret those rules fairly and free from political partisan bias. So far as the Chair has ruled, he has shown no such bias. The remarks of the gentleman from Alabama clearly involve the action of the Senate, and whether it referred to the attitude or action taken by Senators outside of the Senate, a Senator was mentioned by name, and the attitude and action of the Senate as such was further referred to by the gentleman from Alabama, and a criticism was involved in the remarks of the gentleman. The Chair would ask the gentleman from Alabama to proceed in order.

2516. A Senator having assailed a Member in debate, the House messaged to the Senate a resolution declaring the language a breach of privilege.

A message received from the House protesting against unparliamentary references to one of its Members in Senate debate was not acted upon by the Senate, but the language objected to was subsequently stricken from the Record.

On August 18, 1921,[1] in the Senate, Mr. James A. Reed, of Missouri, during consideration of the House amendments to Senate amendments to the bill (H. R. 7294), amending the national prohibition act, said in debate:

But the Constitution does not disturb the gentleman who proposes this measure. until the other day I never had the pleasure of seeing the distinguished author of the Volstead Act. His brief biography states that he was born in the United States. I am, however, informed he speaks a very broken English. I do not know what his ancestry may be, but I do know that I have gazed upon pictures of the celebrated conspirators of the past, the countenances of those who have led in fanatical crusades, the burners of witches, the executioners who applied the torch of persecution, and I saw them all again when I looked at the author of this bill.

I have no respect for a man, whether he be a Member of the House of Representatives or elsewhere, who proposed to whittle down the Constitution of the United States, who tries to leave it, as does this amendment of the House, so that an officer can go into every building except a residence, who puts the discovery of a bottle of beer above the Constitution, who in the pursuit of his favorite pastime of hunting somebody who may take a drink, is willing to destroy that Constitution which he held up his hand and before Almighty God swore he would maintain, protect, and preserve.

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[1] First session Sixty-seventh Congress, Temporary Record, p. 5605.

On August 23,[1] in the House, Mr. Walter H. Newton, of Minnesota, rising to a question of privilege, offered the following:

Resolved, That the language published in the Congressional Record on Thursday, August 18, 1921, pages 5605 and 5606, in the report of an address to the Senate by the Senator form Missouri, Mr. Reed, is improper, unparliamentary, and a reflection on the character of a Member of the House, the gentleman from Minnesota, Mr. Volstead, and constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House of Representatives and the Senate.

Resolved, further, That a copy of this resolution be transmitted to the Senate and that the Senate be requested to take appropriate action concerning the subject.

The resolution was agreed to, yeas 181, nays 3, and being messaged to the Senate was referred to the Senate Committee on Rules, which made no report thereon.

However, on November 23,[2] Mr. Charles Curtis, of Kansas, rising in the Senate, preferred this request:

Mr. President, I ask unanimous consent to expunge from the permanent Congressional Record the language of the Senator from Missouri, Mr. Reed, in which that Senator made personal reference to Representative Volstead, as published in the Congressional Record of Thursday, August 18, 1921, pages 5605 and 5606. I will state that I have a telegram from the Senator from Missouri stating that he wants the matter eliminated, and I ask unanimous consent that be done.

The request was agreed to and the language objected to does not appear in the permanent Record.

2517. A Senator having referred without innuendo to debate in the House and a point of order being made that it was not permissible to refer to proceedings in the other branch of the Congress, it was held that respectful reference to such proceedings was within the discretion of Senators.

Although not formally adopted as a part of the rules of the Senate, Jefferson's Manual has been cited as authoritative in Senate decisions on parliamentary procedure.

On January 7, 1915,[3] the Senate, as in Committee of the Whole, resumed consideration of the District of Columbia appropriation bill. In the course of debate Mr. William S. Kenyon, of Iowa, quoted from a report made to the House and referred to proceedings in the House on the occasion of its consideration.

Mr. Jacob H. Gallinger, of New Hampshire, raised the question of order that adverse criticism of the other branch of Congress was in violation of the rules of the Senate as set forth in Jefferson's Manual.

The Vice President[4] said:

This is the statement of Jefferson's Manual:

"No person is to use indecent language against the proceedings of the House; no prior determination of which is to be reflected on by any Member, unless he means to conclude with a motion to rescind it. But while a proposition under consideration is still in fieri, though it has even been reported by a committee, reflections on it are no reflections on the House."

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[1] Record p. 5563.

[2] Record p. 8157.

[3] Third session Sixty-third Congress, Record p. 1162.

[4] Thomas R. Marshall, of Indiana, Vice President.

It is further stated that—

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each house should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."

The Chair does not think that the Senate of the United States has adopted Jefferson's Manual as part of the rules of the Senate, but thinks that it is a better authority than the present presiding officer. Still, in the opinion of the present officer, it certainly must be left to the discretion of Members of the Senate as to what they will or will not say, provided they do not speak disrespectfully of the proceedings of the other House.

2518. It is not in order in debate to criticize actions of Members of the Senate in connection with their legislative duties.

Members may not in debate reflect upon the actions or speeches of Senators, or upon the proceedings of the Senate.

It is permissible, however, in discussing questions of order to refer to parliamentary decisions of the Senate.

Discussion of the importance of Jefferson's Manual as an authority in congressional procedure.

On May 6, 1930,[1] Mr. Fiorello H. LaGuardia, of New York, having obtained consent to address the House for five minutes, said in the course of his remarks:

This brings to mind what happened after the Geneva conference, when a great deal of misinformation was sent throughout the country. The misinformation was so startling that the other body of Congress created a committee to investigate. The committee was appointed on September 12, 1929, commenced its hearings on September 20, 1929, and closed the hearings on January 11, 1930.

Now, the information obtained is public property; it is useful at this time. I should like to know what pressure is being brought on Senator Shortridge that he is improperly withholding this information.

Mr. Bertrand H. Snell, of New York, made the point of order that the reference to a Senator and to Senate proceedings was in violation of the rules and was calculated to disturb the comity existing between the two Houses.

The Speaker[2] in an exhaustive opinion ruled:

Since the ruling of the Vice President just referred to by the gentleman from New York, Mr. LaGuardia, on April 21 of this year, in which he specifically overruled the decision of the President pro tempore of the Senate made on July 31, 1917, on the subject, the Chair has regarded it as inevitable that a situation would speedily arise of which this House must take cognizance. A comparatively recent decision of the Senate is directly in point as to whether the rules of Jefferson's Manual do or do not, impliedly at least, govern the proceedings of that body, certainly with reference to matters spoken in derogation of the actions or attitudes of Members of another body, or of that body itself.

The Chair has taken the pains to look up a number of these decisions, some of which he will quote, because as the Chair has already said, he was morally certain that a situation would speedily arise in which a final, definite ruling might have to be made in the House.

On August 26, 1912, in the Senate during the consideration of the conference report upon the deficiency appropriation bill, Mr. Charles A. Culberson, of Texas, having the floor in debate, said:

"I ask that the Secretary may read from the Record the marked paragraph which I send to the desk, from page 13016, in the debate in the House of Representatives."

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[1] Second session Seventy-first Congress, Journal, p. 11; Record, p. 8454.

[2] Nicholas Longworth, of Ohio, Speaker.

"The Secretary read as follows:

"'Mr. FITZGERALD. Mr. Speaker, I move the House adhere'"—

At that point Mr. John Sharp Williams, of Mississippi, made the point of order that under the rules of the Senate it was not permissible to animadvert upon the proceedings of the other House. The President pro tempore, Mr. Jacob H. Gallinger, of New Hampshire, said:

"The Chair thinks it will be found in Jefferson's Manual, not in the rules of the Senate."

Mr. Culberson submitted the Jefferson's Manual, while persuasive in determining proceedings, was not in fact part of the rules of the Senate. The President pro tempore ruled:

"The Chair has always been of opinion that Jefferson's Manual, so far as it is pertinent, is, and has been, recognized as a part of the rules of this body, and the Chair finds in Jefferson's Manual this statement"—

And here he quotes from the precedent referred to by the gentleman from New York, Mr. Snell:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."

He then proceeded with his decision:

"While undoubtedly in debate in this body, and perhaps in the other body, that rule has not always been strictly adhered to, yet, the point of order having been made, the Chair feels constrained to sustain it."

On July 31, 1917—and this is the last decision of the Senate that the Chair has been able to find, and he is not aware that there has been any other decision on the subject up to the one recently made on April 21 of this year—the Senate, as in Committee of the Whole, had under consideration the joint resolution proposing an amendment to the Constitution prohibiting the sale, manufacture, and transportation of intoxicating liquor.

Mr. Joseph B. Thompson, of Oklahoma, being recognized for debate, proposed to have read at the desk a letter certifying that Jacob E. Meeker, a Representative from Missouri, was formerly a Congregational minister and had resigned under censure. Mr. Lee S. Overman, of North Carolina, made the point of order that the rules of the Senate did not permit the introduction of matter reflecting upon a Member of the House of Representatives.

The Presiding Officer, President pro tempore, sustained the point of order and said:

"There is a rule that would make it improper and out of order to refer to a Member of the House of Representatives in opprobrious terms and to impute to him unworthy motives. No Senator ought to make any statement that would be a reflection upon any Member of the House or impute to him improper conduct or an unworthy motive. He is not here to defend himself. It would seem to the present occupant of the Chair unfair for any Senator to make any comment upon the life or character or political conduct of a Member of the House of Representatives that would reflect upon his honor or his integrity or his good faith. The point of order is sustained."

Mr. Thompson submitted that Mr. Meeker had himself, on a previous occasion, violated the privileges of debate by inserting in the Record an extension of remarks reflecting on the State of Kansas. The Presiding Officer said:

"The Chair will say that an infraction of the rules of the House by a Member of the House would not, in the opinion of the Chair, warrant an infraction of the rules of the Senate by an attack upon a Member of the House. In the opinion of the Chair, nothing should be stated by Senators that would be a reflection upon the integrity or moral character of a Member of the House, or impute to him improper or unworthy motives. (Record, 65th Cong., 1st sess., 5597.)"

On April 21, 1930, the Senate was considering a resolution (S. Res. 245) which provided that the Vice President should appoint a committee of five Senators to investigate the delay of the Speaker of the House of Representatives in not referring S. J. Res. 3 to a committee of the House and to report to the Senate what action, if any, should be taken in the premises.

Mr. George W. Norris, of Nebraska, in speaking on the resolution, criticized the Speaker and imputed to him unworthy motives in not referring the joint resolution to a committee.

Mr. Simeon D. Feses, of Ohio, made the point of order that under section 17 of Jefferson's Manual it was not in order for a Member of the Senate to criticize the actions of the Speaker of the House or of any Member of the House.

The Vice President overruled the point of order and said:

"The Chair is willing to rule on the question. The Senate has not adopted Jefferson's Manual as a part of the rules of the Senate. It is left to the discretion of Senators as to what they may or may not say about the proceedings of the House in connection with the resolution under consideration."

Mr. Fess objected to the ruling and said:

"That is not a rule."

The Vice President replied:

"The Chair makes that ruling now."

The Chair has no hesitation in quoting these decisions in extenso, because it is a recognized principle that one House may refer to the parliamentary decisions of the other House in deciding questions of order. (See 2507, Cannon's Precedents.)

So far as the Chair knows, the decision of Mr. President pro tempore King is the last decision up to the recent one by Vice President Curtis which involves the question of how far the Senate is bound by Jefferson's Manual, and while it is true that the Senate never by express rule has made Jefferson's Manual a part of the Senate rules, as the House has done, nevertheless it has been fair for the House to assume, certainly up to 1917, and if the Chair is not greatly in error, up almost to the present moment, that in the absence of a specific rule to the contrary Jefferson's Manual did wherever applicable govern the proceedings of the Senate.

In the note of introduction to Jefferson's Manual of Parliamentary Practice it is stated, on page 93 of the House Rules and Manual, as follows:

"Jefferson's Manual was prepared by Thomas Jefferson for his own guidance as President of the Senate in the years of his Vice Presidency, from 1797 to 1801. In 1837 the House, by rule which still exists, provided that the provisions of the manual should 'govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House.' In 1880 the committee which revised the rules of the House declared in their report that the manual compiled as it was for the use of the Senate exclusively and made up almost wholly of collations of English parliamentary practice and decisions, it was never especially valuable as an authority in the House of Representatives, even in its early history,and for many years past has been rarely quoted in the House.' (V, 6757.) This statement, although sanctioned by high authority, is extreme, for in certain parts of the manual are to be found the foundations of some of the most important portions of the House's practice."

But that was back in 1880. That statement or sanction by high authorities is strengthened, for certain parts of the manual are found to be the foundation of our parliamentary practice, and the Chair thinks that is daily growing more important as time goes on.

The parliamentary practice of the House of Representatives emanates from our sources: First the Constitution of the United States; second, Jefferson's Manual; third, the rules adopted by the House itself from the beginning of its existence; and, fourth, the decisions of the Speakers of the House and decisions of the Chairman of the Committee of the Whole.

Scarcely a day passes in this House when Jefferson's Manual is not a basis for some of our legislative proceedings. On all matters relating to appointment of standing committees and designation of duties of chairmen, the Committee of the Whole, risings of the Committee of the Whole for various reasons, reports from the committee, and amendments of the committee, most of the provisions relating to the decorum and debate, many matters relating to bills and committees, to amendments in the House, to amendments between the Houses, and particularly to all matters dealing with amendments and conferences between the two Houses, the provisions of Jefferson's Manual are basic.

There is no doubt then that even if the House had not specifically provided that Jefferson's Manual should govern in all cases where applicable, it could be safely laid down as a general proposition that Jefferson's Manual should so govern.

In fact, it must be conceded that Jefferson's Manual is the primary authority for all parliamentary proceedings in this country, and the Chair thinks that if Thomas Jefferson had never done anything except to write this monumental manual he would merit the thanks of his countrymen.

The Chair will not attempt to comment upon any phase of this question except that which relates to the rules of comity between the two Houses. There are three provisions, at least, of Jefferson's Manual which are particularly relative to this question. I read:

"SEC. 301. It is highly expedient, says Hatsel, for the due preservation of the privileges of the separate branches of the legislature that neither should encroach on the other, or interfere in any matter depending before them, so as to preclude, or even influence, that freedom of debate which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given, or of speeches which have been held, by the members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner. (2 Hats., 252; 4 Inst. 15; Seld. Jud. 53.)

"SEC. 364. it is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses. (8 Grey, 22.)

"SEC. 367. Where the complaint is of words disrespectfully spoken by a Member of another House it is difficult to obtain punishment, because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses, which can hardly be terminated without difficulty and disorder. (3 Hats., 51.)"

The effect of the recent decision of the Vice President is to hold that the three sections of Jefferson's Manual just quoted do not govern the proceedings of the Senate, and that Senators may use their own discretion in making any comment, insinuation, or attack upon any Member of the House or any proceeding of the House.

The Chair makes not criticism whatever of the decision of the Vice President. He wants that clearly understood. But he thinks it is clear that under these changed conditions relating to the comity of the two Houses the House must take some action one way or the other.

Concerning those precedents in Jefferson's Manual, Mr. Speaker Clark went so far as to say that it is not in order even to compliment Members of the Senate. From Cannon's Precedents I quote the following:

"SEC. 2509. It is not in order to refer to a Member of the other House even for the purpose of complimenting him.

"On June 27, 1918, Mr. Ben Johnson, speaking by unanimous consent, in discussing the bill H. R. 9248, the antiprofiteering rent bill, referred to Mr. Atlee Pomerene, a Member of the Senate from Ohio.

"Mr. Oscar William Swift, of New York, made the point of order that it was not permissible to refer to a Senator in debate.

"Mr. Johnson argued that the rule applied to criticism only, and was not applicable to his remarks in praise of the Senator.

"The Speaker ruled:

"'The rule is that a Member of the House can not discuss a Senator at all, not even to compliment him, because if you do compliment him somebody might jump up and say he was the grandest rascal in the country, and you would then have on your hands a debate of a very acrimonious nature.'"

There would seem to be but two alternatives for us to adopt in dealing with this situation. If the House desired to retaliate, it might, by rule, provide that these rules in Jefferson's Manual relating to comity between the two Houses should not apply to proceedings in the House. In other words, to say that Members of the House should be guided solely by their own discretion in making any comment, insinuation, or attack upon any Senator, or any proceeding of the Senate.

The other alternative is to rigidly insist upon strict adherence to both the spirit and letter of Jefferson's Manual.

In the opinion of the Chair, the adoption of the first alternative would be violative of the spirit in which the House for 140 years has followed the precepts of Thomas Jefferson in our manner of association and dealing with the other legislative body. After all, Jefferson's general precepts are but a restatement of the manner in which all legislative bodies, particularly the British parliament, have dealt with each other for centuries. They are but a restatement of what is and ought to be true sportsmanship in the dealings between the legislative branches of great governments.

The Chair is firm, and he believes that the House will remain firm in our adherence to the rules of sportsmanship and comity as laid down in Jefferson's Manual.

A situation arose sooner than the Chair expected where he was called upon to rule upon at least one phase of this question. On April 28, one week after the decision of the Vice President, the gentleman from Massachusetts, Mr. Luce, offered, as a matter of privilege, a resolution providing that a respectful message be sent to the Senate calling attention to certain remarks of a Member of the Senate in which he criticized certain proceedings in the House. The debate upon this resolution, and the ruling of the Chair, are to be found on pages 8158 and 8159 of the Record, and the Chair will not quote them here.

Having had no notice in advance that such a resolution was to be brought up, the Chair had not then been able to give such investigation to this question as he has since. Nevertheless, he ruled that the resolution was not privileged in that the House, under Jefferson's Manual, had not the right to criticize the remarks of any Senator or occurrence on the floor of the Senate. Since then the Chair has had the opportunity to make more careful investigation of the principles and precedents governing this question, in anticipation that the question might again be brought up, and has already quoted what he believes to be the general rules underlying.

The remarks of the gentleman from New York, Mr. LaGuardia, raise a question which, while it differs in form from that upon which the Chair has previously ruled, pertains to the same general governing principles.

The question raised by the gentleman from New York is whether a Member may reflect in any way on the floor of the House against the actions, speeches, or proceedings of another Member or of the body itself.

To put it in another way, Shall the House, notwithstanding any adverse action by the other body, adhere to the provisions laid down in Jefferson's Manual which have always governed?

The answer of the Chair is emphatically "Yes." Indeed, it appears to the Chair that it has become all the more necessary, if the rules of comity between the two Houses are to be at all preserved, that members of the House should be limited even more rigidly than ever by Jefferson's rules prohibiting reference in terms of the slightest disparagement of the remarks or actions of Members or any of the proceedings of the other body.

If no rules of comity are to be followed in either House, then legislation may become chaos indeed.

In conclusion the Chair will say that so long as he remains Presiding Officer of this body he will see to it that the rules of Jefferson's Manual, in so far as they apply to the friendly relations between the Members of the two Houses and the Houses themselves, shall be enforced with the utmost rigidity, not only in the letter but in the spirit.

The Chair therefore sustains the point of order.

2519. It is not in order in debate for a Member to refer to a Member of the Senate by name, nor may the Speaker entertain a request for unanimous consent to proceed in violation of this rule.

A resolution offered in the House requesting the Senate to expunge from the Record statements in criticism of a Member of the House was held to be in violation of the rule prohibiting reference to the Senate in debate.

The rule interdicting criticism of Members of the Senate in debate also applied to remarks extended in the Record.

The rule against criticism of Senators in debate applies only to words spoken on the floor and does not extend to speeches and interviews outside the House.

On February 3, 1931,[1] Mr. Allen T. Treadway, of Massachusetts, rising to a parliamentary inquiry, called attention to speech recorded in the Senate proceedings of the Record for the preceding day, referring to Members of the House by name in terms of criticism. Mr. Treadway inquired if it would be in order in the House to reply to statements made in speech and in that connection to refer to Members of the Senate by name.

The Speaker[2] held:

The Chair has recently made a decision about this matter.

Of course, it is very difficult to answer the question in a word or two. The Chair thinks it is of such fundamental importance that he will ask the indulgence of the House to refer to and repeat some of the things he said in a ruling made comparatively recently upon this subject.

On May 6, 1930, the question arose as to whether Members of the House could comment upon any statement made in the Senate reflecting in any way upon the motives or conduct of a Member of the House. On a previous occasion the Vice President, overruling a number of decisions which the Chair then quoted, which he will not quote now, held the technical question being whether Jefferson's Manual governs the proceedings of the Senate in this regard or in any other regard—

"The Senate has not adopted Jefferson's Manual as a part of the rules of the Senate. It is left to the discretion of Senators as to what they may or may not say about the proceedings of the House in connection with the resolution under consideration.,"

Mr. Treadway further inquired whether Members had any recourse when referred to by Members of the other House.

The Speaker replied:

The Chair does not believe he is under the necessity of saying that a Member may not do that outside of this House, but the Chair holds that he may not do it in the House.

The Speaker replied:

Mr. Earl C. Michener, of Michigan, asked if it would be in order to request unanimous consent to reply to a speech delivered in the Senate in criticism of Members of the House.

The Speaker reminded:

There is a rule in Jefferson's Manual which seems to apply in this case:

"Where the complaint is of words disrespectfully spoken by a member of another House, it is difficult to obtain punishment because of the rules supposed necessary to be observed (as to the immediate noting down of words) for the security of Members. Therefore it is the duty of the House, and more particularly of the Speaker, to interfere immediately, and not permit expressions to go unnoticed which may give a ground of complaint to the other House."

So long as Jefferson's Manual governs the proceedings of the House, the Chair thinks it is impossible to take any official notice of such remarks as are now complained of. Of course, the alternative is to change the rules.

Mr. Leonidas C. Dyer, of Missouri, then inquired if it would be in order to introduce a resolution asking the Senate to expunge from its records remarks derogatory to the House and its Members.

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[1] Third session Seventy-first Congress, Record, p. 3882.

[2] Nicholas Longworth, of Ohio, Speaker.

The Speaker held that the rule precluded recognition for that purpose.

Of course, that decision entirely nullifies Jefferson's Manual, there being no rules in either House specifically on this question.

With regard to the entire question of dealings between the House and Senate, and preserving some sort of sportsmanship and comity, the present occupant of the chair referred then and will refer again to two of the rules in Jefferson's Manual which govern this case if the rules apply.

In section 301:

"It is highly expedient, says Hatsel, for the due preservation of the privileges of the separate branches of the legislature that neither should encroach on the other, or interfere in any manner depending before them, so as to preclude, or even influence, that freedom of debate which is essential to a free council. They are, therefore, not to take notice of any bills or other matters depending, or of votes that have been given or of speeches which have been held, by the Members of either of the other branches of the legislature, until the same have been communicated to them in the usual parliamentary manner."

Then in section 364:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there; because the opinion of each House should be left to its own independency, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."

At that time the Chair held that whether these rules with regard to comity prevailed in the Senate or not they did prevail in the House, and if the Chair may be indulged, because he thinks it is perhaps worth while, he will read a few sentences from his decision on that occasion:

"There would seem to be but two alternatives for us to adopt in dealing with this situation."

And precisely the same situation is before us now as was then.

"If the House desired to retaliate, it might, by rule, provide that these rules in Jefferson's Manual relating to comity between the two Houses should not apply to proceedings in the House. In other words, to say that Members of the House should be guided solely by their own discretion in making any comment, insinuation, or attack upon any Senator, or any proceeding of the Senate.

"The other alternative is to rigidly insist upon strict adherence to both the spirit and letter of Jefferson's Manual.

"In the opinion of the Chair, the adoption of the first alternative would be violative of the spirit in which the House for 140 years has followed the precepts of Thomas Jefferson in our manner of association and dealing with the other legislative body. After all, Jefferson's general precepts are but a restatement of the manner in which all legislative bodies, particularly the British Parliament, have dealt with each other for centuries. They are but a restatement of what is and ought to be true sportmanship in the dealings between the legislative branches of great governments.

"The Chair is firm, and he believes that the House will remain firm in our adherence to the rules of sportsmanship and comity as laid down in Jefferson's Manual."

Later on the Chair said:

"The question raised by the gentleman from New York, Mr. LaGuardia, is whether a Member may reflect in any way on the floor of the House against the actions, speeches, or proceedings of another Member or of the body itself.

"To put it in another way, shall the House, notwithstanding any adverse action by the other body, adhere to the provisions laid down in Jefferson's Manual, which have always governed?

"The answer of the Chair is emphatically 'Yes.' Indeed, it appears to the Chair that it has become all the more necessary, if the rules of comity between the two Houses are to be at all preserved, that Members of the House should be limited even more rigidly than ever by Jefferson's rules prohibiting reference in terms of the slightest disparagement of the remarks or actions of Members or any of the proceedings of the other body.

"If no rules of comity are to be followed in either House, then legislation may become chaos indeed.

"In conclusion, the Chair will say that so long as he remains Presiding Officer of this body he will see to it that the rules of Jefferson's Manual, in so far as they apply to the friendly relations

between the Members of the two Houses and the Houses themselves, shall be enforced with the utmost rigidity, not only in the letter but in the spirit."

The Chair reaffirms those views upon this occasion. The Chair thinks that there is possibly an alternative and that it might be carefully considered under these conditions. That is to change the rule which provides that Jefferson's Manual shall govern the proceedings of this House; but in the absence of such change the Chair will hold that Members of the House are not permitted to refer in any way disparagingly or in criticism of anything said by Members of the body on the opposite side.

2520. It is not in order in debate for a Member to impugn the motives or criticize the actions of Members of the Senate.

It is the duty of the Chair, without suggestion from the floor, to interfere when statements are made in debate which might give Senators ground for complaint.

On January 31, 1931,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the legislative appropriation bill.

The Committee was considering a paragraph providing for funds for inquiries and investigations ordered by the Senate, when Mr. Charles L. Underhill, of Massachusetts, said in debate;

One investigator travels from Washington to Boston and return and puts in a bill of approximately $75 for transportation. Another one who made a stop-over in New York puts in a bill for approximately $50. As a matter of fact, on the "Senator," an extra-fare train, including chair accommodations, round-trip fare from Washington to Boston is approximately $50. Of course, I know how the item of $75 was incurred. The investigator hired a drawing room or a stateroom and went in style at the expense of the taxpayer.

I do not question the honesty of this report in any way, shape, or form, but I do question the ethics, and I do question the judgment of allowing a relative of one of the Members of this committee—

At this point the Chairman[2] interrupted and said:

The gentleman will suspend. The Chair is obliged by parliamentary precedent to protect Members of the other branch from any statements in this body impugning motives or criticizing their action. The Chair finds himself somewhat embarrassed by the fact that before the committee is a bill containing appropriations for the contingent fund of the Senate. In view of that fact he is inclined to permit a greater latitude than would be permitted in the ordinary course of affairs. The Chair, however, cautions the gentleman from Massachusetts that he is treading close to the line when he animadverts upon the conduct of a Senator.

Mr. Fiorello H. LaGuardia, of New York, rose to a point of order and questioned the right of the Chair to interrupt without suggestion from the floor.

The Chairman said:

For the benefit of the gentleman the Chair will read part of one paragraph in Jefferson's Manual:

"Therefore, it is the duty of the House, and more particularly of the Speaker, to interfere immediately and not to permit expressions to go unnoticed which may give a ground of complaint to the other House, and introduce proceedings and mutual accusations between the two Houses which can hardly be terminated without difficulty and disorder."

The Chair does not recall any other place in parliamentary law where it is clearly set forth that it is "more particularly" the duty of the presiding officer to protect the orderly transaction of business.

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[1] Third sessions Seventy-first Congress, Record, p. 3708.

[2] Robert Luce, of Massachusetts, Chairman.

2521. It is the duty of the Speaker to prevent expressions offensive to the other House.

On September 16, 1919,[1] during general debate on the urgent deficiency appropriation bill in the Committee of the Whole House on the State of the Union, Mr. J. Thomas Heflin, of Alabama, having the floor, referred to Mr. Henry Cabot Lodge, a Senator from the State of Massachusetts, as one who "puts party success above the welfare of his country."

The Chairman,[2] without suggestion from the floor, said:

The Chair desires to call the gentleman's attention to the rule that precludes a Member of the House from referring in terms of criticism to a Member of the coordinate body. If the gentleman's remarks as a Member of the House reflect upon or criticize a Member of the coordinate branch, it is a breach of the rule.

2522. It is a breach of order to refer in disparaging terms to a State of the Union.

On May 14, 1920,[3] while the Senate was considering the joint resolution (H. J. Res. 327) terminating the state of war between the Imperial German Government and the United States, Mr. Morris Sheppard, of Texas, in addressing the Senate, used this language:

The prohibition amendment was submitted to the States under the method prescribed in the Constitution itself, under the method prescribed by the States themselves when they created the Constitution. That amendment was ratified by 45 of the 48 States of this Union, and the assertion that it is in violation of State rights seems to me to border upon the absurd. It seems to me that the State of New Jersey, in resisting the action of 45 of the 48 States of the Union in ratifying an amendment proposed under the Constitution, and adopted in accordance with its solemn terms, has put itself on the side of revolution and anarchy.

The Vice President [4] said:

There is a rule of the Senate that prevents a Senator from making remarks about a State of the Union. The Senator must withdraw that remark or take his seat.

2523. On February 15, 1919,[5] in the Senate, during consideration of the river and harbor bill, Mr. William H. King, of Utah, inquired:

I understand that there are a few States in the Union that have recognized the propriety and justice of the situation and have had the honor to do something with respect to the improvement of streams within their borders, some of which have been purely local. May I ask the Senator from Massachusetts, Mr. Weeks, whether his State is on the roll of honor or on the roll of dishonor in respect to these appropriations?

The Vice president [6] interposed:

The Chair must call the attention of the Senator from Utah to the fact that the rule does not permit a Senator to refer disparagingly to a State of the Union.

Mr. King continued:

On the roll of honor or on the roll of dishonor. I submit that it is not honorable for a State to fail to make appropriations for purely local purposes, and to impose upon the Federal

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[1] First session Sixty-sixth Congress, Record, p. 5543.

[2] Joseph Walsh, of Massachusetts, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 7039.

[4] Thomas R. Marshall, of Indiana, Vice President.

[5] Third session Sixty-fifth Congress, Record, p. 3423.

[6] Thomas R. Marshall, of Indiana, Vice President.

Government duties and burdens which rest upon them, and that when States do make appropriations for rivers and harbors it is an honorable thing; and I ask the Senator whether his State has done the honorable thing?

The Vice President said:

The Chair holds that is out of order, and a violation of the rule. There is not any showing in this bill that any State of the Union has come here and asked for anything, and the Senator from Utah is speaking offensively about States of the Union.

2524. On February 17, 1919,[1] the Senate had under consideration the bill (H. R. 13462) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors.

In debating the bill, Mr. John Sharp Williams, of Mississippi said:

There is no State in this Union which has gotten more out of the National Treasury for its own benefit than Pennsylvania, playing fast and loose from early in the history of this country, first Federalist and then Democratic, next Whig, and then Democratic, and fastening its policies entirely upon the proposition of sucking pap from the public teat. There is no State equal to it.

There is no State, from Virginia, the mother of States—

The president pro tempore [2] interrupted and said:

The Chair suggests to the Senator from Mississippi that the question of the course of the State of Pennsylvania may not properly be impugned in the senate. It is not in order to assais the course of the State of Pennsylvania or any other State under the rule of the Senate, and the Chair respectfully suggests to the Senator from Mississippi that in the opinion of the present occupant of the chair his remarks are of that character.

2525. On February 16, 1931,[3] the Senate was considering the district of Columbia appropriation bill, when Mr. Millard E. Tydings, of Maryland, interrupted Mr. Cameron Morrison, of North Carolina, who was discussing the enforcement of the prohibition laws, with the following inquiry:

I should like to ask the Senator, in view of the fact that in the State of Maryland there are 23 counties and one big city, and that the county laws for each of those counties are much more drastic than the Volstead Act, carrying penalties heavier than the Volstead Act provides, preventing the sale, possession, manufacture, and any contact whatsoever with liquor, if he does not feel that the State could do little by way of addition to those laws which are already more drastic than the Volstead Act? I will say to the Senator that is the condition of the State of Maryland.

Mr. Morrison replied:

The Senator has testified to the flagrant and shameless and open violation of the law in his State.

The Vice President [4] interposed:

The Chair will inform the Senator that he must not, in debate, reflect upon a State.

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[1] Third session Sixty-fifth Congress, Record, p. 3576.

[2] Joseph T. Robinson, of Arkansas, President pro tempore.

[3] Third session Seventy-first Congress, Record, p. 5010.

[4] Charles Curtis, of Kansas, Vice President.

Chapter CCXLIV.[1]

DISORDER IN DEBATE.

2526. A Member may not in debate refer to another Member by name.

On May 13, 1932,[2] the War Department appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

In the course of the debate under the five-minute rule, Mr. Thomas L. Blanton, of Texas, said:

> Mr. Chairman, I maintain that the welfare of enlisted men does not require so many ex-major generals on the floor of the House of Representatives going into a huddle to break up committee bill.
>
> This is not the first time I have put General Chiperfield and General Parker into a huddle. I have had them in a huddle before the Committee on Military Affairs for the last three weeks.

Mr. Andrew J. Montague, of Virginia, arose to a question of order.

The Chairman[3] sustained the point of order and said:

> The point of order is well taken. The rules require reference to Members in the third person.

2527. Language tending to hold a Member up to contempt is not in order in debate.

Characterization of the conduct of a Member as beneath the dignity of a pothouse politician was held subject to a point of order.

Remarks questioning the statesmanship of a Member do not constitute a breach of order.

On September 5, 1919,[4] the Committee of the Whole House was considering the bill H. R. 1812, a private claims bill, when Mr. Arthur G. Dewalt, of Pennsylvania, said in debate, referring to the action of Mr. Thomas L. Blanton, of Texas, in objecting to the consideration of a bill on the Private Calendar.

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[1] Supplementary to Chapter CXIV.

[2] First session Seventy-Second Congress, Record, p. 10138.

[3] Fritz G. Lanham, of Texas, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 4942.

Mr. Chairman, I wish to assure the gentleman from Texas that I am not at all angry. If I were angry I would pursue a method entirely different from that which I am now taking. I am trying to argue this matter clearly, and I hope effectively, not only for the benefit of the gentleman from Texas, but for the benefit of others who may follow his bad example. I doubt very much whether there are any gentlemen, Members of this House, who would stoop to follow the example that we have seen today.

Mr. Blanton raised a question of order against the remark.

The Chairman [1] ruled:

The Chair will ask the gentleman to proceed in order and not to use language which tends to hold a Member of the House in contempt.

Later in his argument Mr. Dewalt said:

If that be the conduct of the statesman from Texas, then God save us from such statesmanship!

Mr. Blanton having again made a point of order, the Chairman held:

The Chair has ruled two or three times that the gentleman from Pennsylvania was overstepping the proper limits, but in merely questioning the statesmanship of the gentleman from Texas the Chair does not think he is.

Subsequently Mr. Dewalt, in the course of his remarks, stated:

I would state, Mr. Chairman and gentlemen of the House, if I have made any mistake at all in regard to alleged statesmanship, I am very willing to beg pardon of the gentleman from Texas. I will take it all back; but I am very much in doubt now whether the conduct I have described as being pursued by the gentleman from Texas even rises to the dignity of what one might call pothouse politics instead of statesmanship.

In response to a point of order from Mr. Blanton, the Chairman ruled:

The gentleman from Texas, the Chair thinks, is correct in questioning the language. The gentleman from Pennsylvania is instructed to proceed in order.

2528. A Member may not be taken from the floor by a question of privilege.

A Member called to order in debate must take his seat.

A Member on his feet and requesting recognition at the time, was recognized to demand that words be taken down although brief debate had intervened.

A request that a Member uttering objectionable words yield does not forfeit the right to demand that the words be taken down.

Words spoken in debate and taken down on demand of another Member may be withdrawn by unanimous consent only.

Action by the House on words taken down and reported from the Committee of the Whole is contingent on the Speaker's decision that a breach of order is involved.

Action in the House on words taken down and reported from Committee of the Whole is limited to the words reported.

Reference in debate to a Member as "the General who won the war" was held not to constitute a breach of order.

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[1] Nicholas Longworth, of Ohio, Chairman.

On May 13, 1932,[1] the War Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when in the course of debate Mr. Thomas L. Blanton, of Texas, said:

These big generals, like our friend General Martin, and our good friend from Illinois, General Chiperfield, and our good friend from Connecticut, General Goss, and our friend, Mr. Parker of Georgia—who won the war—they are not going to stop this move to reduce the fixed charges.

Mr. Homer C. Parker, of Georgia, interrupted with a request that the gentleman yield.

Mr. Blanton declined to yield and Mr. Parker rose to a question of personal privilege.

The Chairman[2] ruled:

The gentleman can not take the gentleman from Texas off the floor on a question of personal privilege.

Whereupon, Mr. Parker demanded that the gentleman's words be taken down.

The Chairman directed:

The gentleman from Texas will be seated.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that debate having intervened, the request that the words be taken down came too late.

The Chairman overruled the point of order and said:

The gentleman from Georgia, Mr. Parker, was evidently on his feet trying to get recognition. The Chair supposed he was going to ask the gentleman from Texas to yield until the gentleman from Georgia made the point of order.

Mr. LaGuardia submitted the further point of order that having asked the speaker to yield, the right to demand that the words be taken down had been forfeited.

The Chairman dissented and said:

The point of order does not come too late, in view of the fact that the gentleman was on his feet and the Chair was not advised of the purpose for which the gentleman desired recognition. The Chair asked if the Gentleman from Texas would yield, and when the gentleman declined to yield, after that inquiry was made by the Chair, the gentleman from Texas said he declined to yield, and the gentleman from Georgia made the point of order and asked that the words be taken down. Will the gentleman from Georgia indicate, for the information of the Chair, the words objected to?

Mr. Parker having indicated the words objected to, Mr. Blanton proposed to withdraw them.

The Chairman said:

The language can only be withdrawn by unanimous consent.

Mr. Parker objected, and the Chairman directed:

The Clerk will report the words taken down.

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[1] First session Seventh-second Congress, Record, p. 10136.

[2] Fritz G. Lanham, of Texas, Chairman.

The Clerk read the words indicated and the committee having risen informally, the Chairman reported:

The committee having had under consideration the bill H.R. 11897, certain words, used in debate, were objected to and upon request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The Speaker pro tempore [1] directed:

The Clerk will read the words reported from the committee.

The Clerk having read the words reported from the committee, Mr. Adolph J. Sabath, of Illinois, referred to proceedings in the Committee of the Whole.

The Speaker pro tempore interrupted:

The Chair can take no official cognizance of anything except the words that have been officially taken down and reported.

Mr. Parker asked recognition to offer a motion.

The Speaker pro tempore declined:

The Chair will state to the gentleman from Georgia that the preliminary question for the Chair to decide is whether or not the words taken down are opprobrious or in contravention of the rules of the House and of orderly debate.

Thereupon, the Speaker pro tempore ruled:

The statement made by the gentleman from Texas, Mr. Blanton, has been reported by the Clerk and is now before the House for consideration.

The present occupant of the Chair, of course, regrets personally that he is called upon to make a decision affecting this matter, because the Chair can readily understand how the words in question may have been construed to disparage the gentleman from Georgia, but it is only the duty of the Chair, under the circumstances, to undertake to construe, from a parliamentary standpoint, whether or not the words used are offensive in their nature or tend to bring the gentleman from Georgia into contempt or disrepute before the House.

However much the Chair would like to have an expression of the House on this language that has been taken down, the Chair is compelled to come to the conclusion that the language in itself does not offend the rules.

2529. In debate a Member should not address another in the second person.

On February 26, 1930,[2] the House was considering the bill (H. R. 9683) to amend the Federal reserve act.

In the course of debate Mr. Wright Patman, of Texas, in addressing Mr. William J. Driver, of Arkansas, said:

Do you approve of what the Federal Trade Commission—

The Speaker [3] admonished:

The Chair would like to call the attention of both gentlemen to the rule of the House which provides that one Member should address the other in the third person.

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[1] William B. Bankhead, of Alabama, Speaker pro tempore.

[2] Second session Seventy-first Congress, Record, p. 4324.

[3] Nicholas Longworth, of Ohio, speaker.

2530. An instance in which Members called to order for words spoken in debate apologized and were thereupon excused without further action on the part of the House.

Instance wherein the Sergeant at Arms carried the mace to the floor.

On February 23, 1911,[1] Mr. Frank W. Mondell, of Wyoming, moved to suspend the rules and pass the bill (H. R. 32080) leasing coal lands in Alaska.

During debate on the motion, Mr. James Wickersham, of Alaska, read a letter from the Secretary of the Interior certifying that payments had been received on 118 coal locations in Alaska.

Mr. Mondell said:

He is a liar; that is all.

Mr. Wickersham retorted:

You are a liar, if you say that; that is all.

Mr. Mondell and Mr. Wickersham advanced upon each other.

By direction of the Speaker pro tempore,[2] the Sergeant at Arms appeared upon the floor with the mace.

On motion of Mr. James A. Tawney, of Minnesota, the words used by Mr. Mondell and Mr. Wickersham were taken down and reported from the desk.

Mr. Tawney suggested:

Mr. Speaker, the language used by both gentlemen is in violation of the rules of the House, and I think they both ought to be required to apologize to the House.

Mr. Wickersham said:

Mr. Speaker, I do desire on my part to apologize to the House; I lost my temper.

Mr. Speaker, I want my apology to be just as broad as any gentleman in the House desires it to be.

Mr. Mondell, after a brief explanation, said:

I greatly regret, gentlemen, that anything I have said here has caused a disturbance or led to any unparliamentary action. If I have been unparliamentary, I desire to apologize to the House for having been so.

No further action relative to the matter was taken by the House.

2531. It is a breach of order to reflect upon or to refer invidiously to the decisions of present or former Speakers.

On May 7, 1910[3] Mr. Dorsey W. Shackleford, of Missouri, while speaking to a question of personal privilege said:

I could say a great deal that transpired in this committee and a great deal that transpired in other committees if the Speaker of this House would not gavel me down when I undertook to say what happened in executive session.

The Speaker[4] called to him to order and said:

The gentlemen will suspend. The gentleman is presenting a question of privilege, which he alleges to be a reflection against him in his representative capacity. In doing so he has no

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[1] Third session Sixty-first Congress, Record, p. 3235.

[2] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

[3] Second session Sixty-first Congress, Record, p. 5917.

[4] Joseph G. Cannon, of Illinois, Speaker.

right to right upon the Speaker of the House as "gaveling him down." Under the rules the Speaker of the House, when references have been made to what passed in committee as to votes and action of the committee, has but enforced the rule, and we will dispose of this question of privilege without the gentleman violating the usages of the House, wandering out of his way to attack the present or any former Speaker of the House.

The gentleman will proceed in order.

2532. When a Member is called to order for words spoken in debate in Committee of the Whole the Chairman is without discretion and is constrained to recognize for that purpose.

After a demand has been made that words spoken in debate be taken down explanation of the meaning or proper interpretation of the words is not in order.

Charges of falsehood made in debate against one not a Member of the House were held not to constitute a breach of order.

A Member requesting that words spoken in debate in Committee of the Whole be taken down may withdraw that request at any time before the Committee rises to report to the House.

On March 24, 1926,[1] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

During general debate on the bill, Mr. John J. O'Connor, of New York, being recognized, said:

My purpose in arising to-day is to call to the attention of the Members a news dispatch published yesterday. It is there narrated that Dr. Clarence True Wilson, of Washington, secretary of the Board of Temperance, Prohibition and Public Morals of the Methodist Church, in the course of his intemperate remarks, said:

"That the Sergeant at Arms had told him the chief duties of that office before prohibition were to 'walk Members up and down and get the drunks to their homes,' while now it was directing strangers.

"'That is the effect of prohibition that I have seen in Congress myself,'" added Doctor Wilson.

Gentlemen, is that true?

"I will presume to answer it, and I will answer it for my own boys and for the boys of America who shall come after us and sit in our places. It's a lie—a deliberate, dastardly canard. And, My God, fallen from the lips of a minister of the gospel."

Mr. Thomas L. Blanton, of Texas, demanded that the words be taken down.

Mr. O'Connor submitted that the words did not refer to a Member of the House.

The Chairman[2] said:

No debate is in order upon the meaning or the proper interpretation of the word; the words have been read.

The Chair will state that under similar conditions on June 22, 1922, the Chair made a preliminary decision in Committee of the Whole upon a point of order to words which had been taken down and to which exception had been taken. The Chair will avail himself of that precedent and say that, in the opinion of the present occupant of the chair, the words are not subject to the point of order. However, under the long practice of the House and the precedents it becomes the duty of the Chair to report to the House the words to which exception has been taken, and the committee will rise for that purpose.

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[1] First session Sixty-ninth Congress, Record, p. 6179.

[2] Carl R. Chindblom, of Illinois, Chairman.

Mr. C. Williams Ramseyer, of Iowa, as a parliamentary inquiry, asked if it was the duty of the Chairman to have taken down and reported to the House words which he did not consider unparliamentary.

The Chairman held:

Unfortunately, that seems to be the effect of the precedents.

Mr. Martin B. Madden, of Illinois, then inquired if it would be necessary to rise and report the words to the House if Mr. Blanton withdrew the request.

The Chairman said:

If the gentleman from Texas withdrew his request there would then be no occasion for reporting the words to the House.

Mr. Blanton, thereupon, withdrew the request and the Committee of the Whole proceeded with the consideration of the bill.

2533. When an demand is made in Committee of the Whole that words spoken in debate be taken down no further business is in order and the Committee rises automatically to report to the House.

It is not within the province of the Chairman to decide on the parliamentary character of words taken down on demand in Committee of the Whole.

When the Committee of the Whole reports to the House words taken down on demand, the Speaker in passing on the question raised is restricted to the words reported and may not take into consideration associated language not reported by the committee.

On January 18, 1930,[1] the Committee of the Whole House on the State of the Union was considering the Treasury and Post Office Departments appropriation bill.

During debate on a section providing for the Bureau of Prohibition, Mr. Adolph J. Sabath, of Illinois, in discussing court proceedings against certain prohibition enforcement officers, made a statement referring to the United States commissioners and then said:

Instead of being prosecuted, he is being defended by district attorneys in each and every case.

Mr. Carroll L. Beedy, of Maine, objected to the statement as reflecting on the judiciary and demanded that the words be taken down.

Mr. William H. Stafford, of Wisconsin, made the point of order that it was the duty of the Chairman before reporting to the House to determine whether the words taken down were out of order.

The Chairman[2] overruled the point of order and held:

The committee automatically rises.

The rule is this: When disorderly words are spoken in Committee of the Whole they are taken down and read at the Clerk's desk, whereupon the committee rises and reports the matter to the House.

The rules of the house provide that the words must be taken down and submitted to the House. There is not discretion lodged in Chair in this matter at this time.

The Committee having risen and the Chairman having reported the words to the House, Mr. Beedy submitted that all the words objected to had not been taken

[1] Second session Seventy-first Congress, Journal, p. 164; Record, p. 1905.

[2] Bertrand H. Snell, of New York, Chairman.

down and that the Speaker in passing on the question should also take into consideration the reference to the United States commissioners which had not been reported by the Committee to the House.

The Speaker pro tempore [1] dissented and ruled:

The Chair can only rule on the words reported to the House by the Chairman of the Committee of the Whole House.

The present occupant of the Chair can see nothing objectionable, from a parliamentary stand-point, in the remarks reported.

The committee will resume its session.

2534. A Member called to order in debate was required to resume his seat until permitted by the House to proceed in order.

The Member shall confine himself to the question under debate avoiding personality.

A Member having been called to order for irrelevancy in debate, the Speaker entertained a motion that he be allowed to proceed in order.

A Member called to order and allowed to proceed must confine himself within the rules governing debate.

On March 2, 1921,[2] Mr. Nicholas J. Sinnott, of Oregon, moved that the rules be suspended and that the bill (S. 4864) providing for the leasing of coal lands in Alaska be passed.

While Mr. Thomas L. Blanton, of Texas, was debating the motion, Mr. Frank Clark, of Florida, made the point of order that he was not addressing himself to the question under consideration.

The Speaker [3] said:

The Chair has listened to the gentleman, and he had not thought that the gentleman is discussing the bill. The gentleman must confine himself to the bill.

Mr. Blanton proceeded in debate, when Mr. Cassius C. Dowell, of Iowa, made the point of order that he was not complying with the order of the Chair.

The Speaker sustained the point or order, and when Mr. Blanton continued in irrelevant discussion said:

The rule of the House provides that the gentleman can only proceed by the consent of the House. The Chair will quote the rule, being paragraph 4 of Rule XIV:

"If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate.

"He shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if a decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise."

The gentleman must take his seat when the point of order is made and sustained.

Mr. Edward J. King, of Illinois, asked unanimous consent that Mr. Blanton be permitted to proceed out of order.

The Speaker said:

The Chair thinks the proper motion is ask that he proceed in order.

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[1] John Q. Tilson, of Connecticut, Speaker pro tempore.

[2] Third session, Sixty-sixth Congress, Record, p. 4346.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

The motion being put, it was decided in the affirmative.

2535. On November 20, 1913,[1] Mr. Robert Y. Thomas, jr., of Kentucky, offered a concurrent resolution providing for adjournment of the first session of the Sixty-third Congress.

Mr. H. Robert Fowler, of Illinois, being recognized in debate, proceeded to discuss the subject of the mining and importation of fluorspar.

Mr. Thomas made the point of order that debate must be confined to the concurrent resolution.

The Speaker sustained the point of order.

Mr. Fowler continuing the discussion of irrelevant matters, Mr. Thomas W. Hardwick, of Georgia, rose to a point of order and submitted that under the rules of the House a Member called to order in debate was required to be seated and was not permitted to proceed except on motion.

The Speaker[2] sustained the point of order and said:

The point of order is well taken. The gentleman under the rule, when the point is made, must take his seat and then, if any gentleman thinks he ought to proceed, he can make the motion to allow the gentleman from Illinois to proceed in order.

Mr. Hardwick moved that Mr. Fowler be allowed to proceed in order.

The motion was agreed to, and the Speaker announced:

The gentleman will proceed in order and confine himself to the question.

2536. The demand that disorderly words be taken down must be made at once before debate intervenes.

A Member having concluded his remarks and yielded the floor was not required to answer for words objected to as unparliamentary.

A Member may not in debate refer to another Member by name.

On August 3, 1917,[3] while the House was considering the conference report on the bill H. R. 4961, the food control bill, Mr. J. Thomas Heflin, of Alabama, charged in debate that Mr. Fred A. Britten, of Illinois, and Mr. William E. Mason, of Illinois, were "out stirring up the country against conscription."

Mr. William H. Stafford, of Wisconsin, made the point of order that the language was unparliamentary and demanded that it be taken down.

Mr. J. Hampton Moore, of Pennsylvania, made the further point of order that Mr. Heflin had referred to Members of the House by name.

The Speaker[4] said:

Of course that is contrary to the rules. The rule is that one Member must not address another or refer to him by his name, except where it is as, for instance, "the gentleman from Illinois, Mr. Britten." If the gentleman from Pennsylvania had raised the point while the gentleman from Alabama was doing it, the Chair would have sustained the point of order and admonished the gentleman from Alabama to keep within the rule. If there are any particular words in that speech which the gentleman from Pennsylvania wants taken down, the chair will hear him.

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[1] First session Sixty-third Congress, Record, p. 5955.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fifth Congress, Record, p. 5757.

[4] Champ Clark, of Missouri, Speaker.

Mr. Moore then demanded that this language used by Mr. Heflin earlier in the course of his remarks be taken down, as follows:

A Senator from Georgia has introduced a bill to get every man's consent as to whether he will go abroad and fight for the country. On my responsibility as a southerner and as an American citizen, loyal to that flag, I repudiate the action of every southern Member who is not loyal to the country and to the President in this war.

Mr. Asbury F. Lever, of South Carolina, made the point of order that the demand came too late after Mr. Heflin had concluded his remarks and yielded the floor.

The Speaker ruled:

As the words which the gentleman from Wisconsin asked to be taken down, that request certainly does not come too late, because it was the very last sentence in the speech of the gentleman from Alabama, but as to the other remarks the Chair thinks the request comes too late. Of course, it is against the rules of both Houses for a Senator in one instance or a Member in the other to refer to a Member of the other body. That is the rule. But the Chair thinks the request comes too late. Now, the question is on these last words which were taken down at the demand of the gentleman from Wisconsin.

2537. Strictures in debate do not give rise to a question of privilege but are properly contravened by a demand that the words be taken down.

It is too late to demand that disorderly words be taken down after business has intervened.

On March 16, 1920,[1] Mr. Charles Pope Caldwell, of New York, rose to a question of privilege and submitted as the basis thereof the following excerpt from a debate which had taken place earlier in the day:

Mr. Speaker, in the House a short time ago I rose and made this statement:

"If I can not get information on this subject, I will have to object; but I was trying in my feeble way to get it."

Whereupon the gentleman from Wyoming, Mr. Mondell, said:

"The gentleman was not asking for information on the subject."

The Speaker pro tempore[2] said:

The statement of the gentleman from Wyoming to the effect that the gentleman was not asking for information on the subject, in the view of the Chair, is not an intentional misrepresentation of the statement made by the gentleman from New York, and the impression of the Chair is that there is nothing in that statement impugning the gentleman's motives, but the Chair would gladly hear the gentleman from New York.

Mr. Caldwell insisted that his motives had been impugned and that he was entitled to redress.

Mr. James R. Mann, of Illinois, explained:

Mr. Speaker, it is not a question of personal privilege in any case. If the gentleman from Wyoming had impugned the motives or the statement of the gentleman from New York, it would not have been a question of personal privilege. It would have been a case where the gentleman from New York might have asked that the words of the gentleman from Wyoming be taken down. Not having done that, it is a past incident. I am inclined to think that the gentleman from New York is in error in thinking that he was asking for information about the resolution pending before

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[1] Second session Sixty-sixth Congress, Record, p. 4400.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

the House, and I do not say that with a view of impugning the gentleman's motives or his statement.

The Speaker held that it was too late to ask that the words be taken down, business having intervened, and that there was nothing in the colloquy upon which to base a question of privilege, and declined recognition.

2538. Demand being made that words spoken in debate be taken down as unparliamentary, it is in order to demand that words spoken by other Members in the same colloquy also be taken down to be simultaneously reported to the House when the committee rises.

Demand for the taking down of additional words, or words spoken by others, may be made at any time before the committee rises and the point of order may not be made that the demand comes too late because made after the words first objected to have been read at the desk.

A Member may withdraw words objected to in debate in Committee of the Whole by unanimous consent only.

Words spoken in debate having been taken down and read from the desk, the committee rises automatically under the rule and a motion to rise is not required.

Words taken town and read at the desk in Committee of the Whole are again read from the desk when reported to the House.

When the Committee of the Whole rises to report words objected to in debate no business is in order until the language reported has been read from the desk.

Members called to order on account of words spoken in debate may not remain standing but are required to be actually seated.

Words taken down and reported to the House by the Committee of the Whole are summarily disposed of by a motion to strike them from the Record with a demand for the previous question on the motion.

Language used by a Member in Committee of the Whole having been expunged from the Record when reported to the House, the motion that he be allowed to proceed in order is not entertained when the House again resolves into the committee.

On June 23, 1917,[1] the House was considering in the Committee of the Whole House on the state of the Union the bill (H. R. 4961) for the conservation of food and fuel.

During the debate a colloquy occurred between Mr. M. Clyde Kelly, of Pennsylvania, and Mr. Jacob E. Meeker, of Missouri, in which language used by the latter was objected to by Mr. J. Hampton Moore, of Pennsylvania, with the demand that it be taken down and reported to the House.

Subsequently, Mr. Charles P. Coady, of Maryland, requested that words used by Mr. Kelly in the controversy be taken down.

Mr. Edward J. King, of Illinois, made the point of order that the demand comes too late, and was not in order while the demand with reference to other words was pending.

[1] First session Sixty-fifth Congress, Record p. 4175.

The Chairman [1] ruled:

The Chair thinks not. The words of the gentleman from Missouri will be taken down and the words of the gentleman from Pennsylvania will be taken down. In the opinion of the Chair they constitute one transaction, with no intervening business. The Chair is of opinion that they are all interlocking colloquies, that they constitute one transaction, that no business has intervened, and they should be taken down.

The Chairman directed the Clerk to report the words objected to.

Mr. Moore submitted that the language should be read when reported to the House rather than in Committee of the Whole.

The Chairman said:

The words will be read at the desk as soon as they are transcribed. The Clerk will read the words of the gentleman from Missouri.

The language having been read from the desk, Mr. Kelly indicated a willingness to withdraw the offending language.

The Chairman held:

The gentleman can not withdraw them without the unanimous consent of the committee.

Mr. Joseph C. McLaughlin, of Michigan, requested that additional portions of the colloquy be included.

The Chairman directed that all remarks objected to be included in full.

Mr. William W. Venable, of Mississippi, asked recognition for debate.

The Chairman said:

The Chair will state to the gentleman from Mississippi that the words are not debatable now.

Mr. Asbury F. Lever, of South Carolina, moved that the committee rise and report to the House.

The Chairman held that under the rule the action of the committee in rising was automatic and a motion was not required.

Accordingly the committee rose, and Mr. Claude Kitchin, of North Carolina, moved to strike the words from the Record.

Mr. Frank L. Greene, of Vermont, raised a question as to whether the words should be read in the House.

The Speaker pro tempore [2] held that the language should be read to the House before a motion for disposition was in order.

Thereupon Mr. Moore asked that the rule under which the words had been taken down be read for the information of the House.

The Speaker pro tempore reiterated:

The first question before the House is the reporting of the words taken down.

Mr. Moore made the point of order that Mr. Meeker and Mr. Kelly were standing, and asked as a parliamentary inquiry if it was permissible for them to remain on their feet during the proceedings.

The Speaker pro tempore said:

It is not. The rule provides that when the words are ordered to be taken down the Member called to order shall take his seat. Let the parties whose words are in question take their seats.

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[1] Andrew J. Montague, of Virginia, Chairman.

[2] William C. Houston, of Tennessee, Speaker pro tempore.

The Clerk having read from the desk the words reported from the Committee of the Whole, Mr. Kitchin moved to strike from the Record the words reported and on that motion demanded the previous question.

The previous question was ordered and; the question recurring on the motion to expunge, it was decided in the affirmative, on division, yeas 183, nays none.

The House having again resolved into the Committee of the Whole House on the state of the Union for the further consideration of the food control bill, Mr. Kelly inquired of the Chairman as to the amount of time remaining to his credit.

Mr. Frederick H. Gillett, of Massachusetts, made the point of of order that in view to the action of the House he was not entitled to the floor.

The Chairman sustained the point of order.

Mr. Alben W. Barkley, of Kentucky, moved that Mr. Kelly be allowed to proceed in order.

Mr. Swagar Sherley, of Kentucky, raised a question of order against the motion.

The Chairman ruled:

The point of order is sustained. The Chair thinks that when words objected to have been taken down and the committee has risen and reported the same to the House, the matter has passed out of control of the committee, and he does not think a motion of that kind can be entertained when the committee resumes its sitting. It might be different if the whole matter had not been referred to the House.

2539. When a demand is made that words spoken in Committee of the Whole be taken down, no further business is in order and the Committee automatically rises and reports the words to the House for decision by the Speaker.

Recognition by the Speaker to move that words reported from the Committee of the Whole be expunged is tantamount to a decision hold them unparliamentary.

Debate on a motion to expunge from the record is confined to the motion proper.

Consideration of words reported to the House from Committee of the Whole having been disposed of, either by decision of the Speaker holding them in order or by action of the House if held unparliamentary, the House resolves into the Committee of the Whole automatically.

A portion of a letter having been taken down on demand in Committee of the Whole and reported to the House, a motion to expunge the entire letter from the Record was held to be in order.

Instance wherein a letter objected to in Committee of the Whole and reported to the House having been withdrawn, the motion that it be expunged from the Record was withdrawn.

On April 23, 1928,[1] during consideration of the bill (S. 3740) for the control of floods on the Mississippi River, in the Committee of the Whole House on the state of the Union, a letter read in debate by Mr. Henry T. Rainey, of Illinois, was objected to by Mr. James A. Frear, of Wisconsin, who demanded that a portion of the letter be taken down.

[1] First session Seventieth Congress, Record, p. 7018.

Mr. Rainey asked recognition and requested that he be heard on the demand.

The Chairman [1] declined recognition and said:

It must be taken up in the House.

The gentleman from Wisconsin asks that the words be taken down. There can be business transacted until the Committee rises and reports to the House. The words being written, the Clerk will report them.

Whereupon, the Committee rose and reported to the House the words from that portion of the letter taken down on demand.

Mr. Frear moved that the entire letter be expunged from the Record and was recognized to debate the motion.

While Mr. Frear was proceeding in debate, Mr. William. B. Bankhead, of Alabama, raised the question of order that he was not confining his remarks to the pending motion.

The Speaker [2] ruled:

The Chair thinks the gentleman should proceed to discuss his motion, which is to strike out certain language that is offensive to him.

Debate having been concluded, Mr. John J. O'Connor, of New York, submitted that the motion to expunge should be confided to the words actually taken down and that it was not in order to move to expunge the entire letter.

The Speaker said:

The motion of the gentleman from Wisconsin, as the Chair understood, was to strike the entire letter from the Record.

The Chair thinks under the circumstances the gentleman from Wisconsin has the right to make the motion.

It is for the House to decide whether to support the motion of the gentleman from Wisconsin or not. The Chair thinks the motion is in order, and the House will be called upon to vote whether or not to strike the entire letter from the Record.

Mr. Charles R. Crisp, of Georgia, called attention to the rule governing such proceedings under which the Speaker was required to pass on the parliamentary character of the words so taken down.

The Speaker held:

The fact that the Chair recognized the gentleman from Wisconsin carries with it the necessary implication that he regarded the words as not parliamentary. The gentleman from Georgia is right, that the Chair must decide in the first place whether the words taken down are unparliamentary or not. The Chair did not announce in so many words, but the fact that he recognized the gentleman from Wisconsin implied that he regarded the words of an unparliamentary nature and allowed the gentleman to move that they be stricken from the Record.

Thereupon, a request by Mr. Rainey that he be permitted to withdraw the letter was agreed to.

Whereupon, Mr. Frear withdrew his motion.

By direction of the Speaker, the Committee of the Whole resumed its session.

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] Nicholas Longworth, of Ohio, Speaker.

2540. Words demanded to be taken down under the rule may be withdrawn by unanimous consent only.

It is for the House and not the Chair to decide on the propriety of words demanded to be taken down as unparliamentary.

In demanding that words spoken in debate be taken down it is not necessary that they be quoted verbatim.

A Member called to order for words spoken in debate is required to take his seat and may not proceed unless permitted to do so on motion.

A request having been made that words objected to as unparliamentary be taken down, no motion is in order until the words have been read from the desk.

Time consumed in proceedings incident to taking down disorderly words is not charged to time allotted the Member when he resumes the floor.

On February 8, 1910,[1] while the Committee of the Whole House on the state of the Union had under consideration the diplomatic and consular appropriation bill, Mr. Robert B. Macon, of Arkansas, said, in general debate, referring to a speech made by Mr. William S. Bennet, of New York, on the floor on January 25:

> Gentlemen, that remark was only characteristic of the extravagance of the gentleman's remarks throughout his speech, and he had no evidence whatever of a truthful character to show that a thousand Americans had not made shorter trips to Paris than he; and yet when he made that statement it received applause, when every Member that applauded him knew that was no truthful foundation upon which his statement could rest.

Mr. Bennet demanded to have taken down:

> His words in which he said every man in the House knew there was no truth or foundation in that statement.

Mr. Macon proposed to withdraw the words, but Mr. Joseph H. Gaines, of West Virginia, having objected that they could not be withdrawn without unanimous consent, was sustained by the Chairman.[2]

Mr. Macon continuing on the floor, Mr. Gaines submitted that a Member called to order for words spoken in debate should be seated.

The Chairman sustained the point of order and Mr. Macon took his seat.

Mr. Dorsey W. Shackleford, of Missouri, made the point of order that the demand that words be taken down was insufficient in that it did not specify the exact words used.

The Chairman held that the words had been indicated with sufficient accuracy to identify them and requested the reporter to transcribe them.

Mr. Shackleford insisted that the words to be read to the House were the words as repeated by Mr. Bennet in his demand and not the words used by Mr. Macon as transcribed by the reporter.

The Chairman overruled the point of order and directed the Clerk to read the language as supplied by the reporter.

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[1] Second session Sixty-first Congress, Record, p. 1617.

[2] John Q. Tilson, of Connecticut, Chairman.

Mr. Ollie M. James, of Kentucky, moved that Mr. Macon be permitted to proceed in order.

The Chairman ruled that no motion was in order until the words objected to had been read from the desk.

The Clerk read:

And yet when he got upon his feet and made that part of the statement it received Republican applause, when every man who applauded knew that there was no truthful foundation whatever upon which it could rest.

Mr. Joseph T. Robinson, of Arkansas, made the point of order that the words were not objectionable and the request that they be taken down was not in order.

The Chairman held that the rule was mandatory on request from a Member, and said:

That is not for the Chair to determine, but for the House to determine.

Mr. Shackleford renewed the point of order that Mr. Bennet's demand was not in order because it had not correctly quoted the words objected to, and called attention to the fact that Mr. Bennet quoted "and every man in the House knew," whereas the language actually used was "every man who applauded knew."

The Chairman ruled:

The Chair is of the opinion that it is not necessary that the words be specified verbatim. The Chair holds that it would not be necessary for the gentleman from New York to state the exact language, but to so state it that it can be identified.

Mr. James again offered the motion that Mr. Macon be permitted to proceed in order.

The motion being agreed to, the Chairman recognized Mr. Macon to continue.

Mr. James B. Perkins, of New York, raised the point of order that the time allotted to Mr. Macon had been consumed in the proceedings, incident to taking down words objected to and asked recognition.

Mr. Macon took the position that time so consumed was not chargeable to him.

The chairman ruled:

The gentleman will suspend until the Chair rules upon the point of order made by the gentleman from New York. The Chair immediately upon the parliamentary situation being concluded deducted the time that was consumed, and there are remaining now to the gentleman from Arkansas six minutes.

2541. A motion to expunge words taken down having been rejected, the Member called to order proceeds from the point of interruption.

Immediately upon disposition of a report from the Committee of the Whole of words taken down in debate the House automatically resolves again into the Committee of the Whole for the further consideration of the measure under discussion.

On February 9, 1920,[1] during consideration of the agricultural appropriation bill in the Committee of the Whole House on the state of the Union, Mr. John I.

[1] Second session Sixty-sixth Congress, Record, p. 2670.

Nolan, of California, referring to Mr. Thomas L. Blanton, of Texas, used this language in debate:

Mr. Chairman, I am not going to take the time of the House in trying to answer the references made by the gentleman from Texas to myself. I have been here since 1913, and my record is well known. Now, I am an advocate of free speech, but I want it to be free speech and I want a man when he attacks anybody to attack him to his face and not steal into the Congressional Record like a thief in the night behind his back.

Mr. Blanton demanded that the words be taken down.

The words, having been taken down and read from the desk, were reported to the House, and Mr. Charles R. Crisp, of Georgia, moved that they be expunged from the Record.

The question being put, it was decided in the negative, yeas 70, nays 186.

Thereupon the House automatically resolved into the Committee of the Whole House on the state of the Union for the further consideration of the agricultural appropriation bill, and the Chairman [1] announced:

The gentleman from California, Mr. Nolan, has three minutes remaining.

2542. A Member called to order for words spoken in debate having withdrawn the language objected to, no further action was taken by the House.

It is not within the province of a Member assailed in debate to object to such language being taken down under the rule.

Reference in debate to action of a Member in no way connected with his official duties or capacity was considered by the House a breach of the privilege of debate.

A Member called to order in debate was required to be seated.

An instance in which the Speaker called up as unfinished business a motion to expunge remarks from the Record on which the previous question had not been ordered.

On February 18, 1915,[2] Mr. A Mitchell Palmer, of Pennsylvania, recognized by unanimous consent, was making a personal statement, when Mr. John R. Farr, of Pennsylvania, interposed and said:

Mr. Speaker, I am amazed at the gall of the gentleman from Pennsylvania. Why, Mr. Speaker, he robbed you of two delegates in Luzerne because of his pretenses, his demagoguery, his hypocrisy. They were your delegates. The people of Pennsylvania wanted you. They wanted you in my district, and that gentleman, under the pretense of reform, went all over the great State of Pennsylvania, and he in every way possible, honorably and dishonorably——

Finis J. Garrett, of Tennessee, demanded that the words be taken down under the rule.

Mr. Palmer expressed himself as having no desire to have the words taken down.

The Speaker held that it was not within the province of a Member assailed in debate to say whether the rule should be invoked.

The Speaker required Mr. Farr to be seated and directed the Clerk to report the words taken down.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-third Congress, Record, p. 4076.

The language having been reported from the desk, Mr. Garrett moved to strike it from the Record and demanded the previous question.

Whereupon the House adjourned.

On the following day, before disposition of business on the Speaker's table, the Speaker announced that the question pending at adjournment on the previous day was on ordering the previous question on Mr. Garrett's motion to strike from the Record language used by Mr. Farr in debate.

Mr. Garrett yielded to Mr. Farr, who asked unanimous consent to withdraw the phrase "honorably and dishonorably" and substitute "deprived you, Mr. Speaker, of delegates when Democratic public sentiment was in your favor."

The request being agreed to, Mr. Garrett withdrew his motion to expunge.

2543. Words taken down under the rule against disorderly words spoken in debate may not be withdrawn except by unanimous consent.

On June 3, 1918,[1] when the bill (H. R. 3563) to increase the salary of the United States district attorney for the district of Rhode Island was reached in the call of the Consent Calendar, Mr. Louis C. Cramton, of Michigan objected to its consderation.

In a colloquy which ensured, Mr. George F. O'Shaunessy, of Rhode Island, used words which Mr. Cramton demanded be taken down

Mr. O'Shaunessy offered to withdraw the words, and objection was made by Mr. Leonidas C. Dyer, of Missouri.

The Speaker pro tempore [2] ruled:

When a request is made that the words be taken down , it can not be withdrawn except by unanimous consent. Is there objection?

2544. On August 8, 1919,[3] Mr. Thomas L. Blanton, of Texas, in speaking to a question of personal privilege said:

And we Congressmen sit here on our seats and truckle, truckle, with anarchy invading our land. The President of the United States is the greatest man living to-day, in my judgment, and yet he is human. We are now experiencing the fruits of our Nation's truckling in he passage of the Adamson law, the most colossal blunder of Woodrow Wilson's whole life.

Mr. Otis Wingo, of Arkansas, rose to a point of order and demanded that the words be taken down.

Mr. Blanton thereupon announced that he would withdraw the offending words.

Mr. Champ Clark, of Missouri, as a parliamentary inquiry, asked if the withdrawal of the disorderly words by Mr. Blanton did not dispose of the matter.

The Speaker [4] said:

The Chair put that question to the House, whether he should be allowed to withdraw, and objection was mad. I think it is very rarely that there has been objection.

The Chair is informed by the parliamentary clerk that anybody has a right to make an objection.

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[1] Second session Sixty-fifth Congress, Record, p. 7316.

[2] Martin D. Foster, Illinois, Speaker pro tempore.

[3] First session Sixty-sixth Congress, Record, p. 3724.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Joseph G. Cannon, of Illinois, corroborated the Speaker's statement and argued:

Suppose a gentleman of the House should utter the most offensive words about another Member, and after he has made them, and while they were being taken down, he should withdraw them, or should withdraw them after they are taken down. If he can withdraw them before they are reported to the House, then I could make all kinds of offensive remarks, if I choose to do so, so offensive that I would deserve to be expelled, and get away with it.

The Speaker affirmed:

It seems to the Chair taht the logic suggested by the gentleman from Illinois is sound, and the Chair adhere to the rule.

2545. Charges of deliberate misrepresentation are not in order in debate.

A Member required to take his seat because of unparliamentary language may not be recognized to present a point of order against ensuing proceedings.

On March 3, 1919,[1] Mr. Clearance B. Miller, of Minnesota, in speaking to a question of privilege raised by Mr. Louis T, McFadden, of Pennsylvania, was interrupted by Mr. Otis Wingo, of Arkansas, who said:

The devotion of the gentleman from Minnesota to the truth is so notorious that I shall not reply.

Mr. James R. Mann, of Illinois, demanded that the words be taken down.

The words having been read by the Clerk, Mr. J. Hampton Moore, of Pennsylvania, moved that they be stricken from the Record.

Mr. Wingo rose to submit a point of order.

The Speaker[2] declined to recognize him and said:

This is a summary proceedings. The gentlemen from Arkansas will please be seated. The question is, Shall these words be striken from the Record?

2546. A Member called to order in debate must take his seat and may not proceed unless permitted by the House on motion, but such disability does not extend beyond consideration of the point immediately under discussion, and a Member so called to order was permitted to demand the yeas and nays on the question under consideration at the time he was required to be seated.

On March 2, 1923,[3] the House was considering a motion by Mr. Gilbert N. Haugen, of Iowa, to suspend the rules and pass the joint resolution (H. J. Res. 456) for the investigation of reforestation problems, when Mr. Thomas L. Blanton, of Texas, in debate, mentioned Mr. William D. Upshaw, of Georgia, by name, and intimated that he was influenced in his support of the bill by the prospect of a junketing trip.

On demand of Mr. Upshaw, the words were taken down and read by the clerk.

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[1] Third session Sixty-fifth Congress, Record, p. 4912.

[2] Champ Clark, of Missouri, Speaker.

[3] Fourth session Sixty-seventh Congress, Record, p. 5239.

A motion by Mr. Adolph J. Sabath, of Illinois, that the words be expunged from the Record was agreed to.

Debate having been concluded, the question was taken on agreeing to the motion to suspend the rules. Mr. Blanton, who had been required to take his seat when called to order, demanded the yeas and nays.

The Speaker pro tempore [1] declined to recognize him and held:

The gentleman from Texas is not recognized for that purpose.

Mr. Blanton proposed to appeal from the decision of the Chair.

The Speaker pro tempore said:

The gentleman can not be recognized for any purpose until he has the permission of the House. The gentleman will take his seat.

Mr. Finis J. Garrett, of Tennessee, made the point of order that Mr. Blanton was entitled to recognition.

In debating the point of order, Mr. John Q. Tilson, of Connecticut, said:

Mr. Speaker, I think it is clear that so far as speaking again during the period in which this matter was being considered, when he was called to order, that he can not be recognized again until he has the consent of the House. But I agree with the gentleman from Tennessee that for the purpose of demanding the yeas and nays, which is a constitutional right, the gentleman from Texas was clearly within the rights, and should be recognized for that purpose.

Mr. William H. Stafford, of Wisconsin, also argued:

Mr. Speaker, I assume that the purpose of the rule in denying a Member who has infringed the rules of debate by using unparliamentary language and not allowing him to proceed further until the House gives him the privilege is to protect the House from the further use of language on matter under consideration, which might allow further use of similar unparliamentary language. But, until the House takes some action of censure or expulsion, every Member of the House has the privilege of voting, and has the privilege of exercising his rights in demanding the yeas and nays or offering amendments.

There has been no motion made for a censure; all that was done was that the House expunged the remarks from the Record, and refused to allow the gentleman from Texas to proceed further in debate. But that does not carry the proposition that his right to vote or his right to demand the yeas and nays or his right to offer an amendment have been curtailed. They are fundamental. The question is whether the gentleman from Texas is still a Member of the House or not.

The Speaker pro tempore ruled:

The Chair has invited this discussion because the precedents are very vague as to when the gentleman from Texas or any gentleman, having been refused the right to participate in debate, as was done in this case, might again be heard on the floor. In order to get the matter before the House, the Chair has assumed the responsibility of calling the attention in this way in order that a decision might be had. The Chair believes that a reasonable construction of the rule would be that the Member called to order would be called to order only for the period required for the consideration of the matter that was then under consideration. The Chair thinks that is a reasonable construction, although it has not been so held. It appears from decisions that a Member was precluded if the motion was not made until the following day. With that construction the Chair does not agree. The Chair is glad of the opportunity at this time to decide that the Member from Texas is in the exercise of his rights at the conclusion of debate in demanding the yeas and nays. The Chair sustains the point of order made by the gentleman from Tennessee.

Mr. Blanton, thereupon, demanded the yeas and nays, which were ordered.

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[1] Phillip P. Campbell, of Kansas, Speaker pro tempore.

2547. While a Member called to order for words spoken in debate is required to relinquish the floor he may not be deprived of his constitutional right to demand a quorum.

On May 13, 1924,[1] while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 3933) for the purchase of the Cape Cod Canal, Mr. J. Scott Wolff, of Missouri, in debating the bill, said:

> I want to say to the gentleman from Massachusetts, who heads that great committee of this House, that I have listened to him from the floor of this House tell us about certain things. This I know is a steal, an absolute steal. I am talking about this bill. It represents an absolute valuation of $200,000, a steal of over $11,300,000 for a few people in Massachusetts, and I want to say to you that I do not condone that steal.

On demand of Mr. Edward E. Denison, of Illinois, the Chairman[2] directed the Clerk to take down the words and report them from the desk.

Mr. Wolff made the point of order that there was not a quorum present.

Mr. Carl R. Chindblom, of Illinois, submitted that a Member called to order in debate was required to take his seat and might not raise the question of a quorum.

The Chairman overruled the point of order and held that while a Member called to order was required to relinquish the floor in debate he could not be deprived of his constitutional right to demand a quorum.

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[1] First session Sixty-eighth Congress, Record, p. 8481.

[2] Louis C. Cramton, of Michigan, Chairman.

Chapter CCXLV.[1]

DEBATE IN COMMITTEE OF THE WHOLE.

2548. Debate in Committee of the Whole may be closed by order of the House at any time after debate has begun in the committee, regardless of whether the opposition has occupied time in debate.

On May 22, 1922,[2] the Committee of the Whole House on the state of the Union, after brief consideration of the bill (S. 2919) for the extension of the District of Columbia rents act, rose and reported that it had come to no resolution thereon.

Mr. Stuart F. Reed, of West Virginia, immediately moved that the House resolve itself again into the Committee of the Whole House on the state of the Union for the consideration of the bill, and pending that moved that general debate on the bill closed.

Mr. Thomas L. Blanton, of Texas, made a point of order against the motion on the ground that the only debate had in the committee had been by those favoring the bill and no opportunity for debate had been afforded those opposed to the bill.

The Speaker pro tempore[3] held that the motion to close debate was in order in the House at any time after debate had been had in the committee, however brief, and regardless of who had consumed the time.

2549. In the absence of an order by the House, the Committee of the Whole may by unanimous consent divide the time allotted for general debate.

Time for general debate in Committee of the Whole having been fixed by the House without provision for its control is dispensed under the rules governing debate in the House and each Member recognized by the Chairman is entitled to one hour.

On October 14, 1921,[4] the House resolved into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7882, the reappor-

[1] Supplementary to Chapter CXV.

[2] Second session Sixty-seventh Congress, Record, p. 8056.

[3] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[4] First session Sixty-seventh Congress, Record, p. 6311.

tionment bill, under directions from the House that general debate on the bill be limited to four hours.

No provision having been made for division of the time, Mr. Isaac Siegel, of New York, asked unanimous consent that one hour be allotted to Mr. Louis W. Fairfield, of Indiana; one hour to Mr. William W. Larsen, of Georgia; one hour to Mr. John E. Rankin, of Mississippi; and one hour to himself.

Mr. Finis J. Garrett of Tennessee, raised the question of order that it was not competent for the Committee of the Whole to divide time fixed by the House.

The Chairman decided.[1]

The Chair thinks where the time for general debate has been fixed at a certain limit the committee can then by unanimous consent arrange as to how that time be distributed.

In response to a question from Mr. John E. Rankin, of Mississippi, as to control of the time in the absence of an agreement in the Committee of the Whole, the Chairman added:

The Chair will state that the time fixed for general debate by the House is four hours, and if the gentleman have no agreement in committee as to how that time shall be distributed, any gentleman recognized by the Chair will be entitled to consume an hour. If each gentleman recognized by the Chairman consumes an hour, the debate having been fixed at four hours, it would necessarily follow that four gentleman would be recognized.

2550 The time for general debate having been fixed by the House, it is not in order in Committee of the Whole to entertain a request for unanimous consent for alteration of such order.

On February 2, 1921,[2] the Committee of the Whole House on the state of the Union was considering the Army appropriation bill under an order from the House limiting general debate to four hours.

At the conclusion of the remarks of Mr. Julius Kahn, of California, Mr. S. Wallace Dempsey, of New York, submitted a request for unanimous consent that Mr. Kahn's time be extended 10 minutes beyond the time fixed by the House for the close of general debate.

The Chairman[3] said:

The Chair does not feel justified in putting that report, the time having been fixed by the House.

2551. On September 16, 1919,[4] the first deficiency appropriation bill was being considered in the Committee of the Whole House on the state of the Union under an order from the House limiting general debate on the bill to three hours.

At the expiration of time allotted to Mr. James W. Good, of Iowa, for debate, Mr. Joseph W. Byrns, of Tennessee, asked unanimous consent that Mr. Good be allowed to conclude his remarks, the additional time not to be taken from the time agreed upon for general debate.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2454.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 5536.

The Chairman [1] declined to submit the request to the committee, and said:

The chair will state that the time on this bill was fixed by the order of the House. The Chair does not see how the committee, even by unanimous consent, can agree to an extension of time, the time having been fixed in the House. The only way the debate can be extended is by action of the House.

2552. On March 8, 1928,[2] the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the joint resolution (S.J. Res. 47) proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President, Vice President, and Members of Congress, the House having previously fixed the time for debate.

At the close of the time fixed by the House for debate, the Chairman announced that all time had expired.

Whereupon, Mr. Charles L. Gifford, of Massachusetts, asked unanimous consent that the time be extended 10 minutes.

The Chairman [3] said:

The Chair would like to state to the gentleman from Massachusetts that the unanimous-consent request made by him is out of order because the time was fixed by the House, and the Committee has no power to change it.

2553. In the absence of an order by the House, the Committee of the Whole may limit general debate by unanimous consent.

In the absence of a rule by the contrary, the practice governing debate in the House is followed in the committee.

A member recognized for general debate in the Committee of the Whole has one hour, any portion of which he may yield to another, who in turn may yield to a third with the consent of the original possessor.

On January 31, 1921,[4] during consideration of the river and harbor bill in the Committee of the Whole House on the state of the Union, Mr. S. Wallace Dempsey, of New York, asked unanimous consent that general debate be limited to one hour and a half.

Mr. Finis J. Garrett, of Tennessee, made the point of order that time for general debate might not be limited in the committee but must be arranged for in the House.

The Chairman [5] overruled the point or order.

Objection being made to the request that debate be limited, Mr. James R. Mann, of Illinois was recognized for one hour, and announced:

Mr. Chairman, I yield 25 minutes of that time to the gentleman from New York, Mr. Dempsey, and 35 minutes of that time to the gentleman from North Carolina, Mr. Small.

Mr. Dempsey and Mr. Small then in turn yield to other Members portions of the time thus allowed to them.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] First session Seventieth Congress, Record, p. 4365.

[3] Frederick R. Lehibach, of New Jersey, Chairman.

[4] Third session Sixty-sixth Congress, Record, p. 2340.

[5] James W. Husted, of New York, Chairman.

2554. The motion to close general debate in the Committee of the Whole is made in the House and is not in order until debate has begun in the committee.

While the motion to close general debate is not in order in the Committee of the Whole, the committee may, in the absence of an order by the House, close debate by unanimous consent.

On December 15, 1909,[1] Mr. James R. Mann, of Illinois, from the Committee on Interstate and Foreign Commerce, when that committee was reached in the Calendar Wednesday call of Committees, called up the bill (H. R. 12316) to provide for the government of the Canal Zone.

Before the House had resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill, Mr. Martin B. Madden, of Illinois, asked if it would be in order to limit general debate in the committee and provide for control of the time.

The Speaker[2] said:

Where the House has not fixed the time of general debate, which the House can not do until there has been general debate in the committee, the Committee of the Whole House may, by unanimous consent, limit debate. If such consent can not be obtained, the only way it can be limited would be for the committee to rise and for the proper motion to be made in the House, but this procedure does not affect that question. It never is competent for the House, except by unanimous consent, to decide how much general debate shall be had in the Committee of the Whole House until there has been some general debate in the Committee of the Whole. This procedure does not bear upon that question.

2555. When the previous question is ordered on the motion to close debate, the rule providing for forty minute debate on propositions on which the previous question has been ordered without prior debate does not apply, and no debate is in order.

On January 27, 1912,[3] Mr. Oscar W. Underwood, of Alabama, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 18642, the metal schedule tariff bill, and, pending that motion, moved that general debate on the bill be closed.

The previous question being demanded, was ordered, yeas 162, nays 105. Whereupon Mr. James R. Mann, of Illinois, asked recognition for twenty minutes' debate under the rule[4] providing forty minutes' debate where the previous question has been ordered without prior debate.

Mr. Underwood made the point of order that the motion to close debate was not debatable, and explained that he had moved the previous question not to prevent debate but to preclude amendment.

The Speaker[5] ruled:

It seems to the Chair that if the motion to closed debate were a debatable motion, the gentleman from Illinois would undoubtedly be correct in his point of order, but the motion to close

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[1] Second session Sixty-first Congress, Record, p. 162.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-second Congress, Record, p. 1407.

[4] Clause 3 of Rule XXVII.

[5] Champ Clark, of Missouri, Speaker.

debate is not debatable under any circumstances whatever, and therefore the point of order is overruled. The question is on the motion of the gentleman from Alabama that general debate be closed.

2556. Time consumed in the discussion of points of order is not chargeable to time fixed by special order for debate.

An amendment against which a question of order has been raised may not be debated until the point of order has been disposed of.

On May 6, 1908,[1] the sundry civil appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

On motion of Mr. James A. Tawney, of Minnesota, time for debate on a pending paragraph and amendments thereto was limited to one hour and thirty minutes.

Subsequently a point of order was raised against a proposed amendment to the paragraph and Mr. Tawney inquired if time consumed in discussion of points of order would be taken from the hour and thirty minutes provided for debate.

The Chairman[2] said:

The Chair is clearly of the opinion that the time in which the points of order are to be discussed would certainly not be taken out of the one hour and thirty minutes. And the Chair thinks points of order should first be disposed of, because various Members might want to discuss the amendment. The Chair will hear the gentleman from Maine, Mr. Littlefield, on the point of order.

2556a. Debate on appeal in Committee of the Whole is under the five-minute rule.

The motion to lay on the table is not in order in Committee of the Whole.

On May 24, 1921,[3] the second deficiency bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read an item providing for salaries in the General Land Office at annual rates during the fiscal year 1922.

Mr. Thomas L. Blanton, of Texas, made the point of order that the appropriation was not a deficiency appropriation.

The Chairman,[4] having sustained the point of order, and Mr. James W. Good, of Iowa, having appealed from the decision of the Chair, Mr. Joseph W. Byrns, of Tennessee, inquired if the question of appeal was debatable.

The Chairman held it to be debatable under the five-minute rule.

Mr. Finis J. Garrett, of Tennessee, as a parliamentary inquiry, asked if it was in order to move to lay the appeal on the table.

The Chairman said:

The Chair would state that that motion is not in order in Committee of the Whole. It has been construed that the motion to adjourn or the motion to lay on the table is not in order in Committee of the Whole. In Hinds' Precedents, section 4719, the Chairman ruled that the motion to lay on the table is not in order in Committee of the Whole. It was an appeal from the decision of the Chair. A Member from Massachusetts moved to lay the appeal on the table. The appeal

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[1] First session Sixtieth Congress, Record, p. 5810.

[2] James E. Watson, of Indiana, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1697.

[4] Joseph Walsh, of Massachusetts, Chairman.

was taken from the decision of the Chair. Mr. Fowler, of Massachusetts, moved to lay the appeal on the table, and the Chairman held that the motion was not in order in Committee of the Whole. That ruling was followed by the Chairman of the Committee as late thereafter as 1902, and has been followed, the Chair thinks, several times since that time. The question is, Shall the decision of the Chair sustaining the point of order stand as the judgment of the Committee?

The question being taken, the Committee voted to sustain the decision of the Chair.

2557. When, after a speech in favor of an amendment under the five-minute rule, no one claimed the floor in opposition, the Chairman recognized another Member favoring the amendment.

On July 19, 1919,[1] Mr. John H. Small, of North Carolina, offered an amendment to the bill H. R. 6810, the prohibition enforcement bill, under consideration in the Committee of the Whole House on the state of the Union.

After five minutes' debate in favor of the amendment by Mr. Small the Chairman recognized Mr. John E. Raker, of California, who also favored the amendment.

Mr. Leonidas C. Dyer, of Missouri, made the point of order that after one speech in behalf of an amendment no member could be recognized unless opposed to the amendment and cited as sustaining his position the rule[2] for reading an amendment in Committee of the Whole.

The Chairman[3] said:

The gentleman from California was recognized. No one opposing the amendment was asking for recognition, and the Chair had a right to suppose that those opposed to the amendment waived their right to recognition.

2558. When time for debate under the five-minute rule is limited in Committee of the Whole without provision for its control, the Chairman divides the time, where practicable, between those favoring and those opposing the proposition.

On March 21, 1924,[4] Mr. Tom Connally, of Texas, offered an amendment to the naval appropriation bill then under consideration in the Committee of the Whole House on the state of the Union.

After debate on the proposition and amendments thereto had proceeded for fifteen minutes, debate thereon was ordered closed in twenty minutes on motion of Mr. Charles C. Kearns, of Ohio.

When fifteen minutes of this time had been consumed, Mr. Marvin Jones, of Texas, favoring the amendment, and Mr. Walter H. Newton, of Minnesota, opposing it, simultaneously asked recognition.

The Chairman[5] said:

[5] William J. Graham, of Illinois, Chairman.

The situation is this: Before the time was limited 15 minutes had been used in favor of the amendment, 10 minutes by the gentleman from Texas, Mr. Connally, and 5 minutes by the gentleman from Iowa, Mr. Dowell. After debate was limited, 10 minutes was used by the gentleman from Idaho, Mr. French, against the amendment and 5 minutes were used in favor of it.

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[1] First session Sixty-sixth Congress, Record, p. 2884.

[2] Section 5 of Rule XXIII.

[3] James W. Good, of Iowa, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 4646.

The question is now whether the Chair should equally divide the 20 minutes that was fixed between those who were opposed to the amendment and those in favor of it, or whether he should take into consideration the amount of time used before debate was limited. In view of the fact that 20 minutes have already been used in favor of the amendment and but 10 minutes against it, the Chair thinks it only just to recognize gentleman who are opposed to the amendment. The Chair recognizes the gentleman from Minnesota, Mr. Newton.

2559. Under the 5-minute rule time for debate may be fixed but may not be allotted even by unanimous consent.

On January 6, 1927,[1] the House, in the Committee of the Whole House on the state of the Union, was considering the naval appropriation bill.

Mr. James T. Begg, of Ohio, offered an amendment authorizing an appropriation of $200,000 for the construction of a dirigible.

Debate on the amendment having begun, Mr. Burton L. French, of Idaho, asked unanimous consent that further debate be limited to one hour, one half to be controlled by Mr. Begg and the other half by himself.

The Chairman[2] put the request to limit the time but ruled that the request for control of time was out of order and declined to submit it to the Committee.

Subsequently Mr. Begg asked if the request for the control of the time had been agreed to.

The Chairman said:

The Chair stated at the time that he did not believe that request was in order. The gentleman now addressing the Chair held last Spring that it was not in order.

The Chair did not put that portion of the request. The order now is that there shall be one hour of debate.

2560. A Member who has occupied five minutes on a pro forma amendment may not, by making another pro forma amendment, lengthen his time.

On February 12, 1924,[3] during the reading of the Treasury and Post Office appropriation bill for amendment, Mr. Ralph F. Lozier, of Missouri, at the close of five minutes' debate on a motion to strike out the last word, moved to strike out the last two words.

The Chairman[4] declined recognition and said:

The gentleman can not extend his time by a second pro forma amendment. The Clerk will read.

2561. On January 10, 1921,[5] the House was considering the joint resolution (S. J. Res. 237) providing for expenses of the inaugural ceremonies.

Mr. Thomas L. Blanton, of Texas, moved to strike out the last word, and, having addressed the House for five minutes, proposed a second pro forma amendment and asked recognition for further debate.

Mr. Otis Wingo, of Arkansas, made the point of order that a Member was not entitled to recognition on a second pro forma amendment.

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[1] Second session Sixty-ninth Congress, Record, p. 1184.

[2] Carl R. Chindblom, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 2317.

[4] Everett Sanders, of Indiana, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 1215.

The Speaker [1] said:

Of course the gentleman can not offer one-amendment after another amendment, and thus keep the floor indefinitely on one recognition.

2562. A Member proposing an amendment may offer an amendment to such amendment during the five minutes allotted him under the rule but may not thereby secure additional time for debate.

On January 23, 1924,[2] during consideration of the bill (H. R. 62) to create two judicial districts in the State of Indiana, in the Committee of the Whole House on the state of the Union, Mr. Merrill Moores, of Indiana, offered a substitute to the pending bill.

Being recognized to debate the proposed substitute, Mr. Moores offered an amendment striking out a section of the substitute.

Mr. Nicholas Longworth, of Ohio, raised a question of order as to the propriety of a Member offering an amendment and then proposing an amendment to the amendment during debate thereon and thus securing an additional five minutes for debate.

The Chairman [3] ruled that the Member proposing an amendment had the same right to offer an amendment thereto accorded any other Member but might not thus secure additional time for debate.

2563. An amendment once offered in Committee of the Whole may not be withdrawn or modified except by unanimous consent.

On December 4, 1918,[4] during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 12917) to establish a sanatorium for discharged soldiers and sailors, Mr. Cassius C. Dowell, of Iowa, offered verbally an amendment striking out a portion of the bill.

The amendment having been reduced to writing and read by the Clerk, Mr. Dowell sent to the desk a written version of the amendment differing slightly from the form read by the Clerk.

Mr. Halvor Steenerson, of Minnesota, made the point of order that it was not permissible to modify the form of the amendment after it had been read at the desk.

The Chairman [5] held that the amendment might not be modified, even when modification occurred in reducing to writing an amendment offered verbally.

2564. It is not in order for a Member to amend or modify a motion which he has offered in the Committee of the Whole except by unanimous consent.

On July 19, 1919,[6] the bill H. R. 6810, the prohibition enforcement bill, was being read for amendment in the Committee of the Whole House on the state of the Union.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-eighth Congress, Record, p. 1347.

[3] Louis C. Cramton, of Michigan, Chairman.

[4] Third session Sixty-fifth Congress, Record, p. 109.

[5] Martin D. Foster, of Illinois, Chairman.

[6] First session Sixty-sixth Congress, Record, p. 2860.

Mr. Andrew J. Volstead, of Minnesota, moved that debated on the pending section and all amendments thereto be closed in five minutes.

Subsequently Mr. Volstead proposed to modify his motion increasing the time within which debate should be closed from five minutes to fifteen minutes.

Mr. Thomas L. Blanton, of Texas, made the point of order that a motion in Committee of the Whole could be modified only by unanimous consent.

The Chairman [1] held:

The gentleman can not modify his motion except by unanimous consent.

2565. Debate under the five-minute rule is had in the Committee of the Whole or in the "House as in Committee of the Whole" but not in the House.

On August 7, 1911,[2] the House was considering the concurrent resolution (H. Con. Res. 3) authorizing the printing of proceedings on the occasion of the unveiling of the statue of Baron Von Steuben.

Mr. Joseph G. Cannon, of Illinois, called attention to the fact that the concurrent resolution was on the Union Calendar, and asked unanimous consent for its consideration in the House as in the Committee of the Whole, and, pending that, inquired if it would be taken up under the five-minute rule.

The Speaker [3] said:

If it is considered in the House as in Committee of the Whole the five-minute rule applies. If it is considered in the House, it does not.

2566. The Committee of the Whole may, after five-minute debate has begun, close debate on the section, paragraph, or pending amendments, but this does not preclude further amendment.

On April 8, 1910,[4] the Committee of the Whole House on the state of the Union, having under consideration the naval appropriation bill, voted to close debate on a pending paragraph and amendments thereto at 4 o'clock p. m.

Mr. James A. Tawney, of Minnesota, inquired:

The rule has always been heretofore that the disposition of amendments follows the close of all debate; but when the committee has set aside a certain time for debate on a given question that time is devoted to debate, and then amendments offered thereafter are in order and not debatable. That has been the ruling. I was anxious to know under what rule we are now proceeding.

The Chairman [5] agreed:

That has been the ruling.

2567. After debate under the five-minute rule has begun on an amendment the motion to close debate is privileged.

On December 18, 1918,[6] while the Post Office appropriation bill was being considered in the Committee of the Whole House on the state of the Union, Mr.

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[1] James W. Good, of Iowa, Chairman.

[2] First session Sixty-second Congress, Record, p. 3700.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-first Congress, Record, p. 4429.

[5] James R. Mann, of Illinois, Chairman.

[6] Third session Sixty-fifth Congress, Record, p. 628

John A. Moon, of Tennessee, moved to close debate on an amendment offered by Mr. William R. Green, of Iowa, to an amendment proposed by Mr. Finis J. Garrett, of Tennessee.

Mr. Thomas U. Sisson, of Mississippi, demanded recognition.

The Chairman [1] said:

The motion of the gentleman from Tennessee is a privileged motion. The gentleman moves that debate on the paragraphs and amendments thereto be now closed.

2568. On March 21, 1930,[2] the Committee of the Whole House on the state of the union was considering the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways.

Mr. Clarence F. Lea, of California, offered an amendment and after brief debate yielded the floor.

Whereupon, Mr. James S. Parker, of New York, moved that debate on the amendment be closed.

Mr. John E. Rankin, of Mississippi, made a point of order against the motion on the ground that those opposed to the amendment had not yet had an opportunity to be heard.

The Chairman [3] overruled the point of order and said:

There is not any question but that debate has been had on this amendment. There is not any question but that under the rules of the House the gentleman from Mississippi is too late.

The gentleman may proceed only by unanimous consent.

2569. On January 26, 1932,[4] the Department of Agriculture appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when Mr. William B. Oliver, of Alabama, Mr. Allen T. Treadway, of Massachusetts, and Mr. James P. Buchanan, of Texas, rose simultaneously asking recognition.

The Chairman [5] inquired:

For what purpose does the gentleman from Texas rise?

Mr. Buchanan replied that he desired to offer a motion to close debate on the pending section.

Mr. Charles L. Underhill, of Massachusetts, made the point of order that the gentleman from Alabama had first addressed the chair and was entitled to prior recognition.

Mr. Treadway submitted that he was on his feet asking recognition in advance of Mr. Buchanan and was entitled to precedence over Mr. Buchanan.

The Chairman ruled:

The Chair overrules the point of order. The motion of the gentleman from Texas is not debatable and is a privileged motion after debate has been had on the paragraph. The question is on the motion of the gentleman from Texas.

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[1] Charles R. Crisp, of Georgia, Chairman.

[2] Second session Seventy-first Congress, Record, p. 5858.

[3] Earl C. Michener, of Michigan, Chairman.

[4] First session Seventy-second Congress, Record, p. 2749.

[5] John W. McCormack, of Massachusetts, Chairman.

2570. A proposition for control or division of time is not in order as a part of a motion to limit debate under the five-minute rule.

On June 11, 1919,[1] the Committee of the Whole House on the state of the Union was considering the Army appropriation bill.

After debate had proceeded for some time on amendments to a section providing for the contingent expenses of the Army, Mr. Julius Kahn, of California, moved that debate on the section and all amendments thereto be closed in fifteen minutes, five minutes of that time to be controlled by Mr. Charles C. Kearns, of Ohio; five minutes by Mr. Roscoe C. McCulloch, of Ohio; and five minutes by Mr. William E. Andrews, of Nebraska.

The Chariman[2] declined to entertain the motion and said:

The gentleman from California may move to fix the time, but not to apportion it.

2571. Debate under the five-minute rule, however brief, was held to exhaust the time allotted and another Member was denied recognition for the unexpired time.

On December 3, 1919,[3] the bill (S. 2497) granting six months' pay to dependents of deceased soldiers was being read for amendment in the Committee of the Whole House on the state of the Union.

Mr. James R. Mann, of Illinois, having been recognized to speak in opposition to a pending amendment, yielded the floor after brief debate, and Mr. Fiorello H. LaGuardia, of New York, asked recognition for the unconsumed time.

The Chairman[4] said:

The gentleman from Illinois has consumed five minutes—

Mr. Mann submitted:

I beg the Chairman's pardon, I did not use a half a minute.

The Chairman held:

When any time is used under the five-minute rule the time can not be farmed out, and that exhausts the five minutes.

2572. A motion to close debate in the Committee of the Whole is in order at any time after debate has begun and may propose to close debate instanter or at the expiration of any designated time.

On February 27, 1931,[5] the bill (S. 255) to promote the health and welfare of mothers and infants was being read for amendment in the committee of the Whole House on the state of the Union under the 5-minute rule.

Mr. James S. Parker, of New York, offered a motion that debate on the pending amendment and all amendments thereto close in 15 minutes.

Mr. George Huddleston, of Alabama, objected that the motion was not primarily a motion to close debate but an attempt to fix time for debate in that it provided for closing debate in 15 minutes and not instanter.

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[1] First session Sixty-sixth Congress, Record, p. 988.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 91.

[4] James W. Good, of Iowa, Chairman.

[5] Third session Seventy-first Congress, Record, p. 6300.

The Chairman [1] overruled the point of order and said:

The Chair will state that, under the rules of the House, after any iota of debate has been had on one amendment it is then the privilege of the Committee to close debate.

Paragraph 6 of Rule XXIII provides:

"The Committee may, by the vote of a majority of the Members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate."

It is the general practice, long established and well recognized in the Committee, to entertain a motion to either close the debate instanter or after any stated time for debate.

The question is on the motion of the gentleman from New York that all debate on the pending amendment and all amendments thereto close in 15 minutes.

2573. The five-minute debate may be closed after one speech, however brief, and it is not necessary that an entire five minutes be consumed to make the motion to close debate in order.

On January 18, 1917,[2] the Committee of the Whole House on the state of the Union was considering the bill H. R. 18994, the public building bill.

Mr. Frank Clark, of Florida, offered an amendment increasing the appropriation for the post office building at Forest City, Arkansas, from $25,000 to $35,000, and after a sentence in debate moved to close debate on the pending paragraph and amendment.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to close debate might not be offered until five minutes' debate was had on the paragraph.

The Chairman [3] said:

This is the situation: The chairman of the committee, the gentleman from Florida, offers an amendment to the paragraph and after proceeding to explain why he offered the amendment he makes a motion that debate upon the paragraph and all amendments thereto be closed, whereupon the gentleman from Wisconsin makes the point of order that there had not been five minutes discussion upon the amendment. The Chair is inclined to think that inasmuch as discussion upon the amendment had been entered upon by the chairman of the committee the point of order is not well taken and the point of order is therefore overruled. The question is on the motion to close debate upon the paragraph and amendments thereto.

2574. On May 22, 1922,[4] during consideration in Committee of the Whole on the state of the Union of the bill (S. 2919) for the extension of the District of Columbia rents act, Mr. Stuart F. Reed, of West Virginia, offered an amendment striking out section 4 of the bill.

Mr. James T. Begg, of Ohio, being recognized, made the statement that there was no need to discuss the amendment, and moved that debate on the amendment and all amendments thereto be closed.

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[1] William H. Stafford, of Wisconsin, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 1656.

[3] Cyrus Cline, of Indiana, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 7421.

Mr. Thomas L. Blanton, of Texas, made the point of order that no argument had been made either for or against the amendment and the motion to close debate was therefore not in order.

The Chairman [1] held the motion to be in order after debate, however brief, and overruled the point of order.

2575. The motion to close the five-minute debate is not debatable.

On February 25, 1911,[2] Mr. James A. Tawney, of Minnesota, moved to close debate under the five-minute rule on the pending paragraph of the sundry civil appropriation bill then under consideration in the Committee of the Whole House on the state of the Union.

Mr. Richard Pearson Hobson, of Alabama, asked to be heard on the motion.

The Chairman [3] held:

The motion is not debatable. The question is on agreeing to the motion.

2576. On June 28, 1918,[4] the bill (H. R. 11984), providing for the fourteenth and subsequent decennial censuses, was being considered in the Committee of the Whole House on the state of the Union.

Mr. Harvey Helm, of Kentucky, moved that debate on an amendment offered by Mr. Ira G. Hersey, of Maine, providing for the appointment of supervisors by the President, and amendments thereto, be limited to ten minutes.

While the motion was pending Mr. Joseph Walsh, of Massachusetts, Mr. William H. Stafford, of Wisconsin, and Mr. Frederick H. Gillett, of Massachusetts, engaged in a colloquy, until the Chairman [5] reminded:

This question is not debatable.

2577. On July 19, 1919,[6] during consideration of the bill H.R. 6810, the prohibition enforcement bill, in the Committee of the Whole House on the state of the Union, Mr. Andrew J. Volstead, of Minnesota, moved to close debate on amendment offered by Mr. William L. Igoe, of Missouri, and all amendments thereto.

Mr. Leonidas C. Dyer, of Missouri, inquired if affirmative action on this motion would preclude the offering of further amendments.

The Chairman [7] held that while the motion would close debate it would not interfere with the offering of amendments to be voted on without discussion.

2578. A motion to close debate in Committee of the Whole is in order at any time after the five-minute debate begins and is not precluded because there has been no debate in opposition to the pending amendment.

The motion to close the five-minute debate, while not debatable, is subject to amendment.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] Third session Sixty-first Congress, Record, p. 3481.

[3] James R. Mann, of Illinois, Chairman.

[4] Second session Sixty-fifth Congress, Record, p. 8447.

[5] Mr. Martin D. Foster, of Illinois, Chairman.

[6] First session Sixty-sixth Congress, Record, p. 2881.

[7] James W. Good, of Iowa, Chairman.

On April 2, 1908,[1] during the reading for amendment in the Committee of the Whole House on the state of the Union of the resolution (H. Res. 233) to distribute the President's message, Mr. Sereno E. Payne, of New York, moved that all debate on the resolution and pending amendments thereto be closed.

Mr. John Sharp Williams, of Mississippi, made the point of order that the rule provided for five minutes' debate in the affirmative and five minutes in the negative, and the motion to close debate might not be offered until opportunity had been afforded for debate in opposition to the resolution.

The Chairman[2] ruled:

The Chair understands the gentleman from New York to move that all debate upon the resolution and amendments thereto be now closed. The Chair understands the gentleman from Mississippi makes the point of order that this motion is not now in order. The Chair has been listening to the gentleman and to the gentleman from Alabama upon that point of order and is ready to rule. The Chair will rule that the motion is in order, and will cite a ruling of the second session of the Fifty-sixth Congress, to the effect that in the five-minute debate a gentleman may be recognized for five minutes on an amendment, and the five minutes having expired, he may offer a motion that all debate close.

Thereupon, Mr. Williams proposed to offer a substitute for the motion to close debate and asked recognition to debate it.

The Chairman held that while the motion to close debate was subject to amendment, it was not debatable.

2579. Closing debate under the five-minute rule on a section does not preclude the offering of amendments.

On January 15, 1932,[3] the bill (H. R. 7360) to provide emergency financing facilities for financial institutions and to aid in financing agriculture, commerce, and industry, was under consideration in the Committee of the Whole House on the state of the Union when, on motion of Mr. Henry B. Steagall, of Alabama, debate was closed on the pending section and all amendments thereto.

Mr. La Fayette L. Patterson, of Alabama asked recognition to offer an amendment.

Mr. William F. Stevenson, of South Carolina, made the point of order that debate having been closed further amendments were not in order.

The Chairman[4] overruled the point of order and said:

But that does not prevent the gentleman from Alabama from offering an amendment to this section and having it voted upon by the committee.

The gentleman from Alabama is recognized for the purpose of offering an amendment, which the Clerk will report.

2580. The closing of debate on a section and all amendments thereto applies to amendments offered subsequently.

An amendment in the third degree is not permissible.

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[1] First session Sixtieth Congress, Record, p. 4330.

[2] George P. Lawrence, of Massachusetts, Chairman.

[3] First session Seventy-second Congress, Record, p. 2077.

[4] Lindsay C. Warren, of North Carolina, Chairman.

On April 23, 1928,[1] while the House, in Committee of the Whole House on the state of the Union, was considering the bill (S. 3740) for the control of floods on the Mississippi River and its tributaries, Mr. Frank R. Reid, of Illinois, moved that debate on the pending section and all amendments thereto be closed in 30 minutes.

Mr. Edward E. Denison, of Illinois, as a parliamentary inquiry, asked if such a motion would preclude amendments not yet proposed to the section.

The Chairman[2] held that it applied to all amendments to the section, including any which might be offered subsequently.

Mr. Otis Wingo, of Arkansas, offered an amendment to the motion providing that the time be reduced from 30 minutes to 10 minutes.

Thereupon, Mr. J. Zach Spearing, of Louisiana, asked recognition to offer an amendment to the amendment proposed by Mr. Wingo, increasing the time from 10 minutes to 1 hour.

The Chairman said:

That amendment is an amendment to an amendment to an amendment, and therefore not in order. The question is on the amendment offered by the gentleman from Arkansas to the amendment offered by the gentleman from Illinois.

2581. The rule allowing proponents to close debate does not apply in Committee of the Whole.

The Member in charge, and not the proponent, is entitled to close debate on an amendment in the Committee on the Whole.

On February 11, 1911,[3] during consideration of the agricultural appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Ezekiel S. Candler, of Mississippi, offered an amendment increasing the appropriation for investigation of methods of road building.

On motion of Mr. Charles F. Scott, of Kansas, in charge of the bill, debate on the paragraph and all amendments thereto was limited to fifteen minutes, seven minutes to be controlled by himself and eight minutes by Mr. Candler.

After debate, Mr. Scott requested that Mr. Candler use the remainder of his time as he desired to close debate on the amendment.

Mr. Candler made the point of order that as proponent of the amendment he was entitled to close debate and cited section 6 of Rule XIV in support of his contention.

Mr. James R. Mann, of Illinois, in discussing the point of order said:

That rule does not apply to amendments in the Committee of the Whole at all. That applies to matters in the House.

The Chairman[4] ruled:

The Chair will give the chairman of the Committee on Agriculture, in charge of the bill, the opportunity to close. It is the observation of the present occupant of the chair that a chairman of committee having charge of a bill has the conclusion on items of the bill under circumstances like

[1] First session Seventieth Congress, Record, p. 7023.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Third session Sixty-first Congress, Record, p. 2360.

[4] Joseph H. Gaines, of West Virginia, Chairman.

the present. The circumstances of the present case suggest two propositions, or two questions, namely, whether the mover of the amendment is the proponent or the Member in charge of the bill The Chair recognizes the gentleman from Mississippi, Mr. Candler, for one minute.

2582. A motion to close debate on the pending section and amendments thereto does not apply to amendments proposing a new section.

Consideration of an amendment offered as a new section closes debate and amendment on the section pending at the time the new section is offered.

On April 16, 1924,[1] the bill (H. R. 7111) authorizing the compilation and dissemination of agricultural statistics was being read under the five-minute rule in the Committee of the Whole House on the state of the Union.

On motion of Mr. John E. Rankin, of Mississippi, debate on the pending section and all amendments thereto was closed.

Subsequently Mr. John Jacob Rogers, of Massachusetts, offered an amendment as a new section, and was recognized for debate.

Mr. Rankin made the point of order that debate had been closed and while it was permissible to offer an amendment and have it voted upon the amendment was not subject to debate.

The Chairman[2] held that the offering of an amendment as a new section closed the pending section to amendment and debate and, therefore, an order closing debate on the pending section did not apply to an amendment offered as a new section.

2583. On January 23, 1923,[3] the Committee of the Whole House on the state of the Union was considering the joint resolution (H. J. Res. 314) proposing an amendment to the Constitution relative to collection of taxes on income derived from securities.

On motion of Mr. William R. Green, of Iowa, debate on the first section of the joint resolution and all amendments thereto was ordered closed.

Mr. Meyer London, of New York, then offered an amendment as a section to follow section 1, and claimed the floor to debate the amendment.

Mr. Nicholas Longworth, of Ohio, raised the question of order that debate had been closed on the first section of the joint resolution to which the pending amendment was offered.

The Chairman[4] held that the order closing debate on section 1 and amendments thereto did not apply to an amendment offered as a new section, and recognized Mr. London to debate the amendment.

2584. On March 1, 1927,[5] the bill (H. R. 17130) to conserve the revenues from medicinal spirits and provide for the effective Government control of such spirits to prevent the evasion of taxes was under consideration in the Committee of the Whole House on the state of the Union.

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[1] First session Sixty-eighth Congress, Record, p. 6498.

[2] Carl R. Chindblom, of Illinois, Chairman.

[3] Fourth session Sixty-seventh Congress, Record, p. 2279.

[4] Clifton N. McArthur, of Oregon, Chairman.

[5] Second session Sixty-ninth Congress, Record, p. 5257.

Debate being had on section 17 of the bill, a motion by Mr. Willis C. Hawley, of Oregon, to close debate on the section and all amendments was agreed to.

The section having been disposed of, Mr. Grant M. Hudson, of Michigan, offered an amendment in the nature of a new section, and was recognized to debate it.

Mr. Hawley made the point of order that all debate had been closed.

The Chairman [1] overruled the point of order and said:

Debate was exhausted on section 17, but under the ruling that motion does not apply to an amendment offered as a new section unless the motion so provides.

This is a new section, and the Chair holds that the gentleman from Michigan is recognized.

2585. The right to limit debate in the Committee of the Whole on the pending section of a bill was held not to admit a motion to close debate on the entire bill after the last section had been read.

On January 23, 1923,[2] following the reading of the last section of the joint resolution (H. J. Res. 314) to amend the Constitution of the United States, Mr. William R. Green, of Iowa, moved to close debate on the joint resolution and all amendments thereto.

Mr. Finis J. Garrett, of Tennessee, made the point of order that under the rule the committee might close debate on each paragraph as read, and that the Committee of the Whole might rise at will, but so long as the committee remained in session it was not in order to close debate on the measure as a whole.

The Chairman [3] sustained the point of order and held that the motion to close debate on the entire joint resolution was not in order.

2586. On June 10, 1921,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6611) establishing a veteran's bureau in the Treasury Department.

Mr. Samuel E. Winslow, of Massachusetts, moved that debate on the pending section and all amendments thereto be closed in three minutes.

Pending that motion, Mr. C. William Ramseyer, of Iowa, as a parliamentary inquiry asked if the adoption of the motion would preclude debate on an amendment which he proposed to offer as a new section.

The Chairman [5] held that the question of debate on a section was closed when an amendment was offered in the nature of a new section and a motion closing debate on the pending section would not apply to amendments offered subsequently as new sections.

2587. On February 10, 1920,[6] the agricultural appropriation bill being under consideration in the Committee of the Whole House on the state of the Union, Mr. Gilbert N. Haugen, of Iowa, offered an amendment to be inserted as a new section, establishing a leasing system on the public domain.

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[1] Earl C. Michener, of Michigan, Chairman.

[2] Fourth session Sixty-seventh Congress, Record p. 2280.

[3] Clifton N. McArthur, of Oregon, Chairman.

[4] First session Sixty-seventh Congress, Record p. 2395.

[5] Sydney Anderson, of Minnesota, Chairman.

[6] Second session Sixty-sixth Congress, Record p. 2725.

Mr. Carl Hayden, of Arizona, made the point of order that the amendment proposed legislation on an appropriation bill, which was sustained by the Chairman.[1]

Mr. Thomas L. Rubey, of Missouri, moved to strike out the last word.

Mr. James R. Mann, of Illinois, made the point of order that consideration of the amendment offered as a new section closed to amendment and debate the paragraph pending at the time the amendment was offered, and the point of order disposed of the amendment and therefore no last word was pending.

The Chairman sustained the point of order and said:

The gentleman from Illinois is correct. The Chair is informed by the Clerk that the last amendment offered was to follow line 8 as a new paragraph, therefore there is no paragraph before the House. The Clerk will read.

2588. The committee having by vote fixed the time for closing debate on a pending section and amendment thereto, a motion to change such time is not in order.

On April 8, 1910,[2] during consideration of the naval appropriation bill in the Committee of the Whole House on the state of the Union, a motion was agreed to limiting debate on the pending section and all amendments thereto to one hour and a half.

Prior to the expiration of that time Mr. George W. Norris, of Nebraska, moved that all debate on the section and amendments thereto be now closed.

Mr. J. Warren Keifer, of Ohio, made the point of order that the limit of time for debate had been agreed upon by the committee and it was not in order to propose a change.

The Chairman[3] held:

The Chair is of the opinion that the committee having by motion agreed upon an order fixing the time for closing debate on the section and all amendments thereto, it is not now in order to change the previous order of the committee.

Paragraph 6 of Rule XXIII provides:

"The committee may by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill close all debate upon such section or paragraph, or at its election, upon the pending amendments only (which motion shall be decided without debate), but this shall not preclude further amendments to be decided without debate."

In the opinion of the Chair, that takes the place, when the authority is exercised, of the other rule, which provides for five minutes' debate for and five minutes' debate against an amendment. The Chair, therefore, sustains the point of order made by the gentleman from Ohio to the motion of the gentleman from Nebraska.

2589. An order having been adopted by the Committee of the Whole closing all debate on a section, the Chairman declined to entertain request for unanimous consent to amend the order.

On March 27, 1928,[4] the naval appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-first Congress, Record p. 4432.

[3] James R. Mann, of Illinois, Chairman.

[4] First session Seventieth Congress, Record p. 5462.

On motion of Mr. Burton L. French, of Idaho, by unanimous consent, debate on a pending section and all amendments thereto was limited to 25 minutes.

Subsequently, Mr. A. Piatt Andrew, of Massachusetts, asked unanimous consent that the time for debate be extended five minutes.

The Chairman [1] declined recognition for that purpose and said:

Debate has been closed upon this paragraph and all amendments thereto.

The Chair can not entertain a request for unanimous consent in violation of the agreement made by the House.

The Chair holds that he is not privileged to entertain a unanimous-consent request in violation of an agreement already made. The Clerk will read.

2590. General debate in Committee of the Whole House is confined to the subject.

The Member is not required to confine himself to the subject, and the widest latitude is permitted in general debate in the Committee of the Whole House on the state of the Union.

On February 3, 1911,[2] while the House was in the Committee of the Whole House for the consideration of bills on the Private Calendar, the bill (H. R. 19577) for the relief of Frederick P. McGuire was taken up.

Mr. Robert B. Macon, of Arkansas, being recognized, proposed to discuss a matter irrelevant to the pending bill.

Mr. Elmer A. Morse, of Wisconsin, made the point of order that the debate must be confined to the subject.

The Chairman [3] ruled:

In Committee of the Whole House on the state of the Union, during the general debate which precedes the reading of the bill for amendment under the five-minute rule, the rules of this House allow a freedom and latitude of debate not witnessed in any other parliamentary body of equal size or comparable importance. Anything may be discussed which may by the liveliest imagination be supposed to relate to the state of the Union in any particular or in any degree, however remote. But we are not now in Committee of the Whole House on the state of the Union. We are now in Committee of the Whole House for the consideration of private bills upon the Private Calendar and not bills upon the Union Calendar, which are considered in Committee of the Whole House on the state of the Union. In Committee of the Whole House debate must be confined to the pending bill. The Chair therefore sustains the point of order.

2591. In debate under the five-minute rule the Member must confine himself to the subject, even on pro forma amendments.

On March 25, 1916,[4] the House was considering in the Committee of the Whole House on the state of the Union the bill H. R. 10384, the immigration bill.

Mr. James R. Mann, of Illinois, moved to strike out the last word, and, being recognized for debate, proceeded to discuss another matter.

Mr. Frank Clark, of Florida, made the point of order that irrelevant debate was not in order in Committee of the Whole House on the state of the Union.

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[1] Carl R. Chindblom, of Illinois, Chairman.

[2] Third session Sixty-first Congress, Record, p. 1921.

[3] Marlin E. Olmsted of Pennsylvania, Chairman.

[4] First session Sixty-fourth Congress, Record, p. 4855.

The Chairman [1] held:

Of course, the motion to strike out the last word and the debate on it pro and con are matters of convention here. If the rule is insisted upon, of course, any amendment in the Committee of the Whole must be debate on the merits of the amendment.

2592. On February 26, 1919,[2] while the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. J. Thomas Heflin, of Alabama, moved to strike out the last word of the pending paragraph providing an appropriation for guards at the Federal penitentiary at Leavenworth.

Mr. Heflin, having the floor, took up a discussion of the price of cotton.

Mr. Thomas L. Blanton, of Texas, made the point of order that the debate was irrelevant.

The Chairman [3] sustained the point of order and said:

The point of order is sustained. The gentleman must proceed in order. The motion of the gentleman from Alabama was to strike out the last word, and the gentleman must confine himself to that motion. It is not in order to discuss the cotton question under a motion to strike out the paragraph. The Clark will read.

2593. On July 19, 1919,[4] during consideration of the bill H. R. 6810, the prohibition enforcement bill, in the Committee of the Whole House on the state of the Union, Mr. Adolph J. Sabath, of Illinois, moved to strike out the last word of the paragraph under discussion, and being recognized for five minutes proceeded in irrelevant debate.

Mr. Louis C. Cramton, of Michigan, made the point of order that the debate was not confined to the pending amendment.

The Chairman [5] ruled:

The point of order is sustained. The gentleman's remarks have nothing to do with the last words. The gentleman must confine his remarks to his amendment, which is to strike out the last word. If the point of order is made, the gentleman must confine his remarks to the question under discussion, and the question under discussion is the motion of the gentleman to strike out the last word.

2594. A Member persisting in irrelevant debate in Committee of the Whole House on the state of the Union after being called to order by the Chairman was required to relinquish the floor.

On May 7, 1920,[6] the Committee of the Whole House on the state of the Union was considering the sundry civil appropriation bill, when Mr. Charles Pope Caldwell, of New York, moved to strike out the last word of a paragraph providing an appropriation for a Confederate cemetery.

Mr. Caldwell then proceeded to debate a resolution previously passed by the House on another subject.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 4832.

[3] Hatton W. Summers, of Texas, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 2889.

[5] James W. Good, of Iowa, Chairman.

[6] Second session Sixty-sixth Congress, Record, p. 6734.

Mr. James W. Good, of Iowa, made the point of order that debate must be confined to the subject under consideration.

The Chairman [1] said:

The gentleman from New York is not speaking to the paragraph under consideration.

Mr. Caldwell continued his discussion of the resolution until again interrupted by a point of order from Mr. Good.

The Chairman ruled:

The Chair sustains the point of order.

Mr. Caldwell persisting in irrelevant debate, the Chairman in response to a further point of order said:

The Chair sustains the point of order. The gentleman from New York will take his seat. A point of order has been made, and the Chair sustains the point of order, and the gentleman from New York will take his seat.

Thereupon Mr. Caldwell resumed his seat.

Subsequently Mr. Caldwell made a point of order that debate by Mr. Martin B. Madden, of Illinois, on an amendment to the same paragraph was not relevant.

The Chairman sustained the point of order and admonished Mr. Madden to proceed in order.

Mr. Caldwell submitted that Mr. Madden should be required to take his seat.

The Chairman differentiated:

Gentlemen will be in order, and the Chair will make a statement. The Chair permitted the gentleman from New York, Mr. Caldwell, to proceed until it was clearly demonstrated that his remarks were not in order. Although the point of order was made that his remarks were not in order, the Chair permitted him to proceed, and admonished him to proceed in order, until it was clearly demonstrated that the gentleman's remarks were not in order, and the Chair was following exactly the same procedure in the case of the gentleman from Illinois. If the gentleman from Illinois transgresses the rule and proceeds out of order, the Chair will sustain the point of order and direct the gentleman from Illinois to take his seat. The gentleman from Illinois will proceed in order.

2595. A Member required to yield the floor because of persistent irrelevancy in debate was held not to have forfeited the right to propose and debate amendments to subsequent paragraphs.

On February 5, 1921,[2] the House was considering in the Committee of the Whole House on the state of the Union a paragraph in the Army appropriation bill making an appropriation for the Military Academy band.

Mr. George Huddleston, of Alabama, offered a motion to strike out the last word and, being recognized to debate the amendment, addressed his remarks to the character of business to be taken up in the House on the following Monday.

Mr. Caleb R. Layton, of Delaware, made the point of order that the remarks of the gentleman from Alabama were not addressed to the question before the committee.

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] Third session Sixty-sixth Congress, Record, p. 2681.

The Chairman [1] ruled:

The point of order is sustained. The gentleman from Alabama will take his seat, and the Clerk will read.

Mr. Huddleston took his seat and the Clark read:

Nine sergeants, at $54 each per month, $5,832.

Mr. Huddleston moved to strike out the last word and, being recognized for debate, resumed his discussion touching the order of business for Monday.

Mr. Clifton N. McArthur, of Oregon, made a point of order against the character of the debate, and the Chairman sustained the point of order and said:

The gentleman will be in order. The gentleman will take his seat. He is out of order.

Mr. Huddleston resumed his seat but continued to rise as each paragraph was read to offer pro forma amendments and resume irrelevant debate until called to order and required to relinquish the floor.

In the course of this proceedings Mr. Madden made the point of order that the pro forma motions offered by the gentleman from Alabama were dilatory and cited the following section of Rule XVI:

That no dilatory motion shall be entertained by the Speaker.

The Chairman ruled:

The Chair overrules the point of order of the gentleman from Illinois.

The occupant of the chair has the same rights as the other Members of the House. When, in the opinion of the Chair, a Member is proceeding out of order the Chairman has the same right as any other Member to call him to order. For that reason a few moments ago the Chair did call the gentleman from Alabama to order when sure that he was not discussing the subject matter of the amendment.

Mr. Nicholas Longworth, of Ohio, submitted a further point of order and said:

Mr. Chairman, I raise a point of order. I cite the Chair to page 135 of Jefferson's Manual, where is found the following language:

"No one is to speak impertinently or beside the question, superfluously, or tediously."

I make the point of order the gentleman comes within the last description.

The Chairman ruled:

The Chair feels quite sympathetic with the gentleman from Ohio, but is compelled to overrule the point of order. The gentleman will proceed in order. The Chair will attempt to enforce the rules.

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[1] John Q. Tilson, of Connecticut, Chairman.

Chapter CCXLVI. [1]

READING OF PAPERS.

2596. A Member may object to the reading of a paper on which the House is not required to vote at any time after reading has begun, and demand that the question of its reading be referred to the House for decision.

An instance in which the Committee of the Whole declined to permit the reading of a letter written by one not a member of the House charging a Member with having made "false statements."

On February 12, 1909,[2] the Committee of the Whole House on the state of the Union was engaged in general debate on the Indian appropriation bill.

Mr. George D. McCreary, of Pennsylvania, being recognized for debate sent to the desk a letter to be read in his time.

The Clerk read as follows:

NEW YORK, *February 3, 1909.*

GEORGE D. MCCREARY.

DEAR SIR: On the 26th of January, in a speech in the House on the Panama Canal, Mr. Rainey of Illinois referred at length to a proposal for the construction of a railroad and a proposal for the purchase of timber, which were under consideration by the Government of the Republic of Panama, and in that speech he referred to me by name as being one of those who are interested in what he calls "an infamous, outrageous scheme to despoil that country," and calls me and others "financial buccaneers."

At the time this speech was made I was out of the country on business and beyond reach of the telegraph. I have just returned and read the speech of Mr. Rainey, made on the 26th of January, as well as his speech made on the 29th day of January, as printed in the Congressional Record.

Mr. Rainey said what he did, in respect to myself and other gentlemen, under the protection of his official position as a Member of Congress. As I am not able to refute his false statements in the public manner in which he has made them—

Here, Mr. Charles F. Booher, of Missouri, interrupted and raised a question of order against the further reading of the letter.

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[1] Supplementary to Chapter CXVI.

[2] Second session Sixtieth Congress, Record, p. 2294.

The Chairman [1] said:

The language to which the gentleman objected, as the Chair understands, in this sentence:

"As I am not able to refute these false statements in the public manner in which he has made them."

The Chair understands that it is not unparliamentary to refer to a Member's statements as false, if that does not mean to charge that the Member knew them to be false, that they were intentionally false. The Chair was at first inclined to think that it referred simply to the statement as a matter of fact, and not to the knowledge that the Member had. It would not be parliamentary to state that a Member of the House knowingly made a false statement. The Chair thinks it is within the bounds to say that a statement itself is false, if it does carry with it the suggestion that the Member knew it to be false.

The Chair is inclined to think, on further consideration and examination of all the precedents, the point is such a close one, that if he errs at all he will err on the side of upholding the dignity of the House, and will rule in this case that the words "false statements" are unparliamentary under the circumstances, and will direct that they be omitted. The further fact that this language is in a letter written by a person outside the House, calling in question the words of a Member spoken in debate inclines the Chair to the full measure of strictness in dealing with the language.

Mr. John J. Fitzgerald of New York, objected to further reading of the paper.

The Chairman thereupon submitted this question to the committee:

Shall the letter offered by the gentleman from Pennsylvania be read?

The question being decided in the negative, the Chairman announced:

The noes have it, and the committee refuses to permit the letter to be read.

2597. If objection is made a Member may not read excerpts from the Congressional Record save by leave of the House.

A Member proposing to read in his own time a paper on which a vote was not to be taken, objection was made, and the Speaker submitted the question to the House.

On February 16, 1918, [2] Mr. Scott Ferris, of Oklahoma, having the floor by unanimous consent to make a personal explanation, asked to have read at the desk a newspaper article which he had on a previous day inserted in the Record as an extension of his remarks.

Mr. Henry Allen Cooper, of Wisconsin, objected to the reading, and Mr. Ferris then proposed to read the article as a part of his speech.

Mr. Joseph Walsh, of Massachusetts, made the point of order that it was a violation of the rules of the House to read in his own time an article written by another, if objection was made.

The Speaker [3] sustained the point of order and put the question:

The question is to be decided by vote of the House without debate whether this paper be read or not. Shall it be read?

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[1] George P. Lawrence, of Massachusetts, Chairman.

[2] Second session Sixty-fifth Congress, Record, p. 2223.

[3] Champ Clark, of Missouri, Speaker.

2598. If objection is made a Member must have leave of the House to read a paper in his place, even though it be his own written speech.

The anonymity of a letter proposed to be read by a Member in debate is not taken into consideration in determining its admissibility.

A motion to authorize the reading of a paper is not debatable.

On September 16, 1919,[1] Mr. John I. Nolan, of California, addressing the house by consent, proposed to insert in the Record as a part of his remarks an anonymous communication which he had received through the mails.

Mr. Thomas L. Blanton, of Texas, objected to the reading of the letter.

The Speaker pro tempore[2] held:

The gentleman from California could not even read his own speech if any Member of the House objected to its being read.

It makes no difference what is in the document if objection is made by any Member.

The Chair will cite the rule:

"When the reading of a paper other then one upon which the House is called to give a final vote is demanded and the same is objected to by any Member it shall be determined without debate by a vote of the House."

And there are cited a number of precedents:

"This principle applies even to the Member's own written speech (V, 5258) or a report which he proposes to have read in his own time or to read in his place (V, 5293).

Mr. Nicholas Longworth, of Ohio, moved that the gentleman from California be permitted to read the letter.

Several Members rose asking recognition and the Speaker pro tempore said:

The gentleman from Ohio moves that the gentleman from California be permitted to read the document in question. This motion is not subject to debate.

The yeas and nays being ordered on the question, the yeas were 238, the nays 14, and Mr. Nolan began reading of the letter.

Mr. Blanton raised the question that it was not in order to read the letter because it was anonymous.

The Speaker[3] rules:

There is no point or order in that. The fact that the communication is anonymous does not keep it in order. The gentleman from California will proceed.

2599. A Member may read as a matter of right a paper which has been held to constitute a question of privilege.

On March 3, 1919,[4] Mr. Louis T. McFadden, of Pennsylvania, rose to a question of personal privilege and requested that the Clerk read a statement to the press reflecting upon him in his representative capacity, and upon which he based his question of privilege.

Mr. Otis Wingo, of Arkansas, objected to the reading of the statement and made the point of order that it could be read only by order of the House.

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[1] First session Sixty-sixty Congress, Record p. 5520.

[2] Philip P. Campbell, of Kansas, Speaker pro tempore.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Third session Sixty-fifth Congress, Record p. 4910.

Mr. James R. Mann, of Illinois, submitted:

Mr. Speaker, where a man rises to a question of personal privilege which is based on a written article, he has the right to read it.

The Speaker [1] said:

That is what the Chair thinks, and has so ruled two or three times.

2600. On October 3, 1917,[2] Mr. William E. Mason, of Illinois, rose to a question of privilege and asserted that he had been charged with treason in a speech delivered in the House by Mr. J. Thomas Heflin, of Alabama, and was recognized to speak to the question.

In the course of his remarks, Mr. Mason proceeded to read, as disproving charges brought against him, correspondence passing between himself and Mr. Heflin.

Mr. Edward B. Almon, of Alabama, raised a question of order against the reading of the letters.

The Speaker [3] overruled the point of order.

2601. A Member speaking to a question of personal privilege was held out of order in reading a letter germane to the question but reflecting on his calumniator.

On February 4, 1920,[4] Mr. Thomas L. Blanton, of Texas, was recognized to speak to a question of privilege based on a statement given to the press by Mr. Samuel Gompers, president of the American Federation of Labor, to the effect that "Blanton knows not the truth and would not tell it if he did."

In discussing the question of privilege, Mr. Blanton read the following letter:

OFFICE NEW YORK PRINTING PRESSMEN'S UNION, NO. 51,
New York, February 5, 1920.

HON. THOMAS L. BLANTON,
Washington, D. C.

MY DEAR SIR: Samuel Gompers is not the true representative of labor or the true ideals of labor. He is now in New York City playing the cheapest kind of peanut politics.

We can not get rid of him, as our method of elections is such that the rank and file of true Americans can not get a crack at him. His old cigar makers' union defeated him, and he was fourth in the race.

If the rank and file of labor could get a referendum vote, he would be removed. I want you to send me a copy of your last speech showing his want of Americanism. If you want some real data to "skin a skunk," I will send you same.

I have no personal grievance against him, but he disgraces honest labor, and with him and his type in the lead labor can never progress until it has a house cleaning. We who have a pride in our true Americanism look forward to a proper clean-up of our unions. I hope that I may hear from you soon.

Truly yours,

BERNARD NOLAN,
President Union No. 51.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-fifth Congress, Record p. 7713.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-sixth Congress, Record p. 2448.

The Speaker [1] interposed and said:

The Chair would admonish the gentleman that under the question of personal privilege he must confine himself, of course, strictly to the question of personal privilege. The gentleman must not include correspondence of that kind.

2602. A Member in debate usually reads or has read by the Clerk such papers as he pleases, but his privilege is subject to the authority of the House if another Member objects.

On February 20, 1919,[2] the bill (H. R. 16020) providing deficiency appropriation for the railroads was considered in the Committee of the Whole House on the state of the Union.

During general debate, Mr. Edward E. Denison, of Illinois, asked that the Clerk read in his time a press report taken from a recent issued of a Washington newspaper.

Mr. William W. Larsen, of Georgia, objected to the reading.

Mr. James R. Mann, of Illi9nois, argued that under the recent practice of the House objection might not be made to the reading of a paper by a Member in his own time.

The Chairman [3] said:

The objection is sustained. The present occupant of the Chair was of the opinion that the gentleman from Illinois had the right to read it in his own time, but the parliamentary clerk suggested that the rule was the other way, and he is more familiar with it than the Chair. It is very plain here in the rule as cited by the parliamentary clerk. Rule XXX is very clear on that.

The Chairman [3] said:

The objection is sustained. The present occupant of the Chair was of the opinion that the gentleman from Illinois had the right to read it in his own time, but the parliamentary clerk suggested that the rule was the other way, and he is more familiar with it than the Chair. It is very plain here in the rule as cited by the parliamentary clerk. Rule XXX is very clear on that.

Mr. Denison himself then proposed to read the article.

Mr. Larsen again objected, and Mr. Joseph Walsh, of Massachusetts, moved that the gentleman from Illinois be permitted to read the article in question.

The question being taken was decided in the affirmative, and Mr. Denison read the article in the course of his remarks.

2603. Instance wherein the request of a Member to have read a paper not before the House for action encountered objection and was referred to the House.

On January 20, 1920,[4] Mr. Edward J. King, of Illinois, asked unanimous consent to address the House for one minute.

There being no objection, Mr. King sent a telegram to the desk with the request that it be read by the Clerk.

Mr. Thomas L. Blanton, of Texas, objected to the reading of the telegram.

The Speaker [5] said:

It can be read by the Clerk only by unanimous consent. The gentle objects. A Member can not read without consent of the House.

On motion of Mr. John I. Nolan, of California, the question was referred to the House which on a yea and nay vote decided yeas 303, nays 2, that the telegram should be read.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 3892.

[3] John N. Garner, of Texas, Chairman.

[4] Second session Sixty-sixty Congress, Record, p. 1782.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

2604. The reading of papers in debate is subject to the authority of the House, but a motion that a Member having the floor be permitted to read such papers as a part of his remarks is privileged.

On February 10, 1931,[1] during consideration of the naval appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Thomas L. Blanton be permitted to read the resolution as a part of his remarks.

Mr. John Taber, of New York, made the point of order that the motion was not privileged.

The Chairman[2] ruled:

The gentleman from Massachusetts moves that the gentleman from Texas be permitted to read the matter which he has indicated.

The motion is privileged and in order.[3] The question is on the motion of the gentleman from Massachusetts.

2605. The reading of papers other than the one on which the vote is taken are subject to the will of the House and any Member may object.

Rule XXX, providing for taking the sense of the House on the reading of a paper in debate, applies also to proceedings in the Committee of the Whole.

The rules of the House govern the Committee of the Whole in so far as applicable.

A motion that a Member having the floor be permitted to read a paper objected to in debate is privileged.

On January 16, 1931,[4] The Committee of the Whole House on the state of the Union was considering the State, Justice, Commerce, and Labor Departments appropriation bill.

During debate, Mr. John J. Boylan, of New York, began the reading of resolutions adopted by the American Federation of Labor.

Mr. Charles L. Underhill, of Massachusetts, rose to a point of order and objected to the reading of the paper.

The Chairman[5] sustained the point of order and said:

In order that the gentleman may read the paper he must get either unanimous consent or an affirmative vote of the House.

There is a rule against reading a paper unless the Member gets consent to do so, Rule XXX, which reads as follows:

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[1] Third session Seventy-first Congress, Record, p. 4544.

[2] Frederick R. Lehlbach, of New jersey, Chairman.

[3] Under Rule XXX.

[4] Third session Seventy-first Congress, Record, p. 2377.

[5] C. William Ramseyer, of Iowa, Chairman.

"When the reading of a paper other than one upon which the House is called to give a final vote is demanded, and the same is objected to by any Member, it shall be determined without debate by a vote of the House."

Thereupon, Mr. Charles R. Crisp, of Georgia, offered a motion that the gentleman be permitted to proceed with the reading of the resolutions in debate.

Mr. William H. Stafford, of Wisconsin, raised the question of order that Rule XXX admitting such motions was limited to proceedings in the House and did not apply to proceedings in Committee of the Whole.

The Chairman ruled:

In the opinion of the Chair, it is within the power of the Committee of the Whole House to determine whether or not it will permit a paper to be read. The point of order is overruled.

2606. Under a motion to suspend the rules and pass a conference report, the Speaker requested a Member to withdraw a point of order against the reading of the accompanying statement, indicating that the reading of the statement was not in order if objected to.

On May 12, 1908,[1] Mr. George E. Foss, of Illinois, moved to suspend the rules and take from the Speaker's table and pass the conference report on the naval appropriation bill.

The motion having been agreed to, and the conference report having been read, the Speaker directed the Clerk to also read the statement accompanying the report.

Mr. James S. Sherman, of New York, made the point of order that the statement was no part of the conference report which it was proposed to pass; that the motion to suspend the rules had suspended the requirement that the statement be read and therefore the reading was not in order.

The Speaker[2] said:

The gentleman may be right, and still the Chair is in sufficient doubt, so that the Chair suggests the statement better be read.

After further discussion, Mr. Sherman, on the request of the Speaker, withdrew the point of order and the statement was read.

2607. Objection being made to the reading of a paper in debate, the Chair takes the sense of the House, on motion or without motion from the floor, and without debate.

On February 2, 1932,[3] Mr. William P. Connery, jr., of Massachusetts, while addressing the House by consent, announced that he would read an article from a current newspaper.

Mr. Mell G. Underwood, of Ohio, objected and raised the question of order that the reading of papers in debate was not in order unless authorized by the House.

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[1] First session Sixtieth Congress, Record, p. 6147.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Seventy-second Congress, Record, p. 3281.

The Speaker [1] sustained the point of order and said:

The Chair will submit the question of the House. The question is, Shall the House permit the gentleman from Massachusetts to read the article referred to?

The motion was agreed to.

2608. On July 15, 1932,[2] the House was considering the conference report on the bill H. R. 9642, the relief bill, to authorize supplemental appropriations for emergency highway construction with a view to increasing employment.

Mr. Allen T. Treadway, of Massachusetts, in the course of debate, proceeded to read a statement issued that morning by the Reconstruction Finance Corporation in opposition to the conference report.

Mr. Edgar Howard, of Nebraska, submitted a point of order and objected to the reading of the statement.

The Speaker [3] sustained the point of order.

Whereupon, Mr. William H. Stafford, of Wisconsin, moved that Mr. Treadway be permitted to read the statement.

The Speaker submitted the question:

The question is on the motion of the gentleman from Wisconsin that the gentleman from Massachusetts be permitted to read the paper.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Seventy-second Congress, Record, p. 15491.

[3] John N. Garner, of Texas, Speaker.

Chapter CCXLVII.[1]

MOTIONS IN GENERAL.

2609. The motion for the previous question takes precedence of the motion to postpone to a day certain.

A Member having the floor may not exclude a privileged motion by offering a motion of lower privilege and demanding the previous question thereon.

The Member in charge of the bill may not by demanding the previous question take a Member from the floor.

On January 8, 1909,[2] during the consideration of the resolution (H. Res. 478) to discharge a special committee from further consideration of a message relating to the Secret Service received from the President, Mr. Augustus P. Gardner, of Massachusetts, offered a motion to postpone consideration until the following Monday at 1 o'clock.

Mr. Sereno E. Payne, of New York, made the point of order that the motion was not admissible.

The Speaker[3] said

The Chair reads from the Manual, in reply to the gentleman from New York, and desires the attention of the House to clause 4 of Rule XVI:

"When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order."

In the absence of a motion of a superior privilege, which would be to adjourn, or lie on the table, or for the previous question—in the absence of any of these motions, it seems to the Chair that the gentleman's motion is in order.

Mr. Gardner moved the previous question on his motion to postpone, and simultaneously Mr. James A. Tawney, of Minnesota, asked recognition to demand the

[1] Supplementary to Chapter CXVII.

[2] Second session Sixtieth Congress, Record, p. 682.

[3] Joseph G. Cannon, of Illinois, Speaker.

previous question on the resolution and the pending amendment offered by Mr. Gardner.

The Speaker continued:

Pending which the gentleman from Minnesota moves the previous question upon the resolution and upon the pending amendment; and that, it seems to the Chair, would have precedence of the motion of the gentleman from Massachusetts.

The gentleman from Massachusetts, having the floor, moves first an amendment. Second, he moves to postpone to a day certain, and upon that motion demands the previous question. Now, that motion that the gentleman makes is a motion inferior in point of privilege to the previous question upon the resolution and the amendment, and, in the opinion of the Chair, it can not be that the gentleman, having the floor, could cut out a motion of higher privilege by simply demanding the previous question upon a motion of lower privilege. Therefore it seems to the Chair that the motion of the gentleman from Minnesota takes precedence of the motion of the gentleman from Massachusetts.

Mr. Gardner raised the further question of order that not having yielded to Mr. Tawney, he might not be deprived of the floor by the latter's demand for the previous question.

The Speaker said:

The gentleman did not commence debate, nor attempt to take the floor for debate. On the contrary, upon being recognized, he proceeded to offer an amendment and to make a motion to postpone consideration. Therefore, so far as the Chair knows, the gentleman did not desire to take the floor for debate. The gentleman having made his motion, availing himself of the floor, must submit to the operation of the rule, for a motion that takes precedence of the gentleman's motion. Of course if the gentleman had commenced debate, he could not be taken off the floor.

The gentleman must see at once that if he obtains the floor and does not proceed to debate, but, exercising his right when he has the floor, makes a motion that is inferior to another motion, that then it is the right of another Member of the House to interpose the superior motion.

2610. The motion to print, even when applied to a privileged report, is not privileged.

Discussion with reference to the "Speaker's table."

On December 17, 1915,[1] the Speaker[2] announced that he was laying before the House a communication from the Secretary of Labor, transmitting, by authority of law, the report of the Industrial Commission, and that he was referring the report with accompanying documents to the Committee on Labor.

Mr. David J. Lewis, of Maryland, offered a motion to print 200,000 additional copies of the report to be distributed through the folding room.

Mr. John J. Fitzgerald, of New York, made the point of order that the motion was not privileged.

Mr. Lewis took the position that the motion was privileged because the report was itself privileged by law and was before the House of reference.

In discussing the point of order, Mr. Swager Sherley, of Kentucky, said:

Mr. Speaker, we are all confusing what is a practice by consent and what is the right of the Chair. Under the rules the Chair has no right to lay before the House this or any other report of its nature. The Chair had the right under the rules to refer this report, and the practice is for the Chair in such matters of importance, in order to inform the House, to say that the Chair

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[1] First session Sixty-fourth Congress, Record, p. 411.

[2] Champ Clark, of Missouri, Speaker.

lays before the House certain documents and without objection refers them to a designated committee; frequently without saying that, they are referred to such and such a committee.

The Chair sometimes goes further and orders, without objection and by consent of all Members, the printing either of the report and the accompanying documents or of part of them. But gentlemen are confusing here the practice that is concurred in by consent and the rights and privileges of the Chair. The rule expressly says that the Chair as to certain matters shall lay them before the House for the consideration of the House, and that is so in regard to certain bills that have reached certain stages, but it is not true that anywhere there can be found within the rules the right of the Chair to take such a report that comes to the Congress and submit it in the sense that it is up to the House then for consideration as to what determination shall be made of it.

The Chair has only one power, and that is to refer this report to what he considers to be the proper committee, except by unanimous consent, and then, if anyone felt that that reference was improper, the rules provide a method whereby the change of reference may be made either by proper motion then or subsequently.

Mr. James R. Mann, of Illinois, argued:

Mr. Speaker, this is a report which was required to be made to Congress by the terms of the law creating the commission making the report. When it is sent to the Speaker it comes officially to him as the presiding officer of the House. The rule provides:

"Business on the Speaker's table shall be disposed of as follows:

"'Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments and other communications addressed to the House and bills, resolutions, and messages from the Senate may be referred to the appropriate committee.'"

This was business on the Speaker's table. I think it was his duty to lay it before the House, although the Speaker suggested that he might have referred it without reference in the House. It was "business" on the Speaker's table. The rule does not say that the Speaker shall make the reference, but the rule provides that the only thing that can be done with a communication is to refer it to a committee, or, by implication, to lay it on the table. The House can take no other action in regard to it, and as a matter of common practice the Speaker makes the reference, although it is always in order at the time to make a motion for a reference to some other committee, or afterwards to come in on the motion of a committee itself for a change of reference. This matter being on the Speaker's table and he laying it before the House, under the rules could only do the one thing by unanimous consent—refer it to the Committee on Labor. If he had offered to refer it to some other committee, the gentleman from Maryland, I think, could have made a motion that it be referred to the Committee on Labor. The question of printing is not involved in that proposition at all. While it is the practice of the Speaker on these ordinary propositions to order them printed, that is by unanimous consent only. Any gentleman can stop it if he wishes to object.

The Speaker ruled:

This debate on subjects not pertinent probably is not within its uses in addition to the debate on the point of order. Some gentlemen mix up the matter of the proposition of reference and the importance of these documents, and as to whether or not this resolution to print additional copies which is pending here now is privileged. If the Chair had any opinion about it, he would agree with some of these gentlemen that there is a demand for the printing of this document. Perhaps there is. The Chair has received several requests himself; but that is neither here nor there. The only question the Chair has to decide is whether this resolution of the gentleman from Maryland at this particular juncture is a privileged resolution. The gentlemen in their statements have very clearly stated everything there was to be said about it, except that the phrase "the Speaker's table" is liable to mislead some people. This desk is not the Speaker's table. In the British Parliament they had a table down in front of the Speaker's stand where they put these documents, and that was literally the Speaker's table, and we still hold to the phrase, but the Speaker's table

is around here almost anywhere. The clerks have these documents. The only question is whether or not this report ought to be printed and not whether we ought to print 200,000 or 500,000 copies of it, or whether it ought to be printed at all.

The question is whether, under the rules and practices of the House, this resolution is privileged. The Chair thinks it is not and that it will have to go through the basket and be referred to the Committee on Printing.

2611. The motion to fix the day to which the House shall adjourn is not privileged against a demand for the regular order, but if no objection is made may be entertained and agreed to by the House.

After a motion has been agreed to it is too late to raise the question that the motion was not in order.

On June 23, 1922,[1] Mr. Frank W. Mondell, of Wyoming, moved that when the House adjourn it be to meet at 11 o'clock on the following day.

The question being put by the Speaker was agreed to.

Thereupon, Mr. Edward Voigt, of Wisconsin, made the point of order that the motion to fix the day to which the House shall adjourn might not be entertained.

Mr. James R. Mann, of Illinois, took issue with that contention and said:

Mr. Speaker, the motion to fix the hour to meet is not a privileged motion, but such a motion is in order and no point of order can be made against it unless a demand for the regular order is made. Any motion is in order, whether privileged or not, if nothing else is asked for from the House. A demand for the regular order would have made the motion of the gentleman from Wyoming nonprivileged. But the gentleman from Wisconsin did not ask for the regular order. He did not demand the regular order, and in the absence of such a demand the motion was clearly in order.

The Speaker[2] ruled:

When the gentleman from Wyoming made the motion the Chair took pains to look and see if there was objection to it, and the Chair certainly looked in the direction of the gentleman from Wisconsin, because it occurred to him that it might possibly come from that direction. The Chair did not observe any action by the gentleman until after the vote was taken, and then, of course, it was too late.

The gentleman from Wisconsin, by his own statement, did not come within the rule; he did not demand the regular order. The ayes have it, and the motion is agreed to.

2612. A motion made and stated by the Chair is before the House and the rules do not require that it be reported by the Clerk before being debated.

On May 22, 1922,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 2919) for extension of the District of Columbia rents act.

While the bill was being read for amendment, Mr. Stuart F. Reed, of West Virginia, moved to strike out section 12 of the bill.

The Chairman having stated the motion, Mr. Blanton addressed the chair before the motion was reported by the Clerk.

Mr. Harold Knutson, of Minnesota, made the point of order that the gentleman from West Virginia, Mr. Reed, had the floor.

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[1] Second session Sixty-seventh Congress, Record, p. 9290.

[2] Frederick H. Gillet, of Massachusetts, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 7423.

Mr. Blanton maintained that the proposed amendment, though stated by the Chairman, had not been reported by the Clerk, and was not before the House.

The Chairman [1] held:

It is not necessary. The Chair may state it of his own motion. The question is on the motion of the gentleman from West Virginia.

2613. The motion to postpone to a day certain was held to be applicable to an appeal from the decision of the Chair.

A motion to postpone to a day certain the consideration of a pending resolution was held to include in its application all related propositions.

On March 16, 1910,[2] on motion of Mr. Edgar D. Crumpacker, of Indiana, the House proceeded to the consideration of the joint resolution (H. J. Res. 172) enlarging the scope of inquiry of the schedules relating to population for the Thirteenth Decennial Census.

Mr. James R. Mann, of Illinois, made the point of order that the business was not in order, it being Calendar Wednesday.

Pending the decision of the Speaker on the point of order, Mr. Crumpacker moved that the matter be postponed until the following morning.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that it was not in order to postpone a decision of the Chair on a question of parliamentary procedure.

The Speaker [3] held:

The Chair is prepared to rule. Under Rule XVI a motion to postpone any question is in order, even when under debate; otherwise the majority of the House could not exercise its will. So the question is on the motion to postpone until to-morrow.

The Speaker also ruled:

The motion to postpone the entire matter would carry not only the resolution, but the appeal from the decision of the Chair.

2614. Business postponed to a day certain is in order on that day immediately after the approval of the Journal and the disposition of business on the Speaker's table, unless displaced by more highly privileged business.

It is not in order to move to postpone consideration of pending business to Calendar Wednesday.

On December 22, 1916,[4] the House was considering the joint resolution (S. J. Res. 186) to authorize diversion of waters of the Niagara River.

Mr. Henry D. Flood, of Virginia, moved that the further consideration of the joint resolution be postponed until the 3d day of January.

Mr. James R. Mann, of Illinois, made the point of order that the 3d day of January was Calendar Wednesday and it was not in order to move to postpone consideration of the joint resolution to that day.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session Sixty-first Congress, Record, p. 3247.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-fourth Congress, Record, p. 705.

The Speaker acquiesced and Mr. Flood modified his motion to provide for postponement to the 4th day of January.

Pending that motion, Mr. James R. Mann, of Illinois, asked when the joint resolution would come up if the motion to postpone was agreed to.

The Speaker [1] said:

Answering the gentleman's parliamentary inquiry, if that motion prevails the Chair thinks that it is the duty of the Speaker the first thing after the reading of the Journal, and so forth, on the 4th day of January to declare this bill the unfinished business.

Of course, the consideration of appropriation bills is always in order. The question is on the motion of the gentleman to postpone the consideration of Senate Joint Resolution No. 186 until the 4th day of January.

2615. In Committee of the Whole the motion to recommend postponement to a day certain has precedence of the motion to amend.

Debate on the motion to postpone to a day certain is within narrow limits only and is confined to the question of postponement.

On February 13, 1918,[2] while the bill (H. R. 5667) to provide for deportation of certain aliens, was being read for amendment in the Committee of the Whole House on the state of the Union, Mr. S. Hubert Dent, jr., of Alabama, moved that the committee rise and report the bill back to the House with the recommendation that its consideration be postponed to February 27.

Mr. Irvine L. Lenroot, of Wisconsin, made the point of order that the motion was not in order pending amendment of the bill.

The Chairman [3] held:

The Chair thinks this is a preferential motion. The question is on the motion that the committee do now rise.

Mr. Henry D. Flood, of Virginia, having asked recognition for debate, Mr. Joseph Walsh, of Massachusetts, made the point of order that the motion was not debatable.

The Chairman held that the motion was debatable within narrow limits.

In the course of the ensuing debate, Mr. Flood proceeded to discuss the merits of the pending bill.

Mr. Walsh raised a question of order.

The Chairman said:

The gentleman from Virginia will confine himself to the narrow limits of postponement.

2616. After the previous question is ordered on a bill a motion to postpone the bill is not in order.

The motion to postpone to a day certain does not admit debate on the merits of the pending proposition.

On August 19, 1919,[4] the Speaker laid before the House the message from the President of the United States returning without his approval the bill (H. R. 3854) the daylight saving bill.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 2076.

[3] Joseph J. Russell, of Missouri, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 3981.

Mr. John J. Esch, of Wisconsin, demanded the previous question.

Pending which, Mr. Thomas L. Blanton, of Texas, moved to defer reconsideration of the bill until the following Monday, and proceeded to discuss the bill.

Mr. John M. Baer, of North Dakota, raised a question of order against the debate.

The Speaker [1] sustained the point of order.

Mr. Frank W. Mondell, of Wyoming, made the further point of order that the motion was not in order.

The Speaker ruled:

The gentleman in charge of the bill is entitled to prior recognition and if he moves the previous question that comes first. A motion for the previous question is privileged, and if the House wishes to vote down the previous question, then, of course, other privileged motions can come up.

The gentleman from Texas is not recognized for that purpose (to move postponement). The question before the House is, Will the House on reconsideration pass the bill, the objection of the President to the contrary notwithstanding?—and on that the gentleman from Wisconsin moves the previous question.

The motion for the previous question, being submitted, was agreed to—yeas, 224; nays, 34—and Mr. Blanton was not recognized.

2617. The motion to postpone may not be entertained after the previous question has been ordered.

On February 8, 1914,[2] it being Calendar Wednesday, the Committee of the Whole House on the state of the Union rose and its Chairman reported that the Committee of the Whole having had under consideration the bill (S. 48) to authorize the construction and operation of railroads in Alaska, had directed him to report the bill back to the House with sundry amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

On motion of Mr. William C. Houston, of Tennessee, the previous question was ordered on the bill and amendments to final passage.

Mr. James S. Davenport, of Oklahoma, offered a motion to postpone further consideration of the bill until the following Calendar Wednesday.

Mr. James R. Mann, of Illinois, made the point of order that the motion to postpone is not in order after the previous question has been ordered.

The Speaker [3] held:

The previous question has been ordered on the bill and amendments to final passage, and the motion of the gentleman from Oklahoma is out of order.

2618. As the motion to strike out the enacting clause is not in order until the first section of a bill has been read, or after reading for amendment has been concluded, where a bill contained but one paragraph the motion was entertained at the conclusion of the reading of the bill.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-third Congress, Record, p. 3648.

[3] Champ Clark, of Missouri, Speaker.

The motion to strike out the enacting clause is in the nature of an amendment and debate on the motion is under the five-minute rule and may be closed at any time after debate has begun.

On January 26, 1910,[1] Mr. William A. Cullop, of Indiana, called up under the Calendar Wednesday rule the bill (H. R. 18813) providing traveling expenses for gaugers in the Bureau of Internal Revenue, consisting of one paragraph.

The bill having been read, Mr. John J. Fitzgerald, New York, moved to strike out the enacting clause.

Mr. John W. Langley, of Kentucky, made the point of order that the bill having been read in full, it was then too late to offer the motion to strike out the enacting clause.

The Chairman[2] ruled:

There may be other motions to amend made, and therefore the committee will have a chance to use the preferential motion to strike out the enacting clause. Under these circumstances the Chair therefore entertains the motion to strike out the enacting clause.

Mr. Fitzgerald argued that the motion to strike out the enacting clause was not an amendment but a preferential motion which took precedence of an amendment.

The Chairman held:

The Chair thinks this is an amendment. It is in the nature of an amendment, and is governed by the five-minute rule, as other amendments are.

The question is on the motion of the gentleman from New York to strike out the enacting clause.

2619. The motion to strike out the enacting clause may not be made until the first section of the bill has been read.

Amendments to the title of a bill, whether considered in the House or in Committee of the Whole, are not in order until after its passage.

On June 18, 1930,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10380) adjusting the salaries of the Naval Academy Band.

During general debate on the bill and before reading for amendment had begun, Mr. Burton L. French, of Idaho, moved to strike out the enacting clause.

The Chairman[4] declined recognition for that purpose and held:

The time for making that motion has not yet arrived. It is in order to make it after the first section of the bill is read. If there is no further debate, the bill will be read for amendment. the Clerk will read.

The reading of the bill for amendment having been concluded, Mr. Fred A. Britten, of Illinois, proposed to offer a motion to amend the title.

The Chairman ruled:

The Chair will say to the gentleman from Illinois that the title can be amended after the bill has been passed by the House.

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[1] Second session Sixty-first Congress, Record, p. 1053.

[2] Richard Bartholdt, of Missouri, Chairman.

[3] Second session Seventy-first Congress, Record, p. 11111.

[4] Joseph L. Hooper, of Michigan, Chairman.

2620. A motion to rise and report with the recommendation that the enacting clause be stricken out is in order at any time after the reading of the bill begins and before the stage of amendment has been passed, and takes precedence over the motion to rise and report with favorable recommendation.

On November 9, 1921,[1] the House in the Committee of the Whole House on the state of the Union was considering the bill (S. 843) to provide relief in cases of contracts connected with prosecution of war.

After the reading of the bill for amendment had been concluded, but while amendments were still being offered, Mr. Louis C. Cramton, of Michigan, moved to strike out the enacting clause.

Mr. Marion E. Rhodes, of Missouri, requested recognition to move that the committee rise and report the bill to the House with amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

Mr. Nicholas J. Sinnott, of Oregon, made the point of order that the reading of the bill having been concluded it was too late to offer a motion to strike out the enacting clause.

The Chairman[2] held the motion to report with recommendation that the enacting clause be stricken out to be in order until the stage of amendment was passed, and to be preferential.

2621. On February 22, 1922,[3] the bill (S. 2265) to regulate marine insurance in the District of Columbia, was being considered in the Committee of the Whole House on the state of the Union.

The bill having been read, Mr. Benjamin K. Focht, of Pennsylvania, rose to move that the committee rise and report the bill favorably, when Mr. Thomas L. Blanton, of Texas, offered a motion to strike out the enacting clause.

Mr. Everett Sanders, of Indiana, made the point of order that the motion to strike out the enacting clause was not in order, as the reading of the bill had been concluded and a new section added.

The Chairman[4] said:

> The Chair is of the opinion that the motion is in order at any time before the committee rises, and therefore will put the motion of the gentleman from Texas.

2622. The motion to strike out the enacting words has precedence of a motion to amend.

In the Committee of the Whole it is in order to move that the committee rise and report to the House with the recommendation that the enacting clause be stricken out.

On January 19, 1921,[5] during consideration of the bill H. R. 14498, the apportionment bill, in the Committee of the Whole House on the state of the Union, Mr. Oscar E. Bland, of Indiana, offered a motion to strike out the enacting clause.

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[1] First session Sixty-seventh Congress, Record, p. 7608.

[2] Horace M. Towner, of Iowa, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 2916.

[4] Clifton N. McArthur, of Oregon, Chairman.

[5] Third session Sixty-sixth Congress, Record, p. 1677.

Mr. Henry E. Barbour, of California, rising simultaneously, asked recognition to propose an amendment.

The Chairman having recognized Mr. Bland, Mr. Bertrand H. Snell, of New York, made the point of order that Mr. Barbour was a member of the Committee on the Census, which had reported the pending bill, and was therefore entitled to recognition in preference to Mr. Bland, who was not a member of that committee.

The Chairman [1] said:

The motion to strike out the enacting clause is a preferential one.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the enacting clause could not be stricken out in the Committee of the Whole and the proper form of the motion should be that the committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The Chairman sustained the point of order.

2623. On April 27, 1932,[2] the Committee of the Whole House on the state of the Union was considering the legislative appropriation bill with an amendment pending offered on the recommendation of the select Economy Committee.

Mr. Thomas L. Blanton, of Texas, offered a motion to strike out the enacting clause.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to strike out the enacting clause was not admissible pending disposition of the amendment.

The Chairman [3] held:

The rule of the House states that a motion to strike out the enacting clause has precedence even over a motion to amend. The gentleman from Texas is recognized for five minutes.

2624. The motion to strike out the enacting clause has precedence of the motion to amend, and may be offered while an amendment is pending.

On January 10, 1933,[4] the Committee of the Whole House on the state of the Union was considering the bill H. R. 13991, the farm relief bill, and an amendment offered by Mr. Harry P. Beam, of Illinois, was pending, when Mr. Clarence Cannon, of Missouri, moved to strike out the enacting clause.

Mr. William H. Stafford, of Wisconsin, made the point of order that the motion to strike out the enacting clause was not admissible until the pending amendment had been disposed of.

The Chairman [5] ruled:

The gentleman from Wisconsin is aware of the fact that a motion to strike out the enacting clause takes precedence over all other motions and all other amendments. The Chair overrules the point of order.

The gentleman from Missouri (Mr. Cannon) moves to strike out the enacting clause and the gentleman is recognized for five minutes.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] First session Seventy-second Congress, Record, p. 9093.

[3] Lindsay C. Warren, of North Carolina, Chairman.

[4] Second session Seventy-second Congress, Record, p. 1544.

[5] Lindsay C. Warren, of North Carolina, Chairman.

2625. A Member rising to make a parliamentary inquiry may not under that guise offer a motion to strike out the enacting clause, but must have the floor in his own right for that purpose.

On December 4, 1918,[1] the bill (H. R. 12917) to establish a sanatorium for discharged soldiers and sailors, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. William J. Graham, of Illinois, being recognized to propound a parliamentary inquiry, offered a motion to strike out the enacting clause of the bill.

The Chairman[2] held that in order to offer the motion the gentleman from Illinois must secure the floor for that purpose.

2626. The motion to strike out the enacting clause is not subject to amendment.

The motion to strike out the enacting clause has precedence of a motion to amend.

On May 11, 1910,[3] this being Calendar Wednesday, the bill (H. R. 22642) authorizing the sale of certain Indian lands, was called up as the unfinished business, with a motion pending to strike out the enacting clause.

Mr. John H. Stephens, of Texas, as a parliamentary inquiry, asked if it would be in order to offer an amendment.

The Speaker[4] ruled:

> The motion to strike out the enacting clause is not amendable. If a motion to strike out the enacting clause is voted down, then an amendment would be in order if the previous question were not moved and ordered upon the amendments that had been agreed to.

2627. The motion to strike out the enacting clause has the status of a motion to amend and is governed by the same rules of debate.

While the motion to strike out the enactment clause is pending in the Committee of the Whole the pro forma amendment to strike out the last word is not entertained.

Five minutes having been consumed in debate in favor of a motion to strike out the enacting clause in Committee of the Whole and five minutes against the motion, further debate was held to be precluded by a demand for the regular order.

The motion to strike out the enacting clause has precedence of a motion to amend.

On February 13, 1923,[5] the bill (H. R. 5823) for the establishment of public shooting grounds was being considered in the Committee of the Whole House on the state of the Union.

While an amendment was pending, Mr. Allen T. Treadway, of Massachusetts, moved to strike out the enacting clause.

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[1] Third session Sixty-fifth Congress, Record, p. 107.

[2] Martin D. Foster, of Illinois, Chairman.

[3] Second session Sixty-first Congress, Record, p. 6076.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Fourth session Sixty-seventh Congress, Record, p. 3580.

Mr. Gilbert N. Haugen, of Iowa, made the point of order that the motion was not in order before the pending amendment was disposed of.

The Chairman held that the motion to strike out the enacting clause took precedence over an amendment, and recognized Mr. Treadway to debate the motion.

After a second speech of five minutes on the motion, Mr. William B. Bankhead, of Alabama, made the point of order that debate on the bill had been exhausted.

The Chairman [1] held:

The motion to strike out the enacting clause has the same status as a motion to amend. Debate upon it is under the five-minute rule. Debate is limited to five minutes on a side, if the point is insisted upon. There are pending a motion to strike out the enacting clause and also a motion to amend. The gentleman from Indiana, Mr. Purnell, would be in order to move to amend and would be entitled to recognition upon that motion to amend; otherwise debate has been exhausted upon the motion to strike out the enacting clause. The motion to strike out the enacting clause is a preferential motion. Ten minutes of debate has been had, and debate upon the amendment is exhausted.

Mr. Nichols Longworth, of Ohio, as a parliamentary inquiry, asked if additional time for debate might be had by moving to strike out the last work of the pending motion.

The Chairman ruled:

No such motion is possible under the motion of the gentleman from Massachusetts. The question is on the motion of the gentleman from Massachusetts to strike out the enacting clause.

2628. In Committee of the Whole the motion to strike out the enacting clause is debatable under the five-minute rule even after the debate has been closed by motion on the pending section and amendments thereto.

On March 29, 1929,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 279) to amend the act incorporating Howard University, in the District of Columbia.

A motion by Mr. Daniel A. Reed, of New York, to close debate on the pending section and all amendments thereto had been agreed to, when Mr. Malcolm C. Tarver, of Georgia, moved to strike out the enacting clause, and proposed to debate the motion.

Mr. Reed made the point of order that debate had been closed.

The Chairman [3] held:

The question in point has been decided by the ruling made by Mr. Chairman MacArthur, that a motion to strike out the enacting clause is debatable, even though the debate has been closed on a pending section.

2629. Debate in the Committee of the Whole on the motion to strike out the enacting clause is under the five-minute rule and is limited to two speeches of five minutes each.

Debate having been exhausted in Committee of the Whole on a proposed recommendation to strike out the enacting clause, a motion to strike out

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[1] Louis C. Cramton, of Michigan, Chairman.

[2] First session Seventieth Congress, Record, p. 5603.

[3] Robert Luce, of Massachusetts, Chairman.

the last word of the motion is not in order, and additional time for debate may not be secured by offering a pro forma amendment.

On adoption by Committee of the Whole of the recommendation that the enacting clause be stricken out the committee rises automatically.

When a bill is reported from the Committee of the Whole with the recommendation that the enacting clause be stricken out, right to prior recognition passes from the Member in charge to the leading opponent of the bill.

On May 19, 1924,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 7358) to provide for the arbitration of disputes between carriers and their employees.

During the reading of the bill for amendment Mr. Everett Sanders, of Indiana, moved to strike out the enacting clause.

After ten minutes debate on the motion, five minutes favoring and five minutes opposing, Mr. Thomas L. Blanton, of Texas, made the point of order that debate on the motion had been exhausted.

The Chairman[2] sustained the point of order.

Mr. Olger B. Burtness, of North Dakota, offered a motion to strike out the last word.

The Chairman held that the motion was not subject to amendment and declined to entertain the motion.

The regular order being demanded, the Chairman put the question and it was decided in the affirmative, yeas 144, nays 134.

The committee having risen and reported the bill to the House, Mr. Carl E. Mapes, of Michigan, who had supported the motion to strike out the enacting clause, sought recognition for debate, Mr. Alben W. Barkley, of Kentucky, claimed recognition to move the previous question, and submitted that he, as the Member in charge of the bill, was entitled to rights of a chairman of a committee reporting out a bill.

The Speaker[3] said:

That is undoubtedly true until the House in Committee of the Whole has stricken out the enacting clause.

There are certain questions about which there can be no doubt. When the enacting clause of a bill has been stricken out by the committee, there is no question but that when the bill comes back into the House the side which favored the striking out of the enacting clause is entitled to control and to take it away from the proponents of the bill, who before had control. It does not always follow that when a motion is defeated the parliamentary control changes. A great many times a committee is beaten or a side is beaten, and the control does not pass, but there is no question that in this case—as the Chair thinks everyone will admit—control does pass.

The rule of the House provides that—

"Whenever a bill is reported from a Committee of the Whole with an adverse recommendation, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of occurrence

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[1] First session Sixty-eighth Congress, Record p. 8938.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

is submitted, it is in order to entertain a motion to refer the bill to any committee, with or without instructions."

Now, when the committee came back with the recommendation to strike out the enacting clause, the gentleman from Ohio, Mr. Longworth, moved that the House adjourn. That was defeated. It does not seem to the Chair that it could ever be held that the decision of a motion to adjourn could have any effect upon the passing of the control of the bill. Moreover, the Chair in this instance is ruling not for this particular case, because the Chair in this particular case has a decided opinion as to who are the friends and who are the opponents of this bill, and if he took into consideration exclusively his ruling might be different; but it is important that this ruling should be made for the future, because the Chair finds no direct decisions upon the question as to whether this motion to refer, which the rule allows, is such a motion as transfers control from one side to the other, according to the result of the vote, and the Chair thinks that question is important.

When a motion to strike out the enacting clause prevails, it unquestionably changes control. Now, just consider the rule: There shall be allowed before the House acts on that recommendation of the committee one motion to refer with or without instructions. Now, it might very well be in the future—the Chair does not think it was so in this case—that the motion to recommit is made not by the persons who favored the striking out of the enacting clause but by their opponents. The presumption would be that, having succeeded in the committee, they would also succeed in the House and would wish to come to an immediate decision; and apparently the provision for a motion to refer was inserted so that the friends of the original bill might avert its permanent death by referring it again to the committee, where it could again be considered in the light of the action of the House. In such a case, which would seem to be the natural and normal one, it would be most unreasonable to hold that when the motion to refer was defeated the contest should go back to the sponsors of the bill. And even if the Chair should be of opinion that in this case those who moved to refer were hostile to the bill, yet the question whether the defeat of the motion to refer changes the parliamentary control ought not to depend upon the opinion which the Chair holds of the motives of gentlemen but should be a definite, settled rule. The Chair, therefore, thinks that the gentleman from Michigan, Mr. Mapes, is entitled to recognition.

The gentleman is entitled to an hour.

The Chair has already told the gentleman from Kentucky that he would recognize him whenever the gentleman from Michigan yields the floor, and at the end of an hour at any rate.

2630. In Committee of the Whole the motion to strike out the enacting clause is debatable under the five-minute rule limiting the time to five minutes on each side.

On May 14, 1930,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 2152) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture.

Mr. William R. Wood, of Indiana, moved that the Committee rise and report to the House with the recommendation that the enacting clause be stricken out.

Mr. John C. Ketcham, of Michigan, as a parliamentary inquiry, asked if it would be in order to offer, as preferential, a motion to amend.

The Chairman held that the motion to strike out the enacting clause took precedence of the motion to amend.

Thereupon, Mr. Wood proposed a further inquiry as to debate in order on the motion.

[1] Second session Seventy-first Congress, Record p. 8955.

The Chairman [1] held:

The motion of the gentleman from Indiana was to strike out the enacting clause, upon which there is five minutes' debate in favor and five minutes against.

The gentleman from Indiana is recognized for five minutes.

2631. The motion to strike out the enacting clause is debatable and debate thereon is under the five-minute rule and may be closed on motion at any time after debate had begun.

On July 25, 1921,[2] the Committee of the Whole House on the state of the Union having under consideration the bill (H. R. 7111) for the settlement of damages for infringement of radio patents, Mr. Wells Goodykoontz, of West Virginia, moved to strike out the enacting clause.

After five minutes' debate in favor of the motion, Mr. James R. Mann, of Illinois, offered a motion to close debate on the motion in five additional minutes.

Mr. Otis Wingo, of Arkansas, raised a question of order against the motion.

The Chairman [3] overruled the point of order.

2632. An order of Committee of the Whole closing debate on the pending section and amendments thereto is not applicable to a motion to strike out the enacting clause.

On February 17, 1923,[4] while the bill (H. R. 14270), amending the Federal farm loan act, was being considered in the Committee of the Whole House on the state of the Union, a motion closing debate on the pending section and amendments thereto in twenty-five minutes was agreed to.

At the expiration of that time Mr. James T. Begg, of Ohio, moved to strike out the enacting clause, and claimed the floor to debate the motion.

Mr. Frank W. Mondell, of Wyoming, made the point of order that debate on the pending section and amendments had been closed by order of the committee.

The Chairman [5] ruled:

Debate is closed on this section, but the Chair is of the opinion that as this motion does not relate to the section, the gentleman has a right to discuss it for five minutes. It is true that debate is closed on this section, but not on the motion to strike out the enacting clause. The motion to strike out the enacting clause is debatable. The Chair recognizes the gentleman from Ohio to discuss it for five minutes.

2633. When the House disagrees to the recommendation of the Committee of the Whole that the enacting words of a bill be stricken out, the bill goes back to the Calendar of the Committee of the Whole as unfinished business.

Upon recommitment of a bill to committee of the Whole through rejection of its recommendation thereon, the House automatically resolves again into the committee for the further consideration of the bill.

A bill recommitted to the Committee of the Whole by rejection of its recommendation to the House is not required to be read again in full.

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[1] Scott Leavitt, of Montana, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 4284.

[3] Frank D. Scott, of Michigan, Chairman.

[4] Fourth session Sixty-seventh Congress, Record, p. 3972.

[5] Clifton N. McArthur, of Oregon, Chairman.

On April 5, 1916,[1] the Committee of the Whole on the state of the Union rose and the Chairman reported that the committee having had under consideration the joint resolution (H.J. Res. 103), authorizing publication of cotton statistics, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being taken on agreeing to the recommendation of the Committee of the Whole, it was decided in the negative, yeas 123, nays 167.

Mr. Harvey Helm, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the State of the union for further consideration of the joint resolution.

Mr. James R. Mann, of Illinois, made the point of order that the joint resolution having been brought into the House by the Committee of the Whole House on the state of the Union, had been thereby taken from the Calendar and while the action of the House in rejecting the recommendation of the Committee of the Whole recommitted it to the Calendar, it could not be again taken up for consideration in the Committee of the Whole on the same day for the reason that it would be necessary to wait until it had been again printed on the Calendar.

Mr. Finis J. Garrett, of Tennessee, took the position that the action of the Committee of the Whole did not operate to remove the joint resolution from the Calendar and that it remained on the Calendar until some final disposition had been made of it.

The Speaker[2] held that the position of the joint resolution on the Calendar was not affected by the report of the Committee of the Whole to the House since the recommendation accompanying that report had been rejected, and under the circumstances the House automatically resolved into the Committee of the Whole for the further consideration of the joint resolution.

The House having accordingly resolved into the Committee of the Whole House on the state of the Union, Mr. Mann, as a parliamentary inquiry asked if the joint resolution came back as unfinished business or without rights.

The Chairman[3] held:

The Chair will answer the gentleman's parliamentary inquiry. The Chair thinks that the joint resolution is now before the Committee of the Whole as unfinished business and open to amendments.

Mr. Helm inquired if it was necessary again to read the joint resolution.

The Chairman decided:

The Chair does not think that the joint resolution must be read in full.

2634. The motion to strike out the enacting clause is a motion to amend and yields to the motion to refer when reported to the House from the Committee of the Whole.

On May 24, 1932,[4] the Committee of the Whole House on the state of the Union rose and the Chairman reported that the committee having had under consideration

[1] First session Sixty-fourth Congress, Record, p. 5553.

[2] Champ Clark, of Missouri, Speaker.

[3] Pat Harrison, of Mississippi, Chairman.

[4] First session Seventy-second Congress, Record, p. 11072.

the bill (H. R. 12094), to amend the copyright act, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being stated, Mr. John J. O'Connor, of New York, moved that the bill be recommitted to the Committee on Patents and Copyrights, from which it originally had been reported.

The Speaker [1] put the question on the motion, and it being added in the affirmative, the bill was recommitted to the Committed on Patents and Copyrights.

2635. A second motion to strike out the enacting clause is in order only when the bill has been materially modified by amendment.

On January 11, 1933,[2] the Committee of the Whole House on the state of the Union was considering the bill H. R. 13991, to aid agriculture and relieve the existing national economic emergency, on which a previous motion to strike out the enacting clause had been made and rejected.

Mr. Harold McGugin, of Kansas, offered a second motion to strike out the enacting clause:

Mr. William H. Stafford, of Wisconsin, submitted a point of order and said:

Mr. Chairman, I make the point of order that the motion has already been voted on by this committee and that the motion at this time is dilatory, in view of the fact that the gentleman who makes the motion has been seeking to gain the floor for debate and was denied that privilege by the committee.

The fact that mere perfecting amendments have been adopted does not overpower the fact that the committee has already acted on a motion of this kind once before in the consideration of the bill and at this session.

The Chairman [3] decided:

The Chair was of opinion that the position taken by the gentleman from Wisconsin was correct as a matter of first impression, but the attention of the Chair has been called to the fact that a number of substantial amendments have been added to the bill since that motion was last offered.

The Chair therefore overrules the point of order. The gentleman from Kansas is recognized for five minutes.

2636. A second motion to strike out the enacting clause is not entertained in the absence of any material modification of the bill.

On February 4, 1933,[4] the Committee on the Whole House on the state of the Union was considering the legislative appropriation bill when Mr. Edwin M. Schaefer, of Illinois, moved to strike out the enacting clause.

Mr. John J. O'Connor, of New York, made the point of order that a motion to strike out the enacting clause had been made in the early consideration of the bill and had been rejected, and as the bill had not been substantially amended in the interim the motion was dilatory and should not be entertained.

The Chairman [5] sustained the point of order and said:

Since the amendment to strike out the enacting clause as voted on, the committee has not adopted any material amendment. Therefore the Chair refuses to recognize the gentleman

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[1] John N. Garner, of Texas, Speaker.

[2] Second session Seventy-second Congress, Record, p. 1598.

[3] William B. Bankhead, of Alabama, Chairman.

[4] Second session Seventy-second Congress, Record, p. 3408.

[5] Alfred L. Bulwinkle, of North Carolina, Chairman.

from Wisconsin for that purpose. The question is on the amendment offered by the gentleman from Nebraska.

2637. On March 22, 1926,[1] the Committee of the Whole House on the state of the Union rose and Mr. Cassius C. Dowell, of Iowa, the Chairman, reported to the House that the Committee having had under consideration the bill (H. R. 5823) qualifying women to serve as jurors in the District of Columbia, had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question being taken on agreeing to the recommendation of the Committee of the Whole, and the yeas and nays being ordered, it was decided in the negative, yeas 122, nays 189. So the House having declined to strike out the enacting clause, the bill was automatically[2] recommitted to the Committee of the Whole.

On April 26, 1926, the next day on which the unfinished business was in order, the Committee of the Whole again rose, and Mr. John C. Ketcham, of Michigan, the Chairman, reported that the Committee having head the bill under consideration had again directed him to report it back to the House with the further recommendation that the enacting clause be stricken out.

The question being taken in the House on agreeing to the recommendation of the Committee of the Whole, it was again decided in the negative, yeas 130, nays 193, and the bill was the second time recommitted to the Committee of the Whole.

Thereupon, on motion of Mr. Frederick N. Zihlman, of Maryland, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of bills reported by the Committee on the District of Columbia.

The Committee having again taken up the bill as the unfinished business, Mr. Charles L. Underhill, of Massachusetts, again offered a motion proposing to strike out the enacting clause.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that in view of the House having twice declined to agree to the recommendation of the Committee of the Whole that the enacting clause be stricken out, the motion was dilatory.

After debate on the point or order, the Chairman[3] overruled the point of order and recognized Mr. Underhill to offer the motion.

2638. The House having agreed to the recommendation of the Committee of the Whole that the enacting clause of a Senate bill be stricken out, a message was sent apprising the Senate of the action of the House.

On June 12, 1930,[4] Mr. Homer Hoch, of Kansas, Chairman of the Committee of the Whole House on the state of the Union, reported to the House that the Committee of the Whole had had under consideration the bill (S. 962) to amend the transportation act of 1920, and had directed him to report it back to the House with the recommendation that the enacting clause be stricken out.

The question on agreeing to the recommendation of the Committee of the Whole being taken, it was decided in the affirmative, and the enacting clause was stricken out.

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[1] First session Sixty-ninth Congress, Record, p. 6032.

[2] Under clause 7 of Rule XXIV.

[3] John C. Ketcham, of Michigan, Chairman.

[4] Second session Seventy-first Congress, Record, p. 10611.

By direction of the Speaker pro tempore,[1] a message was dispatched advising the Senate of the action of the House.

2639. A motion may be withdrawn in the House, although an amendment to it may have been offered and may be pending.

On May 17, 1911,[2] the Speaker[3] announced as the unfinished business the resolution (H. Res. 172) providing for an investigation by the Committee on Rules of practices by certain sugar refining companies, offered by Mr. Robert L. Henry, of Texas, on the preceding day, with a pending motion by Mr. Thomas U. Sisson, of Mississippi, to refer the resolution to the Committee on Rules.

Mr. James R. Mann, of Illinois, proposed an amendment to the motion offered by Mr. Sisson, striking out "Committee on Rules" and inserting in lieu thereof "a select committee of 15 Members."

Mr. Sisson asked to withdraw his motion, when Mr. N. E. Kendall, of Iowa, made the point of order that the motion might not be withdrawn after an amendment had been offered and was pending.

The Speaker overruled the point of order and held it was in order to withdraw the motion at any time prior to adoption of an amendment or decision thereon.

2640. Refusal to lay a motion on the table was held to be such a decision by the House as would prevent the withdrawal of the motion.

The motion to postpone to a day certain is debatable within narrow limits only and does not admit discussion of the merits of the pending proposition.

On October 27, 1919,[4] the Speaker laid before the House the message of the President returning without his approval the bill H. R. 6810, the prohibition enforcement bill.

Mr. Andrew J. Volstead, of Minnesota, moved that consideration of the pending question be postponed until the following Thursday, to be taken up immediately after the approval of the Journal.

A motion by Mr. Joseph Walsh, of Massachusetts, to lay the motion on the table, was rejected, yeas 30, nays 184.

Mr. Volstead then proposed to withdraw the motion to postpone consideration.

Mr. Rollin B. Sanford, of New York, made the point of order that after a motion to table had been rejected it was not permissible to withdraw the motion.

The Speaker[5] sustained the point of order and stated the question.

Mr. Frank W. Mondell, of Wyoming, having asked recognition for debate, Mr. Walsh raised the question that the motion was not debatable.

The Speaker sustained the point of order and held that the motion to postpone was debatable in narrow limits only not to include the merits of the pending proposition.

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[1] John Q. Tilson, of Connecticut, Speaker pro tempore.

[2] First session Sixty-second Congress, Record, p. 1283.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 7608.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

Chapter CCXLVIII.[1]

THE MOTION TO ADJOURN.

2641. The motion to adjourn was held to have precedence of a motion privileged under the Constitution.

On March 19, 1910,[2] following the adoption of a resolution declaring the Speaker ineligible to membership on the Committee on Rules, the Speaker,[3] addressing the House by unanimous consent, said:

Under the Constitution it is a question of the highest privilege for an actual majority of the House at any time to choose a new Speaker. The Chair is now ready to entertain such a motion.

Mr. George W. Norris, of Nebraska, moved that the House adjourn.

Mr. Albert S. Burleson, of Texas, offered, as preferential, the following resolution:

Resolved, That the office of Speaker of the House of Representatives is hereby declared to be vacant, and the House of Representatives shall at once proceed to the election of a Speaker.

The Speaker ruled:

The House will please be in order. The Chair desires to say this is a question of high constitutional privilege; but if in the consideration of that question the House should desire to adjourn, the Chair is of the opinion that the House can adjourn. A conference report was admitted to interrupt a roll call; but after having interrupted the roll call, and being presented, it did not prevent the House from adjourning. That was done in Speaker Carlisle's time; and it was held that that does not deprive the House of the power to adjourn. It can be presented and pending, and all questions under the rules of consideration raised and any parliamentary motion made, but the motion to adjourn would have to be entertained by the Speaker; otherwise the House might remain in session for a week. While the Chair would be glad for the resolution to be acted upon at once, yet the Chair can not help entertaining the motion to adjourn.

2642. In the absence of a quorum the motion to adjourn has precedence over the motion for a call of the House.

On February 17, 1911,[4] the Committee of the Whole House rose and its Chairman reported that the Committee of the Whole, having under consideration bills

[1] Supplementary to Chapter CXVIII.

[2] Second session Sixty-first Congress, Record, p. 3437.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-first Congress, Record, p. 2804.

on the Private Calendar, had found itself without a quorum, and the roll being called 84 Members had answered to their names, not a quorum.

Mr. James R. Mann, of Illinois, submitted a motion that the House adjourn.

Mr. Charles R. Thomas, of North Carolina, moved a call of the House.

The Speaker pro tempore [1] said:

The motion to adjourn takes preference. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

2643. The motion to adjourn takes precedence of a motion to dispense with further proceedings under a call of the House.

On January 4, 1922,[2] there being no business before the House, Mr. Finis J. Garrett, of Tennessee, made the point of order that there was not a quorum present.

Mr. Frank W. Mondell, of Wyoming, moved a call of the House which was ordered.

The roll was called and 272 Members having answered to their names, a quorum, Mr. Mondell moved to dispense with further proceedings under the call.

Mr. Garrett offered, as more highly privileged, a motion that the House adjourn.

The Speaker pro tempore [3] held that the motion to adjourn took precedence over the motion to dispense with proceedings under the call of the House, and put the question on adjournment.

2644. During proceedings incident to the lack of a quorum the motion to adjourn is in order while the House is dividing.

On February 20, 1915,[4] Mr. Swager Sherley, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering the fortifications appropriation bill.

Mr. Augustus P. Gardner, of Massachusetts, raised the question of a quorum.

There being no quorum present, Mr. Sherley moved a call of the House. The question was put, and on a division demanded by Mr. Gardner, the yeas were 33, noes 2.

Mr. Gardner, as a parliamentary inquiry, asked if the motion to adjourn was in order.

The Speaker [5] held that it was and entertained a motion to adjourn offered by Mr. Gardner.

2645. A motion to adjourn may be made pending the report from the Committee of the Whole.

On April 27, 1921,[6] the Committee of the Whole having had under consideration the bill H. R. 4810, the prohibition enforcement bill, rose to report thereon.

Before Mr. McArthur, of Oregon, the Chairman of the Committee of the Whole, could submit his report, Mr. Manuel Herrick, of Oklahoma, moved that the House adjourn.

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[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 784.

[3] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[4] Third session Sixty-third Congress, Record, p. 4240.

[5] Champ Clark, of Missouri, Speaker.

[6] First session Sixty-seventh Congress, Record, p. 740.

The Speaker [1] recognized the motion to adjourn as preferential, and submitted the motion to the House.

2646. A Member may not make a motion to adjourn while another Member is in possession of the floor.

There is no appeal from a decision by the Speaker on a question of recognition.

On February 28, 1919,[2] the House was debating the conference report on the bill (S. 1419) to regulate the construction of dams across navigable waters.

While Mr. Thetus W. Sims, of Tennessee, had the floor in debate, Mr. William E. Mason, of Illinois, rose to a parliamentary inquiry, and being recognized, offered a motion to adjourn.

The Speaker pro tempore [3] held:

> The motion to adjourn is always in order when a gentleman gets recognition to make it; but the gentleman from Tennessee has the floor and has an hour. The Chair did not recognize the gentleman, and can not recognize him in the time of the gentleman from Tennessee. The gentleman from Tennessee has this hour and the right to parcel it out as he chooses. The gentleman from Tennessee will proceed.

Mr. Mason proposed to appeal from the decision of the Chair.

The Speaker declined to entertain an appeal from the decision of the Chair on the question of recognition.

2647. The motion to adjourn is in order only in its simple form.

It is not in order to preface a motion to adjourn with preamble or argument touching reason or purpose of the proposed adjournment.

On August 28, 1919,[4] following the passage of the bill (H. R. 7594) authorizing the President to confer upon General Pershing the highest Army rank, Mr. Thomas L. Blanton, of Texas, asked recognition to move adjournment and said:

> Mr. Speaker, I want to make a motion to adjourn in honor of our brave private soldiers, sailors, and marines and as a further mark of esteem to them, it apparently being impossible to do anything else for them.
>
> Mr. Speaker, I ask that that motion may be read by the Clerk. My motion is in writting, and under the rules of the House I ask my written motion to adjourn in honor of privates be read from the Clerk's desk.

The Speaker [5] declined to entertain the motion as presented and recognized Mr. Blanton to move to adjourn.

2648. Under the custom of the House, which differs somewhat from the general parliamentary law, the motion to fix the day to which the House shall adjourn is not debatable.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 4640.

[3] Finist J. Garrett, of Tennessee, Speaker pro tempore.

[4] First session Sixty-sixth Congress, Record, p. 4469.

[5] Frederick H. Gillett, of Massachusetts, Speakers.

On December 12, 1929,[1] Mr. John Q. Tilson, of Connecticut, called up from the Speaker's table the concurrent resolution (S. Con. Res. 20), as follows:

Resolved by the Senate (the House of Representatives concurring). That when the two Houses of Congress adjourn on Saturday, December 21, 1929, they stand adjourned until 12 o'clock meridian, Monday, January 6, 1930.

Mr. John N. Garner, of Texas, as a parliamentary inquiry, asked if the resolution was debatable.

The Speaker[2] held that it was subject to debate and put the question on agreeing to the resolution.

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[1] Second session Seventy-first Congress, Record, p. 545.

[2] Nicholas Longworth, of Ohio, Speaker.

Chapter CCXLIX.[1]

THE MOTION TO LAY ON THE TABLE.

1. In order before Member presenting a proposition is recognized for debate. Sections 2649, 2650.
2. As applied to other motions. Sections 2651–2659.
3. As to effect when decide affirmatively. Sections 2656–2659.
4. General decisions. Section 2660.

2649. A motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks. The motion to lay on the table is not debatable.

On July 18, 1913,[2] the House having under consideration the resolution (H. Res. 181) instructing the Attorney General to transmit to the House correspondence relating to the prosecution of Maury Diggs and Drew Caminetti, Mr. Henry D. Clayton, of Alabama, asked unanimous consent that there be four hours general debate at the expiration of which time the motion to lay on the table be voted upon.

Mr. Joseph W. Byrns, of Tennessee, moved, as preferential, that the resolution be laid on the table, and objected to further debate.

Mr. James R. Mann, of Illinois, submitted that Mr. Clayton, as Chairman of the Committee reporting the resolution was entitled to one hour, in which to discuss the report and said:

Mr. Speaker, the resolution having been reported from the Committee on the Judiciary by the gentleman from the Alabama, he having withdrawn his motion to lay on the table, is he not entitled to the floor for the discussion of the resolution ahead of any demands of any person to be recognized for the purpose of moving to lie on the table? It is perfectly patent, Mr. Speaker, when a bill is called up before the House, if any Member on the floor can take off his feet a person in charge of the bill by a motion the bill on the table, it would be a very common method of filibustering.

The Speaker[3] ruled:

Section 740 of the Manual says:

"In debate the members of the committee, except the Committee of the Whole, are entitled to priority of recognition for debate, but a motion to lay a proposition on the table is in order before the Member entitled to prior recognition for debate has begun his remarks."

Therefore the motion of the gentleman from Tennessee is in order.

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[1] Supplementary to Chapter CXIX.

[2] First session Sixty-third Congress, Record, p. 2539.

[3] Champ Clark, of Missouri, Speaker.

Mr. Julius Kahn, of California, asked unanimous consent to proceed in debate for two minutes.

The Speaker said:

The motion to lay on the table is not debatable. The question is on the motion of the gentleman from Tennessee to table this resolution.

2650. On August 20, 1921,[1] Mr. W. Bourke Cockran, of New York, offered as involving the privileges of the House, a resolution characterizing as "an unconstitutional violation" of the rights and privileges of the House, a message delivered in the Senate by the President of the United States.

Mr. Frank W. Mondell, of Wyoming, moved that the resolution be laid on the table.

Mr. Cockran submitted that he was entitled to recognition as the proponent of the resolution, and could not be taken from the floor by a motion to lay on the table.

The Speaker[2] said:

The gentleman from New York is mistaken, because it would then be in the power of any Member by offering a resolution to get the floor for an hour's debate. That was the reason for the motion to lay in the table.

2651. The previous question being demanded on a resolution, a motion to lay the resolution on the table was held to be in order and to take precedence.

Discussion of the relative privilege of the motions to adjourn, to lay on the table and for the previous question.

The motion to discharge a committee from the consideration of a resolution is not debatable.

On June 17, 1909[3] Mr. Cordell Hull, of Tennessee, moved to discharge the Committee on Ways and Means from the further consideration of a privileged resolution of inquiry (H. Res. 72) asking for date received through diplomatic correspondence pertaining to wages and manufactures in foreign countries.

In response to a parliamentary inquiry from Mr. Sereno E. Payne, of New York, the Speaker[4] held that the motion was not debatable.

The motion was agreed to, and the resolution being under consideration, Mr. Hull demanded the previous question.

Mr. Payne moved to lay the resolution on the table.

Mr. John J. Fitzgerald, of New York, made the point of order that the question came first on the ordering of the previous question.

The Speaker ruled:

The Chair caused to be read by the Clark Rule XVI, clause 4. The Chair will read it again.

"When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to

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[1] First session Sixty-seventh Congress, Record, p. 5357.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-first Congress, Record, p. 3411.

[4] Joseph G. Cannon, of Illinois, Speaker.

a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order."

Now, the rule speaks for itself. There can be no mistaking of its language. Now, on the first motion, the Chair again says the gentleman from Tennessee, Mr. Hull, was entitled to an hour. The gentleman yielded the floor by moving the previous question and, then, what motion was in order? It was the motion to adjourn.

The gentleman could not have been taken off of his feet for an hour by a motion to adjourn unless he should yield. No motion to adjourn was made. The second motion is "to lay on the table." What is the third? It is "for the previous question." Now, the gentleman moved the previous question. Can it be contended for a moment that, *pending* that motion, it would not be in order to move to adjourn? Certainly not. By the express terms of the rule, the motion to adjourn would be in order. Again, "to lay on the table," which precedes the "previous question." Now, the gentleman from New York, Mr. Payne, at that point interposes the motion, which is a preferential motion by the express terms of the rule, to lay on the table. If the gentleman could not make the motion at that time, he could not make it at any time until the previous question had been decided. This rule deprives the House of no power. It is a mere question of precedence of motions. If the House desires to dispose of this resolution by a motion to lay on the table, it has the opportunity under the rule to dispose of that business before it orders the previous question, which it ordered, leads up to either the passage of the resolution or the defeat of the resolution.

The Speaker than referred to sections 5409 and 5411 of Hinds' Precedents and continued:

Now, then, let us see where that construction of the rule would take us. The gentleman from Tennessee had the floor for an hour. He could not be taken from the floor to enable anybody to move the previous question. But he moved the previous question, thereby yielding the floor; and then, for the first time, a Member had the right, under the rule, to make the preferential motion—the motion to lay the resolution on the table—the same right that he would have to move to adjourn, second only to the more preferential motion to adjourn. The Chair overrules the point of order. The question is on the motion of the gentleman from New York, that the resolution lie on the table.

2652. It is in order to lay on the table a motion to reconsider.

A motion to reconsider the vote by which an amendment was agreed to may be laid on the table without carrying with it the amendment proposed to be reconsidered.

On July 9, 1913,[1] while the House was considering the resolution (H. Res. 198) providing for the investigation of an alleged lobby, Mr. James R. Mann, of Illinois, moved to reconsider the vote by which an amendment offered by Mr. Jefferson Levy, of New York, had been agreed to earlier in the day.

Mr. Richard W. Austin, of Tennessee, inquired if it would be in order to move to lay on the table the motion to reconsider.

The Speaker[2] replied:

The parliamentary inquiry is whether it is in order to lay this motion on the table. The Chair thinks it is.

Mr. Henry A. Cooper, of Wisconsin, then asked if affirmative action on a motion to reconsider would carry to the table the amendment proposed to be reconsidered.

[1] First session, Sixty-third Congress, Record, p. 2348.

[2] Champ Clark, of Missouri, Speaker.

The Speaker answered in the affirmative but after further consideration ruled:

The gentleman from Wisconsin propounded a parliamentary inquiry a short time ago as to whether a motion to lay the motion of the gentleman from Illinois on the table would carry the resolution with it. After considering the matter, the Chair said he thought it would; but I have reflected on it, and while there do not seem to be any precedents on the subject, by analogy the Chair does not believe that to table this motion of the gentleman from Illinois would table the resolution. There is a very common precedent. We always move to reconsider the vote by which a bill is passed and lay that on the table, and, of course, it does not carry the bill. That is what made the Chair change his opinion about it, and if the question arises he will hold that it does not carry the resolution.

2653. The motion to lay on the table may not be applied to the motion to recommit authorized after the previous question is ordered.

On February 2, 1910,[1] the Committee of the Whole House on the state of the Union reported to the House the bill (H. R. 18364) relative to the provision for the Thirteenth Decennial Census, with an amendment, and with the recommendation that the amendment be agreed to and the bill as amended be passed.

On motion of Mr. Edgar D. Crumpacker, of Indiana, the previous question was ordered on the bill and amendment to final passage.

Mr. Champ Clark, of Missouri, moved to recommit the bill to the Committee on the Census with instructions to report it back forthwith with an amendment prohibiting inquiry on the part of census enumerators as to the political affiliations of persons enumerated.

Mr. Crumpacker moved to lay the motion on the table.

Mr. Oscar W. Underwood, of Alabama, raised a question of order against the motion.

The Speaker[2] sustained the point of order and said:

It seems to the Chair that the motion to lay on the table a motion to recommit is not in order.

2654. It is in order to lay on the table a motion to postpone to a day certain.

On March 18, 1910,[3] Mr. Joseph H. Gaines, of West Virginia, moved to postpone the pending subject of discussion to the next day.

Mr. Oscar W. Underwood, of Alabama, moved to lay on the table the motion to postpone.

The Speaker[4] expressed at first doubt as to whether or not the motion was in order, but decided to admit it.

Subsequently,[5] in discussing this decision, the Speaker held:

In some cases one privileged motion is not applicable to another. Thus it would undoubtedly not be in order to move to lay on the table a motion to adjourn or for the previous question, as they are not debatable or amendable. But as the motion to postpone is both debatable and amendable, there is an advantage to it a motion to lay on the table.

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[1] Second session Sixty-first Congress, Record, p. 1416.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 3416.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] Third session Sixty-first Congress, Record, p. 2794.

2655. The motion to lay on the table was held not to be applicable to the motion to recommit.

The previous question being ordered on a bill to final passage on motion to lay the bill on the table was not entertained.

On May 26, 1920,[1] the Committee of the Whole House on the state of the Union reported to the House the bill (S. 3451) for payment of claims of wooden-ship builders.

On motion of Mr. William S. Greene, of Massachusetts, the previous question was ordered on the bill and amendments to final passage.

Mr. Ewin L. Davis, of Tennessee, moved to lay the bill on the table.

The Speaker[2] held:

That motion is not in order. It would be in order if the previous question had not been ordered. The previous question has been ordered. So now the question is on the engrossment and third reading of the bill.

Mr. Green moved to recommit the bill to the committee on the Merchant Marine and Fisheries.

Mr. Davis moved to lay that motion on the table.

The Speaker said:

The Chair does not think that motion is in order.

Mr. Finis J. Garrett, of Tennessee, submitted that the motion was in order as the previous question had not been ordered on the motion to recommit.

The Speaker ruled:

A citation has just been shown to the Chair saying that a motion to lay on the table is not in order. The gentleman from Massachusetts moves to recommit the bill to the Committee on the Merchant Marine and Fisheries, and on that he moves the previous question.

2656. A proposed amendment being laid on the table carries with it the pending measure to which offered.

On January 8, 1909,[3] during consideration of the resolution (H. Res. 478) relating to certain messages from the President of the United States with reference to the Secret Service, Mr. Augustus P. Gardner, of Massachusetts, proposed an amendment to the pending resolution.

Mr. John S. Williams, of Mississippi, offered a motion to lay the amendment on the table.

Mr. Speaker[4] said:

To lay the amendment on the table, the Chair suggests, would lay everything on the table.

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[1] Second session Sixty-sixth Congress, Record, p. 7708.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixtieth Congress, Record, p. 682.

[4] Joseph G. Cannon, of Illinois, Speaker.

2657. Laying on the table the motion to postpone consideration of Senate amendments was held not to carry to the table pending motions for their disposition.

The motion to postpone to a day certain may be laid upon the table.

The motion to postpone to "the next legislative day" was construed as a motion to postpone to a day certain.

On February 17, 1911,[1] the House was considering Senate amendments to the Indian appropriation bill.

Mr. Charles H. Burke, of South Dakota, moved that the House further insist on its disagreement to the pending Senate amendment.

Mr. Louis B. Hanna, of North Dakota, offered a motion to recede from disagreement to the amendment and concur therein.

Thereupon Mr. Charles C. Carlin, of Virginia, moved that further consideration be postponed until the next legislative day.

Mr. James R. Mann, of Illinois, made the point of order that the motion to recede and concur tended to bring the two Houses together and therefore took precedence of the motion to postpone to a day certain.

Mr. Mann also contended that as the date of "the next legislative day" was subject to change, the motion to postpone to the next legislative day was a motion to postpone indefinitely rather than a motion to postpone to a day certain.

The Speaker[2] ruled:

Paragraph 4 of Rule XVI, page 383, of the Manual, says:

"When a question is under debate no motion shall be received but to adjourn, to lay on the table, from the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely."

Now, this question is under debate. Two preferential motions have been made, one by the gentleman from South Dakota and one by the gentleman from North Dakota. Now the gentleman from Virginia makes another motion, applying to a differently class of preference, because the other two motions were motions to being the House to a disposition of these particular amendments, and may be said to be incidental to these amendments, but the motion of the gentleman from Virginia is to postpone to the next legislative day, and has relation not alone to this bill but to the general order of business in the House. He might have moved, if you choose, in the same order of motion, to postpone indefinitely or to lay on the table.

The Speaker then cited section 5393 of Hinds' Precedents, and concluded:

The Chair thinks the precedent is in point, and therefore overrules the point of order.

Mr. Mann moved to lay on the table the motion to postpone.

Mr. Carlin made the point of order that the motion to lay on the table might not be applied to the motion to postpone.

The speaker referred to a decision on a similar question decided on March 18, 1910, and overruled the point of order and announced:

The Chair entertains the motion of the gentleman from Illinois to lay on the table the motion of the gentleman from Virginia.

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[1] Third session Sixty-first Congress, Record, p. 2794.

[2] Joseph G. Cannon, of Illinois, Speaker.

Mr. Swagar Sherley, of Kentucky, as a parliamentary inquiry, asked if affirmative action on the motion to table the motion to postpone consideration would carry with it the motion to further insist and the motion to recede and concur.

The Speaker replied:

Certainly not. They are entirely independent motions. The judgment of the Chair is no. A motion to reconsider may lay on the table, and is frequently made, without carrying anything with it. The question is on the motion of the gentleman from Illinois.

2658. Affirmative action on a motion to lay on the table a resolution instructing conferees was held not to carry to the table with the resolution the bill in disagreement.

The motion to lay on the table has precedence of the motion for the previous question.

On November 10, 1921,[1] by unanimous consent, the bill H. R. 8245, the internal revenue tax bill, was taken from the Speaker's table, Senate amendments were disagreed to, and the conference asked by the Senate was granted.

Mr. Finis J. Garrett, of Tennessee, offered a resolution to instruct the managers on the part of the House to agree to Senate amendment No. 122, increasing surtax rates from 32 per cent to 50 per cent.

After debate, Mr. Garrett demanded the previous question on the resolution, and Mr. Frank Mondell, of Wyoming, offered a motion to lay the resolution on the table.

Mr. Charles R. Crisp, of Georgia, submitted an inquiry as to whether affirmative action on the motion to lay on the table would carry the bill to the table with the resolution.

The Speaker pro tempore[2] held:

In the view of the Chair this is an independent motion operating only on those who shall be made the managers on the part of the House, as a guide for their action, and while it may limit the freedom of action on the part of the conferees, it is not directly and intimately related to the bill which has been sent to conference, in such a manner, as in the opinion of the Chair, would carry the bill to the table. When a motion to reconsider the vote by which a bill is passed is laid on the table it does not carry the bill to the table, and this would seem to be an independent motion of a character which if tabled does not carry with it a bill to which it is related.

Mr. Garrett made the point of order that the demand for the previous question took precedence of the motion to lay on the table.

The Speaker pro tempore said:

The Chair will state that the same question arose on June 17, 1909, when Mr. Speaker Cannon ruled that at the close of an hour's debate, the previous question being moved, the Member moving it thereby yielded the floor, and then a Member had the right under the rules to make the preferential motion, the motion to lay the resolution on the table, the same right that he would have had if he had moved to adjourn, and that the motion to lay upon the table takes precedence over the motion for the previous question.

The Chair overrules the point of order made by the gentleman from Tennessee, Mr. Garrett. The question is upon the motion to lay the motion to instruct the conferees on the table.

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[1] First session Sixty-seventh Congress, Record, p. 7620.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

2659. A motion to lay on the table a motion to reconsider the vote by which an amendment to a pending motion was rejected does not carry to the table the motion to which the amendment was offered.

The motion to lay on the table is applicable to the motion to reconsider.

On May 5, 1924,[1] the Committee on the Whole House on the state of the Union rose and reported that they had had under consideration the bill (H. R. 7358) to provide for the expeditious and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees and subordinate officials, and had come to no resolution thereon.

Mr. Alben W. Barkley, of Kentucky, moved that general debate on the bill in the Committee of the Whole be limited to three hours.

Mr. Thomas L. Blanton, of Texas, offered a substitute limiting debate to 24 hours.

The proposed substitute being rejected, yeas 95, nays 205, Mr. Carl R. Chindblom, of Illinois, entered a motion to reconsider the vote.

Mr. Barkley moved to lay the motion to reconsider on the table.

In response to an inquiry by Mr. Finis J. Garrett, of Tennessee, as to the effect of laying on the table the motion to reconsider, the Speaker[2] held:

> The Chair thinks it would just carry that motion to reconsider. The Chair thinks it simply carries the motion to reconsider and nothing else. The question is on the motion of the gentleman from Kentucky to lay the motion on the table.

The question being submitted to the House was decided in the affirmative, and the motion to reconsider was laid on the table.

The question then recurred on the motion to limit debate to three hours, which was agreed to.

2660. Laying on the table a resolution providing for adverse disposition of a matter does not carry to the table the original matter proposed to be disposed of.

An instance in which it was held that the motion to table might be applied to a proposition to lay on the table when that proposition was incidental to other provisions relating to the subject proposed to be tabled.

Affirmative action on the motion to lay on the table, while not a technical rejection, is in effect an adverse disposition equivalent to rejection.

The motion to lay on the table has precedence over the motion for the previous question.

A demand for the previous question takes precedence of a motion to amend.

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[1] First session Sixty-eighth Congress, Record, p. 7897.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

On January 25, 1923,[1] at the conclusion of general debate on the resolution (H. Res. 425) proposing impeachment of Harry M. Daughtery, Attorney General of the United States, Mr. Andrew J. Volstead, of Minnesota, submitted the following:

Resolved, That the Committee on the Judiciary be discharged from further consideration of the charges and proposed impeachment of Harry M. Daugherty, Attorney General, and that H. Res. 425 be laid upon the table.

Mr. Volstead demanded the previous question.

Mr. Finis J. Garrett, of Tennessee, moved to lay on the table the resolution proposed by Mr. Volstead.

Mr. William H. Stafford, of Wisconsin, submitted that the motion to lay on the table was not in order pending the demand for the previous question.

The Speaker[2] held:

The Chair thinks not. Anybody who wishes to move to lay upon the table has always the prior right of recognition over a person moving the previous question.

Mr. Frank W. Mondell, of Wyoming, made the point of order that it was not in order to move to lay on the table a proposition to lay on the table.

The Speaker ruled:

This is not a resolution such as is referred to in the citation (V, 5426), nor is it an amendment. This is a resolution disposing of the whole matter. This is a resolution laying the whole subject on the table. It seems to the chair at first blush that a motion to lay that on the table, if it carried, would be equivalent to rejecting it. It would be rejecting a motion to lay the impeachment proceedings on the table, and it seems to the Chair that it would still leave the impeachment matter pending. If the motion of the gentleman from Minnesota were simply a motion to lay upon the table, then the Chair thinks it would not be in order for the gentleman from Tennessee to move to lay it on the table; but the Chair thinks that the resolution offered by the gentleman from Minnesota is much more than that, that it is an independent resolution which disposes of the whole subject and which couples with the motion to lay on the table other factors. Therefore the Chair believes the motion of the gentleman from Tennessee is in order, although to adopt it would be simply to refuse to dispose of the subject and would leave it exactly where it is now. The Chair will recognize the gentleman from Tennessee if he wishes to make the motion, for it is a preferential motion on which the leader of the minority is entitled to recognition.

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[1] Fourth session Sixty-seventh Congress, Record, p. 2449.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

Chapter CCL.[1]

THE PREVIOUS QUESTION.

2661. History of the process by which the House changed the previous question of Parliament into an instrument of closing debate and bringing a vote on the pending question.

On February 2, 1922,[2] Mr. Ladislas Lazaro, of Louisiana, inserted in the Record, by unanimous consent, excerpts from a report of a speech delivered in the House by Mr. William Gaston, of North Carolina, in 1813, including a detailed and exhaustive history of the early use and development of the previous question.

2662. The only motion used for closing debate in the House (as distinguished from the Committee of the Whole) is the motion for the previous question.

On February 10, 1910,[3] the House was considering the resolution (H. Res. 371) authorizing members on the part of the House of the Joint Committee on Printing to appear in response to legal process served in a suit brought against the members of that committee.

Mr. Champ Clark, of Missouri, asked unanimous consent that debate on the pending resolution close at 9 o'clock.

Mr. Robert L. Henry, of Texas, having objected, Mr. Clark moved that debate close at 9 o'clock.

The Speaker[4] said:

That motion would hardly be in order under the rule. The right way to close debate is by moving the previous question under the rule.

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[1] Supplementary to Chapter CXX.

[2] Second session Sixty-seventh Congress, Record, p. 2086.

[3] Second session Sixty-first Congress, Record, p. 1733.

[4] Joseph G. Cannon, of Illinois, Speaker.

2663. The motion for the previous question is not admitted in the Senate.[1]

Instances wherein Senators signed a "round robin" announcing they would have voted to close debate had the rules of the Senate permitted.

On March 4, 1917,[2] in the Senate, Mr. Joseph T. Robinson, of Arkansas, submitted the following statement:

UNITED STATES SENATE,
Washington, D. C., March 3, 1917.

The undersigned United States Senators favor the passage of S. 8322, to authorize the President of the United States to arm American merchant vessels and to protect American citizens in their peaceful pursuits upon the sea. A similar bill has already passed the House of Representatives by a vote of 403 to 13. Under the rules of the Senate allowing debate without limit it now appears to be impossible to obtain a vote prior to noon, March 4, 1917, when the session of Congress expires. We desire this statement entered in the Record to establish the fact that the Senate favors the legislation and would pass it if a vote could be had.

F. M. Simmons, Joe T. Robinson, Henry Cabot Lodge, William E. Borah, G. M. Hitchcock, George Sutherland, Hoke Smith, George T. Oliver, John W. Kern, J. W. Wadsworth, jr., Thomas Sterling, James H. Brady, William P. Dillingham, LeBarron B. Colt, Frank B. Brandegee, Clarence D. Clark, P. J. McCumber, Morris Sheppard, Atlee Pomerene, Willard Saulsbury, Charles E. Townsend (with Cummins amendment), Bert M. Fernald, Albert B. Fall, Duncan U. Fletcher, Reed Smoot, Ollie M. James, Claude A. Swanson, Thomas S. Martin, N. P. Bryan, Thomas W. Hardwick, E. D. Smith, Charles Curtis, Knute Nelson, W. G. Haring, T. B. Catron, John Sharp Williams, Joseph E. Ransdell, Blair Lee, J. Hamilton Lewis, T. J. Walsh, J. C. W. Beckham, H. L. Myers, Paul O. Husting, Henry F. Hollis, James D. Phelan, Miles Poindexter, John K. Shields, George P. McLean, F. E. Warren, Carroll S. Page, W. L. Jones (with Stone, McCumber, or Cummins amendment), James E. Martine, Charles S. Thomas, George E. Chamberlain, Lawrence Y. Sherman, William Alden Smith, W. E. Chilton, J. H. Bankhead, Henry F. Ashurst, O. W. Underwood, John F. Shafroth, William Hughs, John W. Weeks, James A. Reed, John Walter Smith, Luke Lea, Key Pittman, Robert F. Broussard, James E. Watson, H. A. du Pont, Robert L. Owen, Francis G. Newlands, Lee S. Overman, Ed. S. Johnson, William H. Thompson.

Senator Lippitt is out of the city.

The following Senators are detained from the Senate on account of sickness:

Mr. Gallinger and Mr. Goff.

Mr. Gore, Mr. Stone, Mr. Tillman, Mr. Johnson of Maine, Mr. Smith of Arizona, and Mr. Culberson.

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[1] The rules of the senate as adopted at its organization in April, 1879, provided for the previous question, which, however, was resorted to but four times in the succeeding seventeen years and was ruled out of order on one of these occasions. In the revision of 1806 the previous question was dropped and debates could be limited only by unanimous consent. In 1841 Mr. Henry Clay, of Kentucky, proposed without success, a rule for the limitation of debate as it then existed in the House. In 1883 a general revision of the rules reported by Mr. William Pierce Frye, of Maine, included a provision to close debate which was stricken out by the Senate. On March 8, 1917, however, the Senate rules were amended to provide a modified form of cloture which may be invoked by two-thirds of those voting.

[2] Second session Sixty-fourth Congress, Record, p. 4988.

Mr. Gilbert M. Hitchcock, of Nebraska, said in explanation:

This is a statement which has been signed by nearly 80 Members of the Senate, and it embraces about all the names of Senators who can be reached this evening except 12. The statement is signed in this way by virtually all but 12 Members of the Senate here present, and it speaks for itself. It is desired to place it in the Record at this time, in order that the country may know and a record may be made of the fact that practically nine-tenths of the Senate of the United States are anxious to proceed to a vote on the pending bill and that nine-tenths of the Senate desire an opportunity to place the bill upon its passage.

2664. On October 24, 1921,[1] in the Senate, the bill (H. R. 8245) to amend the revenue act of 1918, having been under consideration intermittently since September 26, Mr. Boies Penrose, of Pennsylvania, announced:

Mr. President, I desire to announce to the Senate that I intend to move that the Senate take a recess until 11 o'clock to-morrow morning. Prior to making that motion I desire to state to the Senate, and I hope the country will take note of it, that I propose to move to hold an evening session to-morrow; and on Wednesday there will be submitted to the Senate a resolution which I hope by that time will be indorsed by a majority of the Senate in writing, and which has already been indorsed by all Senators available this afternoon, pledging themselves to remain in the Capitol and maintain a quorum night and day until the pending bill is disposed of. That will be submitted to the Senate on Wednesday.

The resolution referred to was as follows:

We, the undersigned Republican Senators, agree that beginning Wednesday, October 26, we shall remain continuously in the Capitol or within call for quorum calls, or a vote until the pending tax bill is finally disposed of.

On October 25, on motion of Mr. Penrose, by unanimous consent, the following was agreed to:

It is agreed by unanimous consent that at not later than 4 o'clock p.m. on the calendar day of Wednesday, October 26, the Senate will proceed to vote without further debate upon any amendment that may be pending or that may be offered to the committee amendement known as the excess-profits tax: *Provided,* that any Senator proposing an amendment after the said hour of 4 o'clock p.m., may explain the same for a period not exceeding five minutes.

2665. On February 1, 1933,[2] in the Senate, after extended debate on the bill (H. R. 13520), the Treasury and Post Office Departments appropriation bill, on motion of Mr. Frederick Hale, of Maine, by unanimous consent, it was—

Ordered, by unanimous consent, That after the hour of 5:30 o'clock p.m. to-day, no Senator shall speak more than once or longer than 15 minutes upon the pending bill (H.R. 13520), or any amendment or motion relating thereto.

2666. Instances wherein Members of the Senate have taken advantage of the privilege of unlimited debate.

On May 29, 1908,[3] in the Senate, Mr. Robert M. La Follette, of Wisconsin, was recognized at 12.40 p.m. o'clock and continued in debate on the bill (H. R. 21871) to amend the national banking laws, until 7.05 a.m. May the 30.

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[1] First session Sixty-seventh Congress, Record, p. 6685.

[2] Second session Seventy-second Congress, Record, p. 3006.

[3] First session Sixtieth Congress, Record, p. 7161.

2667. On September 18, 1914,[1] the Senate was considering the bill H. R. 13811, the river and harbor appropriation bill.

Mr. Theodore E. Burton, of Ohio, being recognized at 5.55 o'clock p.m., held the floor in debate until 6.05 o'clock a.m. on the succeeding day.

2668. On January 29, 1915,[2] Mr. Reed Smoot, of Utah, in debating the bill (S. 6856) to authorize the United States, acting through a shipping board, to subscribe to the capital stock of a corporation to be organized under the laws of the United States, or of a State thereof or of the District of Columbia to purchase, construct, equip, maintain, and operate merchant vessels in the foreign trade of the United States took the floor at 9.50 o'clock p.m. and relinquished it at 9.25 o'clock the following morning.

2669. On February 8, 1915,[3] in the Senate, Mr. Wesley L. Jones, of Washington, discussed the bill (S. 6856) to authorize the acquisition and operation of a merchant marine, from 6.45 o'clock p.m. until 8.40 o'clock p.m. on February 9.

2670. On February 20, 1923,[4] during consideration in the Senate of the bill (H. R. 12817) to amend the merchant marine act of 1920, Mr. Morris Sheppard, of Texas, spoke for 11 hours, concluding his remarks on February 21.

2671. Discussion of the rule for limiting debate in the Senate.

On March 4, 1925,[5] in the Senate, the Vice President,[6] in the course of his inaugural address, said:

> What would be the attitude of the American people and of the individual Senators themselves toward a proposed system of rules if this was the first session of the Senate of the United States instead of the first session of the Senate in the Sixty-ninth Congress? What individual Senator would then propose the adoption of the present Rule XXII without modification when it would be pointed out that during the last days of a session the right that is granted every Senator to be heard for one hour after two-thirds of the Senate had agreed to bring a measure to a vote, gave a minority of even one Senator, at times, power to defeat the measure and render impotent the Senate itself? That rule, which at times enables Senators to consume in oratory those last precious minutes of a session needed for momentous decisions, places in the hands of one or of a minority of Senators a greater power than the veto power exercised under the Constitution by the President of the United States, which is limited in its effectiveness by the necessity of an affirmative two-thirds vote. Who would contend that under the spirit of democractic government the power to kill legislation providing the revenues to pay the expenses of government should, during the last few days of a session, ever be in the hands of a minority or perhaps one Senator? Why should they ever be able to compel the President of the United States to call an extra session of Congress to keep in functioning activity the machinery of the Government itself? Who would oppose any changes in the rules necessary to insure that the business of the United States should always be conducted in the interests of the Nation and never be in danger of encountering a situation where one man or a minority of men might demand unreasonable concessions under threat of blocking the business of the Government? Who would maintain that in the last analysis the right of the Senate itself to act should ever be subordinated to the right of one Senator to make a speech?

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[1] Second session Sixty-third Congress, Record, p. 15322.

[2] Third session Sixty-third Congress, Record, p. 2592.

[3] Third session Sixty-third Congress, Record, p. 3243.

[4] Fourth session Sixty-seventh Congress, Record, p. 4063.

[5] First session Sixty-ninth Congress, Record, p. 3.

[6] Charles G. Dawes, of Illinois, Vice President.

On March 4, 1927, the Vice President, in announcing the sine die adjournment of the Senate for the Sixty-ninth Congress, said:

It is customary for the Vice President, at the beginning and ending of a session of Congress, to address the Senate upon an appropriate subject. The comments the Chair has to make on this occasion will be very brief.

The Chair regards the results of the present legislative as primarily due to the defective rules of the Senate, under which a minority can be prevent a majority from exercising their constitutional right of bringing measures to a vote. This is only great parliamentary body in the world where such a situation exists.

On this the closing day of the second session of the Sixty-ninth Congress, the Chair commends to the Senate the remarks upon the Senate rules which he made on the first day of the first session of this Congress.

The hour of 12 o'clock having arrived, the Senate stands in adjournment sine die.

2672. The previous question applies to a question or privilege as to any other question.

On December 9, 1913,[1] Mr. Finis J. Garrett, of Tennessee, called up the report of the select committee to investigate lobby activities and charges against Members of the House.

Mr. Garrett then moved that the report of the committee and the two accompanying resolutions be referred to the Committee on the Judiciary, with directions to report to the House what action, if any, should be taken thereon, and demanded the previous question on the motion to refer.

Mr. M. Clyde Kelly, of Pennsylvania, made the point of order that the report and resolution involved a question of the privilege.

The Speaker[2] ruled:

The Chair will decide two or three things at once. Both of these resolutions are privileged. The motion of the gentlemen from Tennessee is proper and in order, and on that he moves the previous question.

Mr. Victor Murdock, of Kansas, raised the further question that it was not in order to demand the previous question on a matter of privilege.

The Speaker held:

Section 1256, in Hinds' Precedents, Volume II, provides that the previous question does apply to a question of privilege, and there can not be any reason given against the rule, The question is on the previous question on the motion to refer these resolution, testimony, documents, and so forth, to the Committee on the Judiciary.

2673. When the previous question is moved on a bill without designating the particular question on which demanded the Speaker construes it as a motion for the previous question on the bill to final passage.

On July 24, 1919,[3] during consideration of the bill (S. 180) to incorporate Near East Relief, Mr. George S. Graham, of Pennsylvania, moved:

Mr. Speaker, I move the previous question.

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[1] Second session Sixty-third Congress, Record, p. 585.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 3113.

The House adjourned without final action on the bill, and when consideration was continued on the following day Mr. Louis C. Cramton, of Michigan, asked recognition for debate.

The Speaker declined recognition on the ground that the previous question had been ordered and precluded debate.

Mr. Cramton made the point of order that the language in which the previous question had been demanded did not specify any particular question and therefore applied to the pending question only, and did not include the vote on the final passage of the bill.

The Speaker [1] ruled:

The Chair thinks when the previous question is ordered on a bill without stating specifically what it is moved to, it is intended to be moved to, it is intended to be moved to the passage of the bill:

2674. A demand for the previous question made at conclusion of debate on a bill without specific designation of question on which moved was held to apply to final passage of the bill and all intervening questions.

A bill on which the previous question had been ordered at adjournment on Wednesday was taken up as the unfinished business on Thursday and took precedence of a motion to go into the Committee of the Whole for the consideration of a bill privileged by special order.

On Wednesday, May 4, 1921,[2] the Committee on the Judiciary, when reached in the Calendar Wednesday call of committees, called up the bill (H. R. 2376) providing that competency of witnesses to testify in the Federal courts should be determined by the laws of the State in which the court was held.

Debate on the bill having been concluded, Mr. Andre J. Volstead, of Minnesota, offered the following motion:

Mr. Speaker, I move the previous question.

The previous question having been ordered, a question of no quorum was raised and the House adjourned.

On the following day, after the reading and approval of the Journal, Mr. James W. Good, of Iowa, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 1084) to provide for a national budget system, privileged under a special order providing that "it shall be in order to move that the House resolve itself into the Committee" for that purpose.

The Speaker [3] declined to entertain the motion and said:

The Chair thinks that the previous question having been ordered on H. R. 2376, that should be completed first. The question is on the passage of the bill.

Mr. Merrill Moores, of Indiana, proposing to debate the pending bill, Mr. Joseph Walsh, of Massachusetts, called attention to the language in which the previous question had been proposed on the preceding day, and raised the question as to whether the previous question so ordered was still in effect and applied to the final passage of the bill.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 1052.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

The Speaker replied:

The Chair thinks so. It is customary—perhaps it is an unfortunate habit—instead of moving the previous question on the bill and amendments to the final passage, simply to move the previous question, but the Chair thinks that is the intent.

Mr. Walsh made the further point of order that the two hours debate provided by the Calendar Wednesday rule had not been had on the bill.

The Speaker ruled:

It is a House Calendar bill, and the previous question can be ordered at any time.

2675. The previous question when ordered on a motion to send to conference applies to that motion alone and does not extend to a subsequent motion to instruct conferees.

A motion to instruct the managers of a conference is debatable.

On February 25, 1919,[1] the House was considering Senate amendments to the bill (H. R. 13274) to invalidate informal war contracts.

The previous question having been ordered on motion of Mr. S. Hubert Dent, jr., of Alabama, to send to conference, Mr. Martin D. Foster, of Illinois, proposed to move to instruct the conferees.

Mr. Dent, as a parliamentary inquiry, asked if the motion to instruct conferees was debatable.

The Speaker replied:

Yes; it is debatable unless the previous question is ordered.

Thereupon Mr. Joseph g. Cannon, of Illinois, inquired if the previous question ordered on the motion to send to conference would also apply to the proposed motion to instruct conferees.

The Speaker[2] ruled:

The previous question operates on the motion of the gentleman from Alabama and the proposed motion of the gentleman from Illinois, or whoever offers it, and is a separate proposition and is debatable, unless the previous question is ordered on it.

2678. In the consideration of Senate amendments a simple motion for the previous question applies to the immediate question only and does not include other pending questions.

On February 20, 1932,[3] Mr. Daniel R. Anthony, jr. of Kansas, called up the conference report on the War Department appropriation bill, which was agreed to, and the House proceeded to the consideration of Senate amendments remaining in disagreement.

Mr. Anthony moved that the House further insist on its disagreement to Senate amendment No. 21.

Mr. John C. McKenzie, of Illinois, offered as preferential, a motion that the House recede from its disagreement to the amendment and concur therein.

Mr. Anthony demanded a division of the question on receding and concurring and moved:

I move the previous question.

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[1] Third session Sixty-fifth Congress, Record, p. 4259.

[2] Champ Clark, Missouri, Speaker.

[3] Fourth session Sixty-seventh Congress, Record, p. 4125.

The question being taken, the motion to recede from disagreement to the amendment was agreed to.

Mr. Anthony moved to concur with an amendment.

Mr. Richard Wayne Parker, of New Jersey, made the point of order that the motion to concur with an amendment was not in order after the previous question had been ordered.

The Speaker pro tempore [1] held:

The understanding of the Chair of the situation is this: The gentleman from Kansas moved to further insist; the gentleman from Illinois moved to recede and concur, on which a division was demanded, and a division was ordered. The motion pending was the motion of the gentleman from Illinois to recede, upon which after debate, the gentleman from Kansas moved the previous question, as was stated by the gentleman from Kansas. The Chair has been endeavoring to get the stenographic notes to confirm his recollection as to the form of that motion, but there has been a delay in securing them. The Journal clerk has it that the motion was merely for the previous question, which the Chair would hold had reference only to the question pending immediately at the time, a motion to recede, and the Chair overrules the point of order. The gentleman from Kansas has offered a motion to recede and concur with an amendment, which the Clerk has reported, and which is now pending.

2677. The previous question when ordered on a bill and amendments to final passage continues in force until final disposition of the bill and is not vitiated by recommitment with instructions to report amendments.

On March 29, 1910,[2] Mr. John A. Sterling, of Illinois, rising to a question of privilege, submitted a resolution (H. Res. 543) for the appointment of a select committee to investigate certain charges against Members of the House.

To this resolution Mr. Sterling offered an amendment providing that in event the charges under investigation were not substantiated the committee should also investigate whether the authors of such charges had sought to improperly influence Members and whether such action constituted a violation of the privileges of the House.

On motion of Mr. Sterling, the previous question was ordered on the resolution and amendment.

On motion of Mr. William Hughes, of New Jersey, the resolution was recommitted to the Committee of the Whole with instructions to report it back forthwith with an amendment adding to the powers of the select committee authority to also investigate as to the existence and conduct of any lobby.

Mr. Albert S. Burleson, of Texas, asked unanimous consent to offer a further amendment.

The Speaker [3] said:

The Chair is reminded that under the precedents the amendment was reported back to the resolution as amended, which amendment was agreed to. Now, when it is reported back under the order of the House the vote would come on the amendment of the gentleman from New Jersey, which was inserted under the instructions of the House, and that would be first in order.

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[1] Louis C. Cramton, of Michigan, Speaker pro tempore.

[2] Second session Sixty-first Congress, Record, p. 3896.

[3] Joseph G. Cannon, of Illinois, Speaker.

The question being taken, the amendment proposed in the instructions from the House was agreed to.

Mr. Burleson again proposed to offer his amendment when objection was made that the operation of the previous question precluded it.

Mr. Joseph H. Gaines, of West Virginia, raised the question of order that since the previous question was ordered the resolution had been recommitted, again reported by the committee and the amendment reported back had been adopted, and the previous question was no longer in effect.

The Speaker ruled:

The previous question was ordered upon the resolution and amendment. The amendment was agreed to; then came the motion to recommit and it was recommitted, and technically the previous question is still operating. Actually in fact it has not been to the committee, but the instructions here were to report forthwith and the rule has been construed as the Chair recollects, and very properly so, that this is a method under the rule, by which the House, notwithstanding the operation of the previous question on a motion, which is an anomaly in parliamentary proceedings, may work its will, but the previous question is evidently operating because the action of the committee does not exist, in fact it is a method by which the House acts instanter upon the subject in hand. The question is on agreeing to the resolution.

2678. The previous question may be moved on a resolution while a motion to recommit it is pending.

On May 17, 1911,[1] the House had under consideration the resolution (H. Res. 172) naming a select committee to investigate the American Sugar Refining Co.

Mr. James R. Mann, of Illinois, moved to refer the resolution to a select committee of 15 members.

After debate, Mr. Oscar W. Underwood, of Alabama, moved the previous question on the resolution.

Mr. Mann made the point of order that the previous question could only be moved on the pending question, and as the motion to recommit was the pending question it was not in order to demand the previous question on the resolution.

The Speaker[2] referred to section 5466 of Hinds' Precedents holding that the previous question may be moved on both the motion to refer and on the pending resolution, and overruled the point or order.

The Speaker then put the question on the motion to recommit.

The motion to recommit being rejected, the question recurred on the adoption of the resolution.

2679. The previous question may be moved on a portion of the amendments to a bill reported from the Committee on the Whole, leaving the remaining amendments open to debate and amendment.

On February 29, 1924,[3] the Committee of the Whole House on the state of the Union reported to the House the bill H. R. 6715, the revenue bill, with sundry amendments and with the recommendation that the amendments be agreed to and the bill as amended be passed.

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[1] First session Sixty-second Congress, Record, p. 1294.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-eighth Congress, Record, p. 3345.

Mr. William R. Green, of Iowa, moved:

Mr. Speaker, I move the previous question on all amendments to the bill H. R. 6715, the revenue bill, up to and including line 17 on page 29.

Mr. Thomas L. Blanton, of Texas, made the point of order that the previous question must be moved on all such amendments if on any.

The Speaker [1] overruled the point of order.

2680. The previous question may be ordered on a bill on the House Calendar on Calendar Wednesday prior to the expiration of debate allotted under the rule.

The House may by a two-third vote extend consideration of a bill to the next Calendar Wednesday.

Affirmative action on a motion to consider a bill on the next Wednesday does not dispense with business in order on that day after the bill continued under consideration has been disposed of.

On April 21, 1920,[2] it being Calendar Wednesday, Mr. Edmund Platt, of New York, asked unanimous consent for further consideration of the bill (H. R. 13138) permitting private bankers to serve as directors in two banking associations, on which the previous question had been demanded at adjournment and against which motion a point of order was pending at adjournment on the proceding Calendar Wednesday.

Objection being made, Mr. Platt moved to take up and conclude consideration of the bill.

Mr. Otis Wingo, of Arkansas, raised a question of order against the privilege of the motion.

The Speaker [3] ruled:

The Chair thinks the gentleman is entitled to make that motion, but it will require a two-thirds vote.

The Chair will state for the information of the House that the Chair does not consider that this motion would dispense with Calendar Wednesday. This would simply allow the Committee on Banking and Currency to conclude one bill, concerning which the motion is made.

The question being taken and two-thirds having voted in the affirmative, the motion was agreed to.

Mr. Otis Wingo renewed the point or order pending against the motion for the previous question when the bill was last under consideration, to the effect that the previous question might not be moved on a bill considered under the Calendar Wednesday rule.

The Speaker said:

The Chair thinks that is the first business. The determination of this point of order is not without difficulty. It is a puzzling question. What the Chair should determine is, of course, the intent of this new rule. It has never been interpreted. Under Speaker Clark the question was once raised, but the Speaker reserved time for deliberation, and then the question did not come up again, just as it would not have come up to-day except for the two-thirds vote of the House, and so it is a novel question.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 5945.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

The purpose of the Chair will be to decide the question, both in accord with what he thinks was the purpose of those who framed the rule, and also in accord with what he thinks would be for the advantage of the House in carrying out that purpose.

The original intention of the Calendar Wednesday rule was to force the consideration upon one day of the week of a certain class of business. Experience showed, however, that the rule was not accomplishing what was hoped and planned, and accordingly the rule was changed and the clause inserted which gives rise to the question before us to-day.

The rule reads—

"Not more than two hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill."

The phrase—

"Not more than two hours of general debate shall be permitted"—

has some uncertainty, for although the phrase "general debate" is usually used as applying to debate in Committee of the Whole, where it is not confined to the subject of the bill, yet it is also used as to debate on a bill in the House, the initial debate covering the whole subject of the bill, and the Chair does not think that phrase alone determines the question, although it might be ruled that "general debate" applied simply to debate in Committee of the Whole. The Chair thinks it tends in that direction.

Then the phrase—

"All debate must be confined to the subject matter of the bill"—applies simply to debate in Committee of the Whole, because in the House without any such provision the debate must be confined to the subject matter of the bill. But although that phrase applies simply to the Committee of the Whole it does not necessarily follow that the whole sentence has the same application. Then comes the phrase—

"The time to be equally divided between those for and against the bill."

That might apply as well to bills on the House Calendar as to bills on the Union Calendar. But the main purpose of this clause was to expedite the business of the House. The Calendar Wednesday rule had fallen short of accomplishing the end for which it was originally aimed, that of giving to relatively unimportant bills one day in the week when they would be considered and removed from the calendar. By tactics which might be called filibustering the purpose of that rule had been evaded, and this provision was inserted to prevent those delaying tactics. So the Chair thinks the main purpose of adopting this rule was speed and expedition in the transaction of the business of the House on Calendar Wednesday.

That being so, it seems to the Chair that the purpose will be best furthered by holding that this clause applies to bills on the Union Calendar only and that when bills of the House Calendar are brought up on the Calendar Wednesday the previous question can be ordered at any time. The only way in which that would at all controvert this rule would be that it might interfere with the phrase—"the time to be equally divided between those for and against the bill"—

because the man who had the bill in charge might use five minutes and then move the previous question. He might not give to those opposed to the bill any opportunity for debate. But the Chair does not think that argument has much practical force, for it is the custom for the man in charge of a bill to recognize the equal claim to debate of those opposed, and it is very rare that in debate the time is not fairly divided. On this very bill, for instance, the gentleman having it in charge, after having used 10 minutes himself, yielded 10 minutes to a gentleman opposed to the bill. The Chair might suggest that this very bill somewhat illustrates the fact that this ruling would not interfere with fair play, but would further the main purpose of the rule and prevent filibustering and hasten action, because the Chair has more than a suspicion that the time desired in opposition was not really because of antagonism to the bill, but was aimed at prolonging the consideration of this bill, so as to occupy the Calendar Wednesday and prevent the consideration of other bills which might follow it. So this very case is an illustration of the way in which the purpose of Calendar Wednesday is sometimes being obstructed and the rule availed of for filibustering purposes.

Therefore the Chair thinks that it would best be carrying out the intention of those who framed this provision and expediting the business of the House to rule that the previous question can be ordered. That leaves it all in the control of the House, because of the House desires debate the previous question can be voted down. Therefore the Chair rules that the previous question, which was moved by the gentleman from New York is in order.

The Chair holds that the gentleman can move the previous question after one minute's debate if he so desires; that he has the same power in this case as to moving the previous question that he would have at any time in the House.

On appeal by Mr. Wingo, the decision of the Speaker was sustained, yeas 274, nays, 15.

2681. The previous question may not be moved on a motion against which a point of order is pending.

On January 16, 1917,[1] the House had under consideration the Post Office appropriation bill.

Mr. Charles H. Randall, of California, moved to recommit the bill to the Committee on the Post Office and Post Roads with instructions to report the same back forthwith with an amendment imposing a penalty for sending through the mails and publication containing an advertisement of intoxicating liquor.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment included in the proposed instructions was not germane.

Mr. Randall demanded the previous question on the motion to recommit.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to move the previous question on a motion against which a point of order was pending.

The Speaker[2] sustained the point of order.

2682. The Member in charge of the bill is entitled to prior recognition to move the previous question even after he has surrendered the floor for debate.

On May 8, 1912,[3] during consideration of the bill (H. R. 17756) providing for civil government in the Philippines, Mr. William A. Jones, of Virginia, being recognized for debate, concluded his remarks and yielded the floor.

Subsequently Mr. Jones asked recognition to move the previous question upon the bill and pending amendments.

Mr. Swagar Sherley, of Kentucky, made the point of order that Mr. Jones having once spoken on the question was not gain entitled to recognition while other members who had not been heard desired the floor.

In speaking to the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, the gentleman from Virginia, this being a House Calendar bill, when the bill first came up took the floor and occupied an hour. Subsequent to that the gentleman from Pennsylvania was recognized to offer an amendment, and of course under the rules was entitled to an hour to discuss the amendment and to take the floor on the amendment, and by that the gentleman from Pennsylvania lost the floor. Now the gentleman from Virginia asks recognition for the purpose of moving the previous question, not for the purpose of debate. I do not think he would

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[1] Second session Sixty-fourth Congress, Record, p. 1484.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-second Congress, Record, p. 6075.

be entitled to recognition for the purpose of debate if anyone else was asking for recognition, but it seems to me that the gentleman in charge of a bill, with no one on the floor at the time when an amendment was in order, is entitled to recognition for the purpose of offering an amendment if he chooses to do so, or for the purpose of moving the previous question. Because without that there would be no way of closing debate for a month.

The Speaker [1] ruled:

The parliamentary situation is this, and the Chair does not think there is much difficulty about it: The gentleman from Virginia is in charge of the bill. If the gentleman from Virginia had undertaken to make a speech, he would have to postpone that speech until every Member in the House who wanted to be heard had been heard, except that he would have the right to conclude. But the gentleman from Virginia, before anybody else gets recognition for a speech, has the right to make this motion for the previous question.

2683. A demand for the previous question having been withdrawn, any Member is entitled to recognition to renew the motion, although a member of the committee reporting the bill demands the floor.

On February 17, 1911,[2] the House was considering the conference report on the Indian appropriation bill.

Mr. Charles H. Burke, of South Dakota demanded the previous question on agreeing to the conference report, but, on request, withdrew it.

Whereupon Mr. Philip P. Campbell, of Kansas, claimed the floor as a member of the Committee on Indian Affairs, reporting the bill.

Simultaneously, Mr. Thetus W. Sims, of Tennessee, requested recognition to renew the demand for the previous question withdrawn by Mr. Burke.

Mr. James R. Mann, of Illinois, made the point of order that Mr. Sims might not demand the previous question without having the floor, and was not entitled to the floor against the demand of a member of the committee for recognition.

The Speaker pro tempore [3] ruled:

The gentleman from Tennessee moves the previous question. The gentleman from South Dakota made the motion for the previous question on the adoption of the conference report. Then he withdrew it, and the gentleman from Tennessee renewed the motion for the previous question. The motion for the previous question would be recognized in preference to the recognition of the gentleman from Kansas. Upon the withdrawal of the motion for the previous question by the gentleman from South Dakota, the gentleman from Tennessee renewed the motion. The Chair will put the motion for the previous question.

2684. A Member having the floor to offer a motion may move the previous question thereon although another claims recognition to offer a motion of higher privilege, but the motion of higher privilege must be put before the previous question.

The motion to amend the Journal may not be admitted after the previous question is demanded on the motion to approve.

On January 23, 1913,[4] following the reading of the Journal, Mr. John J. Fitzgerald, of New York, moved that the Journal be approved, and on that motion demanded the previous question.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2791.

[3] J. Van Vechten Olcott, of New York, Speaker pro tempore.

[4] Third session, Sixty-second Congress, Record, p. 1922.

Mr. James R. Mann, of Illinois, asked recognition to offer, as preferential, a motion to amend the Journal, and being refused recognition, made the point of order that a motion to amend the Journal took precedence of a motion to approve it, citing section 2760 of Hinds' Precedents in support of that contention.

The Speaker [1] said:

In the ordinary procedure if the order of the three motions had come right the gentleman's point would be well taken. But the order of the procedure did not come so as to fit his case. The Chair recognized the gentleman from New York and the gentleman from New York made two motions before he sat down, one following the other, and the last one was to move the previous question on his first motion. The previous question is of the highest order, and the Chair has no doubt in his own mind but that to maintain the contention of the gentleman from Illinois would practically obliterate and annual the force of the motion for the previous question; and the Chair so rules.

Mr. Mann moved to lay on the table the motion to approve the Journal.

The Speaker entertained the motion and put the question first on the motion to lay on the table.

2685. A Member opposed to the pending bill is entitled to recognition to move the previous question on a motion to postpone consideration in preference to the Member in charge claiming the floor in debate.

On February 17, 1911,[2] the conference report on the Indian appropriation bill with Senate amendments, still in disagreement, was under consideration in the House.

Mr. Charles C. Carlin, of Virginia, moved that consideration of the conference report by postponed until the next legislative day.

After debate, Mr. Charles H. Burke, South Dakota, requested recognition for debate.

Mr. Carlin claimed the floor to move the previous question on his motion to postpone.

Mr. James R. Mann, of Illinois, submitted, as a point of order, that Mr. Burke, as the member in charge of the bill, was entitled to the floor notwithstanding the demand for recognition to offer a preferential motion.

The Speaker [3] ruled:

The Chair desires to call attention to the general proposition—that a Member may not, by offering a motion of higher privilege than the pending motion, deprive a member of the committee in charge of the bill of the floor.

That arises from a series of rulings relating entirely to motions inhering in the particular bill, to enable the House, as promptly as possible, to deal with Senate amendments to House bills. Now, the ruling has been uniform that a Member can not take another in charge of a conference report off the floor by making a preferential motion touching the amendments of the other body. But this motion belongs to an entirely different class of motions; that is, motions that affect the general business of the House. It ought to be in the power of the House to consider the Senate amendments to a conference report, and it ought to be in the power of a majority of the House to postpone their consideration with as little delay as practicable under the rules, and the construction given to the rules by the Chair and the precedents heretofore made. Now,

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2796.

[3] Joseph G. Cannon, of Illinois, Speaker.

the gentleman from Virginia makes this preferential motion, and is the proposer and mover of the motion that this House shall not consider these amendments, if it be agreed to today, but on the next legislative day. That in no way affects the manner of dealing with the Senate amendments to the bill. Therefore if the gentleman in charge of the conference report should be entitled to the floor, he would be entitled to the floor for an hour touching a motion that does not affect the disposition of the Senate amendments to the House bill, but which does tend to determine, and does determine, or give the majority of the House the power to determine, whether they will consider it today or tomorrow. The Chair therefore recognizes the gentleman from Virginia to move the previous question on the motion to postpone.

2686. The ordering of the previous question after a resolution had been read and before committee amendments had been reported was held to preclude reading or consideration of such amendments.

On May 9, 1911,[1] Mr. James. T. Lloyd, of Missouri, from the Committee on Accounts, reported the resolution H. Res. 128, declaring vacant certain offices in the service of the House.

The resolution was read by the Clerk, but before the committee amendments recommended by the committee had been reported Mr. Lloyd demanded the previous question, which was ordered.

Mr. Lloyd then asked for the reading of the committee amendments.

Mr. James R. Mann, of Illinois, made the point of order that the previous question had been ordered and the resolution was not longer open to amendment.

The Speaker[2] sustained the point of order.

2687. The vote having been taken on agreeing to a report of the Committee of the Whole on which the previous question had been ordered, it was held that the operation of the previous question had been consummated and did not apply to related questions again brought before the House.

The previous question covers the main question, but does not apply to incidental questions arising therefrom.

On July 10, 1914,[3] the Committee of the Whole House on the state of the Union reported to the House the Senate amendments to the Indian appropriation bill, with the recommendation that Senate amendments numbered 6 and 13 be agreed to and the remainder be disagreed to.

On motion of Mr. John H. Stephens, of Texas, the previous question was ordered.

The question recurring on the recommendation of the Committee of the Whole, and being divided to permit a separate vote on each Senate amendment, was decided in the affirmative with the exception of the recommendation that the House disagree to Senate amendment No. 140 which was decided in the negative.

Mr. Pat Harrison, of Mississippi, then moved to concur in Senate amendment No. 140.

Mr. James R. Mann, of Illinois, objected that the motion to concur was not in order after the previous question had been ordered.

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[1] First session Sixty-second, Congress, Record, p. 1163.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session of Sixty-third Congress, Record, p. 11942.

The Speaker [1] ruled:

The Chair thinks that the motion for the previous question expended its force when the vote was taken, and that this amendment is back in the House in the same condition that it would have been if it had never been sent to the committee, and that the motion of the gentleman from Mississippi to concur in the Senate amendment is in order. The question is on the motion of the gentleman from Mississippi to concur in the Senate amendment.

2688. It is in order to debate a question of personal privilege after the previous question has been ordered on a pending question.

On December 12, 1912,[2] the previous question had been ordered on the contested-election case of McLean against Bowman, when Mr. A. Mitchell Palmer, of Pennsylvania, claimed the floor on a question of personal privilege.

Mr. James R. Mann, of Illinois, made the point of order that the previous question having been ordered, a question of personal privilege could not be debated until the vote had been taken on the pending question.

The Speaker [3] ruled:

The Chair is of the opinion that if there is a question of personal privilege involved, the gentleman ought to be heard on it, notwithstanding the fact that the previous question has been ordered on the pending resolutions.

2689. Forty minutes of debate are allowed on a proposition on which the previous question is ordered without debate, one-half for those favoring and one-half for those opposing, and where it developed, after recognition, that both favored the proposition the Speaker required each to yield half his time to those opposing the motion.

On January 30, 1923,[4] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, by direction of that committee presented a resolution providing for the consideration of the joint resolution (S. J. Res. 12) relating to the importations of sugars from Argentina.

On motion of Mr. Campbell, prior to debate, the previous question was ordered on the resolution.

The Speaker, under the rule, recognized Mr. Campbell and Mr. Edward W. Pou, of North Carolina, the ranking minority member of the Committee on Rules, for 20 minutes each.

Both Mr. Campbell and Mr. Pou having addressed the House in favor of the resolution, Mr. Thomas L. Blanton, of Texas, made the point of order that the Speaker in allotting the time for debate had not complied with the requirements of the rule, and that half the time should be yielded to members opposing the proposition.

The Speaker [5] sustained the point of order and said:

The Chair had no knowledge how the gentlemen on the Committee on Rules stood. The Chair recognized the chairman of the Committee on Rules for 20 minutes and then the ranking minority member of the Committee on Rules for 20 minutes.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-second Congress, Record, p. 549.

[3] Champ Clark, of Missouri, Speaker.

[4] Fourth session Sixty-seventh Congress, Record, p. 2732.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

The Chair was not aware that the gentleman from North Carolina was in favor of the resolution. The Chair recognized him, as he always does the ranking member of the minority.

The rule provides that one-half of such time shall be given in favor of and one-half in opposition. As the House is aware, it is always the custom in the House to recognize the ranking member of the Committee on Rules in favor and the ranking member of the minority against. When the gentleman from Kansas had finished and reserved the balance of his time, the Chair recognized the gentleman from North Carolina for 20 minutes.

The Chair assumed that he was against the rule. Then the first knowledge the Chair had that the gentleman from North Carolina was in favor of the rule was when he took the floor and occupied time for 10 minutes. The Chair thinks the point of order should be made when recognition is had. When the Chair recognized the gentleman from North Carolina, the Chair sanctioned that. But the Chair thinks that in fairness to the rule and in fairness to the House, the gentleman from North Carolina having yielded half of his time in opposition, it would be but fair that the gentleman from Kansas should yield half his time also in opposition to the rule.

Thereupon, Mr. Campbell and Mr. Pou yielded 10 minutes each to Members opposed to the resolution.

2690. The rule permitting forty minutes debate does not apply when the question on which the previous question is ordered without debate is otherwise undebatable.

On January 27, 1912,[1] Mr. Oscar W. Underwood, of Alabama, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 18642, the metal schedule tariff bill, and on that motion demanded the previous question.

The previous question being ordered, Mr. James R. Mann, of Illinois, demanded recognition for twenty minutes under the rule permitting forty minutes debate when the previous question is ordered on a proposition without previous debate.

The Speaker[2] held:

It seems to the Chair that if the motion to close debate were a debatable motion, the gentleman from Illinois would undoubtedly be correct in his point of order, but the motion to close debate is not debatable under any circumstances whatever, and therefore the point of order is overruled.

2691. If the House adjourn without voting on a proposition on which the previous question has been ordered, the question comes up as unfinished business on the next legislative day, Wednesday excepted.

On February 21, 1912,[3] the day being Calendar Wednesday, Mr. Oscar W. Underwood, of Alabama, asked unanimous consent to take up for further consideration the bill H. R. 20182, the chemical schedule tariff bill, on which the previous question had been ordered at adjournment on the preceding day.

Objection was made and Mr. Underwood moved to interrupt proceedings in order on Calendar Wednesday for that purpose.

The question being put, the Speaker[4] announced:

Two-thirds having voted in favor thereof, the motion is agreed to.

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[1] Second session Sixty-second Congress, Record p. 1407.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-second Congress, Record p. 2293.

[4] Champ Clark, of Missouri, Speaker.

2692. On June 18, 1919,[1] the Speaker announced that the day was Calendar Wednesday and the regular order was the call of the committees under the rule.

Mr. Joseph Walsh, of Massachusetts, as a parliamentary inquiry, desired to know if the conference report on the bill (H. R. 3417) for the repeal of the daylight saving law, on which the previous question had been ordered at adjournment on the preceding day, was not the unfinished business.

The Speaker[2] held:

It will not be in order until to-morrow.

2693. A resolution coming over from the preceding day with the previous question ordered was held to take precedence of a motion for disposition of a veto message from the President.

On August 19, 1919,[3] Mr. Thomas L. Blanton, of Texas, requested recognition to move to further postpone consideration of the message from the President returning without approval the daylight-saving bill, consideration of which had been postponed to that day.

The Speaker[4] said:

The regular order is the unfinished business, House resolution 217, directing the Federal Trade Commission to inquire into the proposed increase in the price of shoes and the increased price of sugar, clothing, and coffee, which was pending when the House adjourned last night, on which the previous question was ordered. When the House adjourned last night a motion to recommit was pending, and on that the previous question had been ordered, as well as on the resolution. So, the first question is on the motion to recommit.

2694. Business in order on Friday and on which the previous question was pending at adjournment on that day comes up as the unfinished business on the next legislative day.

When the House adjourns on days set apart for special business without ordering the previous question, the pending measure comes up as the unfinished business on the next day on which that class of business is again in order.

The motion to recommit is not in order until the bill has been read the third time.

On Saturday, January 11, 1913,[5] following the reading and approval of the Journal, the Speaker[6] announced, as the unfinished business the bill (H. R. 27475) increasing Civil War pensions, which had been considered under the rule on Friday and had come over from the preceding day, with the previous question ordered.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the bill might not be again taken up for consideration until the next Friday on which that class of business was in order.

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[1] First session Sixty-sixth Congress, Record p. 1303.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record p. 3979.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Third session Sixty-second Congress, Record p. 1405.

[6] Champ Clark, of Missouri, Speaker.

The Speaker ruled:

The gentleman from Tennessee is a very careful student of the rules, and the Chair dislikes to summarily overrule any point he makes, but this matter has been decided several times, and at least once by Speaker Carlisle, who is universally admitted to be one of the greatest Speakers of the House. It has always been ruled against the contention of the gentleman from Tennessee, and the line of demarcation is that if the previous question is ordered on Friday it comes up as unfinished business on the next legislative day. If it is not ordered then, it will go over until the next Friday on which the committee has the right of way. The unfinished business is House bill 27475. When the House adjourned last night the previous question had been ordered on the bill and amendments to the final passage. Then the gentleman from Georgia, Mr. Roddenbery, made a motion to recommit with instructions, and the gentleman from New York, Mr. Fitzgerald, raised the point of order that the bill was not in the stage where a motion to recommit could be offered, and the gentleman from Missouri, Mr. Russell, made a motion for the previous question on the motion to recommit.

The question had never been raised before during the service in the House of the present occupant of the chair, and the practice of the House has been to offer the motion to recommit after the third reading of the bill. On a hasty reading of the rule it seemed to indicate that the motion to recommit might be offered at any time after a bill was reported back to the House, and the rule itself would bear that construction, so the Chair ruled that the gentleman from Georgia had the right to offer it when he did.

Since that the Chair has investigated the matter and is quite certain that the gentleman from New York was right and the Chair was wrong in that ruling and that the motion to recommit is not in order until after the third reading. The Chair makes this statement so that nobody will quote the ruling made last night hereafter as a precedent.

Chapter CCLI.[1]

THE ORDINARY MOTION TO REFER.[2]

2695. The ordinary motion to recommit may be amended, as by adding instructions, unless such amendment is prevented by moving the previous question.

On January 19, 1909,[3] the House having under consideration the urgent deficiency appropriation bill, Mr. James A. Tawney, of Minnesota, moved to recommit the bill to the Committee on Appropriations, and upon that motion demanded the previous question.

Mr. J. Thomas Heflin, of Alabama, proposed to amend the motion by adding instructions directing the committee to report back the bill with certain amendments.

The Speaker[4] ruled:

The previous question would have to be voted down to make the motion amendable by instructions. The gentleman from Minnesota having made the motion for the previous question upon a motion to recommit the bill to the Committee on Appropriations instructions, of course, can not be offered unless the previous question should fall.

2695a. The motion to recommit with instructions is a formal proceeding and is in order prior to the election of committees to which the measure could be referred.

On June 6, 1929,[5] prior to the election of the Committee on the Census, the House was considering the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses, and for the apportionment of Representatives in Congress.

The bill having been read a third time, Mr. John E. Rankin, of Mississippi, offered the following motion:

Mr. Rankin moves to recommit the bill to the Committee on the Census when raised or organized.

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[1] Supplementary to Chapter CXXI.

[2] Not in order in Committee of the Whole. (Sec. 4721 or Vol. IV.)

[3] Second session Sixtieth Congress, Record, p. 1125.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Seventy-first Congress, Record, p. 2457.

The Speaker[1] put the question on the motion, and it was decided in the negative, yeas 126, nays 253.

2696. The House may refer to any committee regardless of jurisdiction, and motions to recommit may provide for reference to another committee than that reporting the bill.

On December 21, 1932,[2] pending the passage of the bill (H. R. 13742), to provide revenue by the taxation of nonintoxicating liquor, Mr. Frank Crowther, of New York, moved to recommit the bill to the Committee on the Judiciary.

Mr. John J. Cochran, of Missouri, made the point of order that the bill had been reported by the Committee on Ways and Means and the motion to recommit should provide for reference to that committee rather than to the Committee on the Judiciary.

The Speaker[3] overruled the point of order and said:

This is not a question of precedent. You can move to recommit it to any committee of the House. The question is on ordering the previous question.

2697. The motion to recommit is the prerogative of the minority, and Members opposed to the bill are recognized to move recommitment in the order of their committee rank.

On April 1, 1932,[4] the House was considering the bill (H. R. 10236), the revenue bill, reported from the Committee of the Whole House on the state of the Union with amendments, when in response to an inquiry from Mr. John W. McCormack, of Massachusetts, the Speaker[5] explained:

Under the usages of the House on the motion to recommit, it has been customary for the Chair to recognize the opposition, which in the present case would be the Republican members of the Ways and Means Committee, to move to recommit provided they qualified as being opposed to the bill. If no Member on the minority side sought recognition and qualified for that purpose, the Chair would then recognize the majority side, according to their rank on the committee, provided they qualified for a motion to recommit.

That does not give the gentleman from Texas any priority over the gentleman from California. If any Member of the House is opposed to the bill in its entirety, he is entitled to preference.

Whereupon Mr. Barbour announced that he was opposed to the bill without qualification, and was recognized to offer a motion, which was read by the Clerk.

In response to an inquiry, the Speaker pro tempore explained that—

The proposed motion to recommit eliminates from the bill the McSwain amendment along with other provisions in those paragraphs to which the McSwain amendment was adopted as a perfecting amendment.

Mr. Ross A. Collins, of Mississippi, made the point of order that the instructions accompanying the motion proposed to strike out an amendment already adopted by the House, the McSwain amendment.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-second Congress, Record, p. 866.

[3] John N. Garner, of Texas, Speaker.

[4] First session Seventy-second Congress, Record, p. 7327.

[5] John N. Garner, of Texas, Speaker.

The Speaker pro tempore ruled:

In the Committee of the Whole House on the state of the Union a perfecting amendment was adopted to the paragraph, known as the McSwain amendment. The bill was reported from the Committee of the Whole House of the state of the Union to the House, the House has agreed to the amendments, and has ordered the bill engrossed and read a third time.

The question is whether a motion to recommit, as offered by the gentleman from California, is in order which seeks to change something that the House has agreed to.

The motion to recommit was place in the rule to give a substantial privilege to the minority of the House—I do not mean any political minority but a minority of the House—so as to give them a chance to go on record as to legislation.

2698. A Member qualifying as unconditionally opposed to a bill is entitled to recognition to move recommitment in preference to a Member opposed to the bill provisionally or in part.

Discussion of the function of the motion to recommit.

While a motion to recommit with instructions to strike out an amendment adopted by the House is not in order, a motion is admissible accompanied by instructions striking out the text perfected by such an amendment.

A motion to recommit with instructions is subject to amendment unless the previous question is ordered.

Denial of the use of an appropriation for expenses incident to change of stations of Army officers with specified exceptions, was held to be a limitation and in order on an appropriation bill.

On May 19, 1932,[1] the bill (H. R. 11897), the War Department appropriation bill, was ordered to be engrossed and read a third time, when Mr. Henry E. Barbour, of California, offered a motion to recommit the bill with instructions.

The Speaker pro tempore[2] inquired if the gentleman was opposed to the bill.

Mr. Barbour answered that he was opposed to the bill in its present form.

The Speaker pro tempore inquired if any Member was opposed to the bill in its entirety.

Mr. Thomas L. Blanton said that he was opposed to certain feature of the bill.

The Speaker pro tempore said:

In the Committee of the Whole House on the state of the Union there is no roll-call vote, so that the only opportunity that a minority may have to go on record is by means of a motion to recommit in the House. If the motion to recommit of the gentleman from California sought simply to eliminate from the bill the McSwain amendment, it would not be in order, because the question of estoppel would apply. When the House has acted on a matter, it must be res adjudicata. However, as the Chair understands the proposition, the McSwain amendment was adopted as a perfecting amendment to the paragraph. The motion to recommit of the gentleman from California proposes to strike out a substantial portion of the paragraph comprehending the McSwain amendment. Under the general rules of the House, where a motion is made to strike out a paragraph, a perfecting amendment changing the paragraph is preferential and the vote is first taken on the perfecting amendment. If the perfecting amendment is adopted, then it is in order to move to strike out the entire paragraph, notwithstanding the House or the committee has adopted a perfecting amendment to the paragraph.

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[1] First session Seventy-second Congress, Record, p. 10717.

[2] Charles R. Crisp, of Georgia, Speaker pro tempore.

The Chair thinks that the same rule applies to a motion to recommit where it is proposed in such a motion to strike out a paragraph or a portion of a paragraph which may have been perfected by amendments.

The Chair is therefore constrained to rule that the point of order is not good, and overrules the point of order.

Mr. Blanton offered as a substitute for the pending motion a proposition to recommit the bill with instructions to report it back forthwith with following amendment:

"Provided, That no appropriation contained in this act shall be available for or on account of any expense incident to the permanent change of station of any commissioned officer of the Army except (1) officers appointed to an relieved from positions that are filled by and with the advice and consent of the Senate, (2) officers detailed to and from Army schools as students, (3) military attachés, (4) offices ordered to and from duty in the Canal Zone and in the Philippines, and (5) officers ordered to replace officers who die or may be separated from the active list."

Mr. Carl R. Chindblom, of Illinois, objected that a substitute was not in order and that Mr. Barbour as proponent of the pending motion to recommit was entitled to the floor.

The Speaker pro tempore said:

The gentleman from California did not move the previous question, and the Chair had recognized the gentleman from Texas, Mr. Blanton. Undoubtedly, if the previous question had been moved and sustained, no substitute motion to recommit would be in order, but the previous question was not moved, and the gentleman from Texas is within his parliamentary rights.

The Clerk will report the substitute motion of the gentleman from Texas.

Mr. Chindblom submitted the further point of order that the instructions prposed by Mr. Glanton constituted legislation on an appropriation bill.

The Speaker pro tempore overruled the point of order and said:

The Chair thinks it is a limitation, and the question is on the motion to recommit by the gentleman from Texas.

2699. Instructions proposed in a motion to recommit are subject to amendment unless the previous question has been ordered.

On February 12, 1912,[1] the House was considering the bill (H. R. 8768) regulating loans in the District of Columbia.

Mr. L. C. Dyer, of Missouri, moved to recommit the bill to the Committee on the District of Columbia, with instructions to report it back forthwith with an amendment.

Mr. Martin B. Madden, of Illinois, propounded a parliamentary inquiry as to whether it would be in order to offer a amendment to the instructions proposed in the motion to recommit.

The Speaker pro tempore[2] held that amendments might be offered until the previous question was ordered.

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[1] Second session Sixty-second Congress, Record, p. 1967.

[2] Henry D. Clayton, of Alabama, Speaker pro tempore.

2700. The rejection of an amendment by the Committee of the Whole does not preclude the offering of the same amendment in a motion to recommit with instructions.

On June 16, 1932,[1] the joint resolution (H. J. Res. 418) authorizing the distribution of Government-owned wheat and cotton to the American National Red Cross and other organizations for the relief of distress, was ordered engrossed and was read a third time.

Mr. Clifford R. Hope, of Kansas, moved to recommit the joint resolution to the Committee on Agriculture with instructions to report it back forthwith with an amendment providing that wheat and cotton affected by the bill might be processed and exchanged for foodstuffs and cloth, respectively.

Mr. William B. Bankhead, of Alabama, made the point of order that the amendment included in the instructions accompanying the motion to recommit had been offered and rejected when the joint resolution was under consideration in the Committee of the Whole, and could not again be proposed.

The Speaker[2] overruled the point of order.

2701. It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

An amendment may not be proposed by instructions in a motion to recommit which would not have been in order if offered as an amendment during consideration of the bill.

A motion to recommit may not include instructions proposing legislation in a general appropriation bill.

On March 24, 1910,[3] the question being on the passage of the pension appropriation bill, Mr. William A. Cullop, of Indiana, moved that the bill be recommitted to the Committee on Appropriations with instructions that it be reported back to the House forthwith, amended by adding as a new section the following:

That any person who served ninety days or more in the military or naval service of the United States during the late civil war, or sixty days in the war with Mexico, and who shall have been honorably discharged therefrom, shall, upon making proof of such facts according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll, and be entitled to receive a pension of $30 per month.

Mr. J. Warren Keifer, of Ohio, made the point of order that the amendment proposed in the instructions if offered to the bill as an amendment would have been subject to a point of order, and it was not competent to do by indirection by means of a motion to recommit what could not be done directly by a motion to amend.

The Speaker[4] said:

The rule reads as follows:

"Rule XXI, paragraph 2:

"'No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation

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[1] First session Seventy-second Congress, Record, p. 13210.

[2] Henry T. Rainey, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 3727.

[4] Joseph G. Cannon, of Illinois, Speaker.

of appropriations for such public works and objects as are already in progress; nor shall any provision changing existing law be in order in any general appropriation bill or in any amendment thereto.'"

This is a motion to recommit with instructions. If the motion had been made in the Committee of the Whole House on the state of the Union as an amendment, or if it had been a provision in the original bill reported by the Committee on Appropriations, it would have been out of order under the rule which has just been read, and which has been a rule of the House for almost fifty years, if not more than fifty years; and under the rules that can not be done indirectly, by a motion to recommit, which can not be done directly.

The Chair is not alone in this construction of the rule. There is a uniform line of decisions by every Speaker since the Chair has been a Member of this House, almost forty years, beginning with Mr. Speaker Blaine, followed by Mr. Speaker Kerr, Mr. Speaker Randall, Mr. Speaker Keifer, Mr. Speaker Carlislie, Mr. Speaker Reed, Mr. Speaker Crisp, Mr. Speaker Reed again, Mr. Speaker Henderson, and the present Speaker. All without exception have made the same ruling; so that the Chair not only has the letter of the rule, but an unbroken line of decisions; and these precedents, as well as the letter of the rule, compel the Chair to sustain the point of order. The point of order is sustained. The motion is not in order.

2702. On January 16, 1917,[1] the pending question was on the passage of the Post Office appropriation bill.

Mr. Charles H. Randall, of California, moved to recommit the bill to the committee with instructions to report it back to the House forthwith with an amendment prohibiting the mailing of matter containing advertisements of intoxicating liquors.

Mr. Swagar Sherley, of Kentucky, made the point of order that the amendment proposed legislation on a appropriation bill.

The Speaker[2] sustained the point of order.

2703. A motion to recommit may not be accompanied by instructions to incorporate a provision which would not have been in order if offered as an amendment.

A limitation on an appropriation bill is objectionable to the rules if it palpably limits executive discretion by imposing additional duties not required by law.

On February 8, 1929,[3] the Naval appropriation bill was read a third time, when Mr. Fiorello H. LaGuardia, of New York, offered a motion to recommit the bill to the Committee on Appropriations with instructions to report it back to the House instanter with the following amendment:

That no part of the moneys herein appropriated for the Naval Establishment or herein made available therefor shall be used or expended under contract hereafter made for the repair, purchase, or acquirement, by or from any private contractor, of any naval vessel, machinery, article, or articles that at the time of the proposed repair, purchase, or acquirement can be repaired, manufactured, or produced in each or any of the Government navy yards or arsenals of the United States, when time and facilities permit, and when such repair, purchase, acquirement, or production would result in a saving in cost to the Government.

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[1] Second session Sixty-forth Congress, Record, p. 1488.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Seventieth Congress, Journal, p. 401; Record, p. 3106.

Mr. Burton L. French, of Idaho, made the point of order that the amendment incorporated in the motion proposed legislation and was not in order on an appropriation bill.

The Speaker [1] held:

The chair, after reading the amendment of the gentleman from New York, finds that the only change made in the latter part of the section is that he strikes out the words "in the judgment of the Secretary of the Navy," and the words "not involve an appreciable increase" are stricken out and the words "result in a saving" are inserted. It was ruled out in the committee. Of course, it is conceded that the matter as carried in the bill is subject to a point of order. Now, the Chair is called upon to decide whether striking out of the words "Secretary of the Navy" and the substitution of the words "result in a saving" in lieu of the words "not involve an appreciable increase" do not make any change in the fact that on some official is imposed an additional duty of determining whether or not there is a saving.

The Chair clearly thinks that the striking out of the words "Secretary of the Navy" does not change the situation in that regard. The Chair sustains the point of order.

2704. A motion to recommit with instructions is not in order unless such instructions would have been in order if offered as an amendment to the bill.

Amendments proposed in instructions accompanying a motion to recommit must be germane to the bill.

On December 18, 1917, [2] following the third reading of the joint resolution (H. J. Res. 195) providing revenue to defray war expenses, Mr. Frederick H. Gillett, of Massachusetts, moved to recommit the joint resolution to the Committee on Ways and Means with instructions not to report it back to the House until the Commissioner of Internal Revenue had ruled whether under the resolution Members of Congress would be subject to the excess-profits tax.

Mr. Claude Kitchin, of North Carolina, in making a point of order against the motion to recommit, called attention to a similar situation in 1913 when a point of order was sustained against a motion by Mr. James R. Mann, of Illinois, to recommit the Underwood tariff bill with instructions to delay the bill until the Tariff Board had reported.

The Speaker [2] sustained the point of order.

2705. On May 8, 1911, [4] the bill H. R. 4413, a tariff bill to place agricultural implements on the free list, had been read a third time, when Mr. James R. Mann, of Illinois, moved to recommit the bill with instructions to insert as a new section the following:

The provisions of this act shall apply only to goods, wares, articles, and merchandise when imported from a country, dependency, province, or colony, being the product thereof, which does not impose any tax or duty upon, or by way of regulation or otherwise practically prohibit, the importation into such country, dependency, province, or colony from the United States of flour or cottonseed oil or of live cattle and fresh, refrigerated, dried, smoked, salted, canned, or otherwise prepared or preserved meats, which are accompanied by a certificate of inspection by the proper officials of the United States, and which country, dependency, province, or colony does

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 534.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-second Congress, Record, p. 1120.

not prohibit, or restrict in any manner or form, the exportation of any of the articles named in this act, or of wood used in the manufacture of wood pulp or paper.

Mr. Oscar W. Underwood, of Alabama, made the point of order that under a rule [1] recently adopted the proposed amendment was not germane, and therefore not in order in instructions accompanying a motion to recommit.

The Speaker [2] directed the Clerk to read sections 5834 and 5835, and held:

It is not necessary for the Chair to pass any opinion on the widsom of this new rule; it is his duty to decide according to the rules. It is clear that the amendment offered by way of matter contained in the motion to recommit under this rule would not have been in order if offered as an amendment; and on the high authority of Mr. Speaker Reed and Mr. Speaker Cannon, I sustain the point of order made by the gentleman from Alabama.

2706. On March 12, 1918, [3] the House resumed consideration of the bill H. R. 9248, the District of Columbia rent bill.

The engrossed copy having been read, Mr. George Holden Tinkham, of Massachusetts, moved to recommit the bill with an amendment striking out all after the enacting clause and substituting a proposition for the appointment of a rent commission to fix rents.

Mr. Ben Johnson, of Kentucky, made the point of order that the bill contained no provision for fixing rents or for the establishment of a commission, and therefore the proposed amendment was not germane.

The Speaker [4] rules:

On the 8th of May, 1913, in the first session of the Sixty-third Congress, there was a battle royal in this House on a question very much like this one. It was on a motion to recommit the Underwood tariff bill. At the request of the Chair, the gentleman from Illinois, Mr. Mann, and the gentleman from New York, Mr. Payne, furnished the Chair in advance of their motion to recommit, and it gave ample time to investigate the matter. I did investigate it thoroughly and conscientiously. The question involved was whether they could hitch a tariff commission to the bill. The Chair sustained the point of order, because it was setting up a new kind of a machine that had nothing to do with the bill. There is one proposition in this motion to recommit that compels the Speaker, in light of the precedents, to hold this point of order well taken, and that is the bringing up of this administration feature, of the tax commission, a great machine. The point of order is sustained.

2707. Instructions accompanying a motion to recommit must be germane to the bill under consideration.

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 those of the bill was held not to be germane.

It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

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[1] Adopted April 5, 1911, and repealed January 18, 1924, providing: "No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill; nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed."

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 3390.

[4] Champ Clark, of Missouri, Speaker.

On April 1, 1910,[1] Mr. Frederick H. Gillett, of Massachusetts, from the Committee on Appropriations, reported to the House the legislative, executive, and judicial appropriation bill with Senate amendments.

On motion of Mr. Gillett, all Senate amendments were disagreed to with the exception of Senate amendment No. 78, reading as follows:

Provided, That the reports required by section 38 of said act shall only be made public when called for by resolution of the Senate or the House of Representatives or upon the order of the President when he deems it for the public interest, and that the Secretary of the Treasury shall formulate rules and regulations for classifying, indexing, and exhibiting said reports or any information therefrom; which said rules and regulations shall be approved by the President.

Mr. Gillett moved that the House concur in Senate amendment No. 78, with the following amendment:

Strike out all of amendment No. 78 and insert instead thereof the following:

"For classifying, indexing, exhibiting, and properly caring for the returns of all corporations required by section 38 of an act entitled 'An act to provide revenue, equalize duties, encourage the industries of the United States, and for other purposes,' approved August 5, 1909, including the employment in the District of Columbia of clerical and other personal services, and for rent of such quarters as will be necessary, $25,000: *Provided,* That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President."

The question being taken and the yeas and nays being ordered, the motion was agreed to, yeas 132, nays 124.

Mr. John J. Fitzgerald, of New York, moved to recommit the amendment with instructions that it be modified to read as follows:

Provided, That the act of August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," is hereby repealed.

Mr. Gillett made the point of order that the motion was not in order because not germane and because proposing to modify a proposition already agreed to by the House.

After debate, the Speaker[2] held:

The House will notice that this is a proposition or an amendment covering one specific subject in the tariff act—as to the returns made by corporations. It does not relate to the amount of the tax, the kind of corporations to be levied upon, the time of levying, or touching any other matter, but only and simply the returns of corporations.

Upon the motion to concur with an amendment, which amendment provides for striking out the Senate amendment, and inserting what has just been read the previous question was ordered, and the House has, on a yea-and-nay vote, agreed to the amendment, so that is closed incident.

Now, the argument of the gentleman from New York brings up a very ingenious theory. But the Chair does not feel called upon to decide upon his theory, because it has been held—and, so far as the Chair has been able to ascertain, uniformly held—that where there is a proposition to amend a law in one particular—a specific particular—a proposition to amend generally or to repeal the law would not be germane. The Chair, after a hasty examination, finds as follows:

"Hind's Precedents, volume 5, page 411:

"'5806. 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 those of the bill was held not to the germane."

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[1] Second session Sixty-first Congress, Record, p. 4144.

[2] Joseph G. Cannon, of Illinois, Speaker.

Under that decision, if the amendment of the gentleman had been offered before the previous question operated it would not have been in order, as the precedents are uniform that you can not by a motion to recommit make that in order which would not have been in order if ordered as an amendment. Therefore the Chair sustains the point of order.

2708. Instructions accompanying a motion to recommit must be germane to the bill to which proposed.

To a bill providing for a physical valuation of railroads an amendment dealing with the future issuance of railroad stocks and bonds was held not germane.

On December 5, 1912,[1] the House resumed consideration of the bill (H. R. 22593) for the physical valuation of railroads, with a point of order raised by Mr. Thetus W. Sims, of Tennessee, pending against a motion to recommit offered by Mr. James R. Mann, of Illinois, with instructions pertaining to the issuance of railroad stocks and bonds.

After extended debate on the point of order, the Speaker[2] ruled:

The rule on motions to recommit is this: A proposition is not germane in a motion to recommit unless it would have been germane as an amendment to the bill.

The authorities all run one way. I have investigated them carefully. The rule is not that, if there are two substantive propositions in a bill, you can add anything else to it. The rule is that on such a question as admitting Territories into the Union as States: If you were trying to admit Idaho, for instance, alone, you could not add Montana and Washington, and so forth. But if you turn it around the other way and make the bill general in its character to admit Montana and Idaho and Washington, then you might add to it, as an amendment, Wyoming, for instance.

At one time there was a proposition pending to appropriate money to destroy the boll weevil and the gentleman from Massachusetts, Mr. Gillett, offered a proposition to add some money to destroy the gypsy moth. Mr. Speaker Cannon held that there was no connection between the two propositions, and ruled out the amendment of the gentleman from Massachusetts.

During the term of the present Speaker a proposition was up to prohibit the trading in cotton futures on the exchanges of the country. Some Member offered an amendment to that proposition to include wheat and corn and other products. The Chair ruled it out by citing all these precedents which he has just cited and some additional ones. The Chair was more in favor of prohibiting the dealing in futures in wheat and corn than on cotton, because he has more to do with those products, but that fact did not have anything to do with the parliamentary point. Therefore he sustained the point of order made against the germaneness of the amendment.

The situation here is that the Committee on Interstate and Foreign Commerce brings in a bill which deals with the one subject, and one subject only, and that is to fix a physical valuation of railroads. The only reason that they mention bonds or stocks in the bill at all is that, whether right or wrong, in this country we have fallen into the habit of estimating the value of a railroad by counting in both bonds and stocks, one being property and the other being debts. So that evidently the committee, in reporting this bill, thought that out of deference to the rule which prevails in this country we ought to find out what stocks and bonds have been issued. But this bill as reported nowhere provides or says a word about authorizing or directing anybody to issue stocks and bonds. The motion of the gentleman from Illinois to recommit with instructions has entirely to do with the future issuance of stocks and bonds. It seems to be a very elaborate and perfect scheme. But I have asked the gentlemen who have argued this question in favor of the germaneness of this motion to recommit to point out in the bill a single word or clause that makes the resolution of the gentleman from Illinois germane. And the Chair sustains the point of order made by the gentleman from Tennessee.

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[1] Third session Sixty-second Congress, Record, p. 173.

[2] Champ Clark, of Missouri, Speaker.

2709. It is not in order to include in a motion to recommit instructions to insert an amendment not germane to the section of the bill to which offered.

On January 16, 1917,[1] the Post Office appropriation bill was engrossed and read a third time.

Mr. Charles H. Randall, of California, moved to recommit the bill with instructions to report it back with an amendment excluding liquor advertisements from the mails.

Mr. Swagar Sherley, of Kentucky, made the point of order that the motion was not in order because the amendment proposed in the accompanying instructions was not germane to the section of the bill to which offered.

The Speaker[2] sustained the point of order, and said:

The Chair will read the heading to paragraph 5811 of Hinds' Precedents, Volume V:

"Under the later decisions the principle has been established that an amendment should be germane to the particular paragraph or section to which it is offered." That is the guiding rule, in addition, of course, to the one that it must be germane. Now the merits of this proposition offered by the gentleman from California, the question whether it is a good thing or a bad thing to do, has nothing to do with this point of order. The Chair does not think it is germane to that section, and sustains the point of order against the motion to recommit.

2710. An amendment in instructions accompanying a motion to recommit must be germane and of such a character as would have been in order if proposed as an amendment to the bill.

To a bill authorizing bonds to meet expenditures in the prosecution of the war an amendment proposing a committee to prevent waste in such expenditures was held not to be germane.

On September 6, 1917,[3] the bill (H. R. 5901) to authorize an additional issue of bonds to meet the expenditure for the national security and defense, and for the purpose of assisting in the prosecution of the war, was read the third time.

Mr. J. Hampton Moore, of Pennsylvania, moved to recommit the bill to the Committee on Ways and Means with instructions to that committee to report it forthwith to the House with an amendment authorizing the appointment of a committee to cooperate with the President in preventing waste and extravagance in the expenditure of money authorized for the national security and defense.

Mr. Claude Kichin, of North Carolina, made the point of order that the amendment proposed in the instructions was not germane to the bill.

The Speaker pro tempore[4] ruled:

So that there may be no misunderstanding in the future as to the ruling of the Chair, the Chair desires to state that the gentleman from Pennsylvania is strictly accurate in his assertion that in form the amendment corresponds to the amendment offered by the gentleman from Alabama, Mr. Underwood, to the District appropriation bill some years ago. The amendment proposed by the gentleman from Alabama, however, was an amendment to a Senate amendment which was pending to a bill which originated in the House, and the same rule is not applicable

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[1] Second session Sixty-fourth Congress, Record, p. 1487.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 6707.

[4] John J. Fitzgerald, of New York, Speaker pro tempore.

in determining the question of germaneness under such circumstances as is applicable under existing circumstances.

Under the rules of the House motions to recommit with instructions must be germane, and the proposed instructions must be of such a character that if proposed as an amendment to the bill would be in order as an amendment. The Chair is not taken entirely unawares in making the statement about this motion. He was informed that he would be requested to take the Speaker's place because of his unavoidable absence, and the proposed amendment and authorities were submitted to him for an opportunity to give them careful examination. The rule of germaneness is very well established. It is so well established that it is only necessary for the Chair to read the title of the bill. It is:

"A bill to authorize an additional issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend additional credit to foreign governments, and for other purposes."

The present occupant of the chair, under date of September 22, 1914, made an elaborate ruling on the question of germaneness. Repeating a part of that—

"That an amendment be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment that would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane—and such a rule has been adopted in practically every legislative body in the United States—is in the interest of orderly legislation. Its purpose is to prevent hasty and ill-considered legislation, to prevent propositions being presented for the consideration of the body which might not reasonably be anticipated and for which the body might not be properly prepared."

It seems to the Chair that, applying these tests—and these words seem to fit peculiarly into the pending circumstances—to determine if an amendment is germane, the question to be answered is whether the amendment is relevant, appropriate, and in a natural and logical sequence to the subject matter of the bill. The Chair is quite clear that the proposed motion does not conform to any one of the tests that the present occupant indicated were required to be applied to such motion. The Chair sustains the point of order.

2711. A substitute proposing to amend instructions accompanying a motion to recommit must be germane.

On December 10, 1924,[1] the previous question was ordered on the passage of the bill (H. R. 2688) providing for sundry matters affecting the naval service.

The amendments recommended by the Committee of the Whole having been agreed to and the bill having been read the third time, Mr. Tom Connally, of Texas, offered a motion to recommit with instructions to strike out section 21 of the bill.

Mr. Thomas L. Blanton, of Texas, proposed a substitute for the motion to recommit with instructions to strike out a different portion of the bill and insert matter unrelated to section 21.

Mr. James T. Begg, of Ohio, made the point of order that the proposed substitute was germane neither to the motion to recommit nor to the bill.

The Speaker[2] sustained the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 432.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

2712. It is not in order to do indirectly by a motion to recommit with instructions what may not be done directly by way of amendment.

An amendment to strike out an amendment already adopted is not in order.

To a bill as amended by the committee to which referred, the original bill was held to be germane when offered as an amendment in instructions accompanying a motion to recommit.

Unless the previous question has been ordered, instructions offered in connection with a motion to recommit maybe amended.

On Wednesday, May 22, 1912,[1] the Speaker announced as the unfinished business coming over from the previous Calendar Wednesday, the bill (H. R. 17756) relating to disposition of friar lands in the Philippine Islands.

On the previous Wednesday[2] Mr. Olmsted had moved to recommit the bill to the Committee on Insular Affairs with instructions to report it back forthwith with an amendment restricting increases in the amount of friar lands any corporation might hold.

To this motion Mr. John A. Martin, or Colorado, offered an amendment in the nature of a substitute striking out all after the enacting clause and inserting the bill as originally referred to the committee.

Mr. Ebenezer J. Hill, of Connecticut, made the point of order that the motion to amend was in violation of the rule permitting only one motion to recommit, as the substitute in effect amounted to a second motion to recommit.

The Speaker[3] held:

It has been decided over and over again by Speaker Carlisle, Speaker Crisp and I suppose all the rest of the Speakers, that a motion to recommit either with or without instructions is amendable, and of course that embraces a substitute, for a substitute is a species of amendment. In fact, it was ruled squarely once that it did embrace a substitute. Of course this condition attaches to it, that the matter in the substitute must be germane; that it would have been germane or in order as an amendment when the bill was pending.

Mr. Olmsted then raised the point of order that the amendment was not germane and that in proposing to eliminate an amendment adopted by the House it attempted to accomplish indirectly what could not be effected directly by amendment.

After debate, the Speaker ruled:

The gentleman from Pennsylvania very correctly thinks this ruling is important. I do not know whether I agree with him that it is more important than the bill itself. This question has returned to plague most of the Speakers who ever occupied the chair, and the House, too. In one way and another it has been ruled on ever since the days of Mr. Speaker Taylor, away back in 1826. The situation is this: On the 8th day of this month of May the gentleman from Pennsylvania made a motion to add a certain amendment to the bill, and it was done on a roll call, the bill being considered in the House as in Committee of the Whole. The amendment was adopted by a very large majority. Either on that day or the succeeding day any Member who voted in the affirmative could have moved a reconsideration. The gentleman from Colorado could not do it, because he voted in the negative. So it remains in the bill. After the

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[1] Second session Sixty-second Congress, Record, p. 6974.

[2] Record, p. 6522.

[3] Champ Clark, of Missouri, Speaker.

third reading of the bill the gentleman from Pennsylvania made a motion to recommit the bill containing an amendment. The gentleman from Colorado offered a substitute for the amendment which had just been offered by the gentleman from Pennsylvania in his motion to recommit. After some discussion the gentleman from Illinois, Mr. Mann, suggested to the gentleman from Colorado that there was a way for him to accomplish what he was after, provided the Chair ruled his substitute out of order, and that was to strike out all after the enacting clause and to insert the original bill, leaving out the Olmsted amendment which had been adopted on the 8th of May.

Thereupon the gentleman from Colorado accepted the suggestion of the gentleman from Illinois and offered the original bill minus the Olmsted amendment, and thereupon the gentleman from Pennsylvania made two points of order. One, that it was not germane to his amendment and the other that it was an attempt to do indirectly what the House could not itself do directly, thereby contravening both the rules and the practice of the House.

The Chair rules against the gentleman from Pennsylvania on the first proposition, accepting the suggestion of the gentleman from Illinois that at the entire bill as offered by the gentleman from Colorado must in the very nature of things be germane to any amendment that anybody could offer to the bill; that is, for purposes of a motion to recommit.

The contention of the gentleman from Pennsylvania on the subject of germaneness is not tenable. It has been held over and over again that a motion to recommit is amendable, and it has been held at least by one Speaker that a substitute for a motion to recommit is proper. There is no question whatever in the mind of the Chair that the bill itself, minus the first Olmsted amendment, adopted on the 8th of May, is germane to the proposition of the gentleman from Pennsylvania incorporated in his motion to recommit. Therefore the Chair overrules the point of order made by the gentleman from Pennsylvania that it would not be germane.

The second point of order to raised by the gentleman from Pennsylvania is whether it is possible to do indirectly on a motion to recommit what the House can not do directly—because that is what it is, and all of us, who have paid any attention to this wrangle, know that there is only one thing involved in that substitute, and that is whether you shall cut out the Olmsted amendment adopted on the 8th of May. It might as well have been offered in so many words for all practical purposes.

This question of whether the House on a motion to recommit can do indirectly what the House itself can not do, has been ruled on by almost every Speaker beginning with Mr. Speaker John W. Taylor, of New York, on the 31st day of January 1826. The question was not always exactly in the shape in which this question presents itself, but the substance has always been the same, and the decisions have always been the same. Mr. Speaker Taylor ruled on it, and later Mr. Speaker Polk, and in later days Mr. Speaker Carlisle and Mr. Speaker Crisp ruled on it. Mr. Speaker Reed, when he was in the chair, ruled on it, and when he was on the floor raised a point of order, referred to the same decision, and held on the floor what he held in the chair; Mr. Speaker Henderson ruled on it; Mr. Speaker Cannon ruled on it.

They all ruled the same way; that is, that the House can not do indirectly on a motion to recommit that which it can not do by amendment before engrossment and third reading.

The contention of the gentleman from Pennsylvania that you can not have two propositions in a motion to recommit is not tenable. The motion to recommit is intended to give the House an opportunity to express its opinion, upon roll call if needs by, upon any proposition or propositions which have not been inserted in the bill, provided always, of course, that the proposition is germane to be bill itself.

The Speaker then quoted from a decision [1] by Speaker Carlisle, and continued:

Nobody will contend, if some gentleman had arisen in his place and made motion to strike out this Olmsted amendment which was inserted on the 8th day of May, that the Chair would have entertained the motion.

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[1] Section 5531 of Hinds' Precedents.

So, on that point the Chair sustains the point of order made by the gentleman from Pennsylvania, Mr. Olmsted, that the substitute offered by the gentleman from Colorado, Mr. Martin, is out of order because the House can not by a motion to recommit do that which it can not do directly by amendment when a bill is in the amendable stage.

2713. It is not in order in a motion to recommit to propose to strike out or modify an amendment previously adopted by the House.

A motion to recommit having been ruled out of order, the proponent is entitled to prior recognition to offer a second motion to recommit.

Two motions to recommit offered by a Member having been ruled out of order, the Speaker recognized him to submit a third motion to recommit when convinced that it was not offered for dilatory purposes.

In recognitions to move to recommit, a Member opposed to the bill as a whole has preference over one opposed to the bill in part, and a Member opposed to the bill in part takes precedence of a Member favoring the bill.

The question as to whether a motion is dilatory is determined within the discretion of the Speaker by the evident motive of the Member presenting it.

On June 25, 1914,[1] the House resumed consideration of the sundry civil appropriation bill, on which the previous question had been ordered on the preceding day.

The bill having been read a third time, Mr. Augustus P. Gardner, of Massachusetts, moved to recommit the bill to the Committee on Appropriations with instructions to increase the amount of the appropriation for the immigration service fixed by an amendment proposed by Mr. H. Garland Dupré, of Louisiana, and adopted by the House.

Mr. John J. Fitzgerald, of New York, made the point of order that the amount proposed to be changed by the motion to recommit having been adopted by the House in the form of an amendment, it was not now permissible to entertain a proposal to change it.

Mr. James R. Mann, of Illinois, in opposing the point of order, said:

It is for the House to determine on the motion to recommit whether it may strike out any portion of the engrossed bill. The bill as an engrossed bill is an entirety. The gentleman might offer a motion to strike out any paragraph in the bill or to amend with a germane amendment any paragraph in the bill. The gentleman now moves to recommit to amend an amount in the bill. There is no sacredness about the fact that that amount has been inserted by amendment. That has no more effect than any other amount that is in the bill which has been passed without change. All that has been agreed to by the committee, all that has been agreed to by the House, to the extent of ordering the bill to be engrossed and read a third time, and any amendment which is germane to the bill may now be offered as a motion to recommit.

The Speaker[2] ruled:

The chair, of course, is always very careful to listen to any arguments on parliamentary points that are made by the gentleman from Massachusetts, Mr. Gardner, or the gentleman from Illinois, Mr. Mann, because they have studied these matters a great deal.

A brief statement of this case is that the gentleman from Louisiana, Mr. Dupré, offered an amendment striking out and inserting. That was agreed to. The Committee of the Whole

[1] Second session Sixty-third Congress, Record, p. 11122.

[2] Champ Clark, of Missouri, Speaker.

had a perfect right to vote down the Dupré amendment if it wanted to. There was no constraint upon it to vote for Mr. Dupré's amendment unless it so desired, and the Congressional Record shows that it was very elaborately argued by able men. The only question is whether after that has been done you can do it over again. That is a question that has been decided, not very frequently, but still ever since the days of Thomas Jefferson. On page 194 of Jefferson's Manual, section 466, there is the following:

"But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A."

The rule to recommit which is pertinent here is this: That you can not do anything by a motion to recommit that you could not do in the committee by way of amendment. The gentleman from Massachusetts was shut out in the Committee of the Whole.

One of the best presiding officers who was not a Speaker who has been in this House since the gentleman from Illinois, the gentleman from Massachusetts, or the present occupant of the chair has been here, was the gentleman from Pennsylvania, Mr. Marlin E. Olmsted. In section 5766 of Hinds' Precedents, volume 5, the case is well stated by that gentleman.

"Words embodying a distinct substantive proposition being agreed to as an amendment, it is not in order to amend by striking out a part of those words with other words."

The present Speaker ruled to the same effect, without giving any reasons for it, on February 6, 1913, on the District appropriation bill. So far as one of the propositions of the gentleman from Illinois is concerned, the present Speaker, in section 948 of the Manual, after a very thorough study—because the matter came up on a Wednesday and went over until the next Wednesday—rendered an elaborate opinion about doing by indirection what one can not do by direction. It can not be done.

The motion to recommit is ruled out of order.

Mr. Gardner then asked recognition to offer a further motion to recommit.

Mr. Fitzgerald proposed a motion to recommit, and submitted that as Mr. Gardner had once been recognized to move recommitment the right to recognition for that purpose passed to another Member.

The Speaker, after ascertaining that both gentlemen favored the bill but opposed the form in which written, ruled:

The Chair held, touching the mode and practice here three years ago, that where the gentleman from Illinois made a motion to recommit and the Chair ruled it out as being not germane, he would give him another chance to offer another motion, and the Chair recognized the gentleman from Illinois to make two motions to recommit; but, of course, there ought to be a limit somewhere. Now, being opposed to a bill has various degrees. You may be opposed to it absolutely and essentially; and, of course, if a man in that frame of mind were asked the question if he is opposed to the bill and if he says he is he says he is without any hesitancy; but suppose a man is only opposed to part of a bill, he has a right to recognition in preference to a man in favor of the bill.

The Speaker thereupon recognized Mr. Gardner, who moved to recommit the bill with instructions to insert as a new item provision for an additional appropriation for the immigration service.

Mr. Fitzgerald made the point of order that an appropriation of additional money must be offered as an amendment to the paragraph in the bill dealing with that subject and not in a separate paragraph as proposed by the pending motion to recommit, and cited in support of his contention sections 5818 and 5820 of Hind's Precedents.

The Speaker sustained the point of order.

Mr. Gardner proposed to offer a third motion to recommit.

Mr. Fitzgerald made the point of order that the motion was dilatory.

The Speaker said:

The Chair thoroughly agrees with the gentleman from Massachusetts that he has the right to make a motion to recommit, and the Chair recognized him twice to make another motion to recommit along the same lines. The Chair thinks the present motion is dilatory, with all due respect to the gentleman from Massachusetts.

Mr. James R. Mann, of Illinois, submitted that the question as to whether a motion was dilatory was not to be determined by the number of times previously presented but by the evident motive of the Member presenting it.

The Speaker agreed:

The gentleman from Illinois states the question of dilatoriness correctly; that is, every man must come to his own conclusion, and the Speaker has to come to his as to whether or not the motion is dilatory.

The gentleman from Massachusetts will send up his motion, and the Clerk will report it.

The Clerk read as follows:

Mr. Gardner moves to recommit the bill to the Committee on Appropriations with instructions to insert, on page 150, line 21, at the end of the line, the following: *"Provided further,* That the following additional amount be, and the same is hereby, appropriated for the expenses of the Immigration Service in the enforcement of all immigration laws, $260,000."

Mr. Fitzgerald having again raised the point of order that the motion to recommit proposed to change an amendment already adopted by the House, the Speaker held:

The Committee of the Whole deliberately reduced the amount. Now the gentleman comes with his proposition and undertakes to increase the amount. The Chair rules it out of order.

2714. It is not in order to propose in connection with a motion to recommit instructions to amend an amendment which has been adopted by the House.

Recognition to offer a motion to recommit is governed by the attitude of the Member towards the bill, and a Member opposed to the bill without qualification is entitled to preference over a Member opposed to the bill in its pending form.

The simple motion to recommit and the motion to recommit with instructions are of equal privilege under the rule and neither has precedence over the other.

On August 23, 1922,[1] following the third reading of the bill (H. R. 12377) for the establishment of a national coal commission, Mr. Finis J. Garrett, of Tennessee, proposed to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith with an amendment striking out a portion of an amendment just agreed to by the House.

Mr. James R. Mann, of Illinois, rose to a point of order, and said:

Mr. Speaker, I make a point of order that a motion to recommit is not in order. Beginning a good many years ago, and perhaps not beginning at that time, Speaker Clark ruled that it was

[1] Second session Sixty-seventh Congress, Record, p. 12753.

not in order, in a motion to recommit, to move to strike out any part of an amendment which had just been voted upon and agreed to by the House. That ruling has been consistently followed ever since the original distinct ruling was made. This is a motion to recommit with instructions to strike out a portion of an amendment just voted in and comes clearly within the ruling of Speakers heretofore.

After further debate, the Speaker [1] ruled:

The precedents are very clear, and the Chair sustains the point of order.

Mr. William B. Bankhead, of Alabama, and Mr. Meyer London, of New York, simultaneously asked recognition to offer a further motion to recommit. In response to an inquiry from the Speaker, Mr. Bankhead announced that he was opposed to the bill in its present form. Mr. London declared himself as being unqualifiedly opposed to the bill.

The Speaker recognized Mr. London, and said:

The Chair does not care to hear further argument. After the third reading of the bill the gentleman from Tennessee so far as the Chair knew, was the only gentleman to offer a motion to recommit. The Chair asked him if he was opposed to the bill, and he said he was. The Chair therefore recognized him. That motion to recommit was ruled out on a point of order. The gentleman from Indiana then offered to make a motion to recommit and the Chair put to him the usual question, not knowing at that time that any other gentleman wishes to make such a motion. The Chair really expected to recognize the gentleman from Indiana, although the gentleman said that he was not opposed to the bill, but did not like its present form, because the Chair did not know that anyone else desired to be recognized. Immediately then—and that was the first time the Chair had any intimation that the gentleman from New York wanted to make a motion—the gentleman from New York rose and said that he was opposed to the bill, and offered a motion to recommit. The Chair has no alternative except to recognize him for the purpose of making that motion.

Mr. Oscar E. Bland, of Indiana, as a parliamentary inquiry, asked if a motion to recommit with instructions took precedence of a simple motion to recommit.

The Speaker answered in the negative.

2715. A motion to recommit with instructions to strike out an amendment already agreed to by the House is not in order.

On February 6, 1913,[2] the Committee of the Whole House on the state of the Union reported to the House the District of Columbia appropriation bill, with sundry amendments, including an amendment proposed by Mr. Albert S. Burleson, of Texas, providing an appropriation for the payment of interest on the funded debt of the District of Columbia.

The amendments recommended in the committee having been agreed to, the bill was ordered to be engrossed and was read a third time.

Mr. Eben W. Martin, of South Dakota, moved to recommit the bill to the Committee on Appropriations with instructions to report it back forthwith with an amendment striking out the amendment offered by Mr. Burleson and substituting in lieu thereof an amendment changing the amount of the appropriation.

Mr. John J. Fitzgerald, of New York, raised a question of order against the motion to recommit on the ground that it proposed to strike out matter just adopted by the House.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-second Congress, Record, p. 2660.

The Speaker [1] sustained the point of order.

2716. On February 28, 1916,[2] the Post Office appropriation bill having been read the third time, Mr. Joseph G. Cannon, of Illinois, moved to recommit it with instructions striking out a portion of section 17 which had been inserted by the House as an amendment.

Mr. James R. Mann, of Illinois, raised a question of order against the motion, and said:

Mr. Speaker, I make the point of order that the motion is not in order. The Speaker has ruled upon this matter a number of times. Section 17 was an amendment reported from the Committee of the Whole House on the state of the Union to the House. The House has just agreed to section 17. The speaker commencing with the Philippine bill and repeated several times since, has ruled that where the House has agreed to an amendment it is not in order to move to recommit and to change that amendment where the House had acted upon it.

Mr. Cannon submitted:

I have no recollection, either from precedents, or my own experience as a Member of the House, or as Speaker, of such a question having arisen. And yet there is the letter of the rule, and the spirit of the rule, it seems to me, would give the House the privilege of entertaining and passing upon this motion.

After further debate, the Speaker [3] ruled:

Jefferson's Manual, section 466 of the Manual, reads as follows:

"But if it had been carried affirmatively to strike out the words and to insert A, it could not afterwards be permitted to strike out A and insert B. The mover of B should have notified, while the insertion of A was under debate, that he would move to insert B; in which case those who preferred it would join in rejecting A."

On the 22d day of May, 1912, in that Philippine case to which the gentleman from Illinois refers, the circumstances were these: That just about this time in the evening on Calendar Wednesday the point of order was raised, and it went over until the next Wednesday, so that the Chair, who happened to be myself, had ample time to study it and render an opinion—and it is rather an elaborate opinion—in which the Chair held that this thing which the gentleman from Illinois is trying to do could not be done. To buttress my own opinion I quoted at length from an opinion rendered by Mr. Speaker Carlisle. And there is a long string of decisions that might have been cited. The decisions runs clear back to Mr. Speaker Taylor, of New York. And the Chair now sustains the point of order made by the gentleman from Illinois.

2717. A motion to recommit including instructions to strike out an amendment or portion of an amendment already agreed to by the House is not in order.

On December 18, 1918,[4] the Post Office appropriation bill was reported back to the House with sundry amendments, including an amendment proposed by Mr. William R. Green, of Iowa.

The amendments were agreed to, and the bill was ordered to be engrossed and was read a third time.

Mr. William A. Ayres, of Kansas, moved to recommit the bill with instructions to strike out the amendment offered by Mr. Green.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-fourth Congress, Record, p. 3275.

[3] Champ Clark, of Missouri, Speaker.

[4] Third session Sixty-fifth Congress, Record, p. 645.

Mr. James R. Mann, of Illinois, made the point of order that the amendment having been agreed to by the House a proposal to strike it out was not admissible, and suggested that the proper procedure would have been to have offered an amendment to the amendment when it came before the House, the previous question not having been ordered, or to have demanded a separate vote on the amendment when the amendments recommended by the Committee of the Whole were voted upon in gross.

The Speaker [1] held:

The gentleman's contention is correct. The motion to recommit is not in order. If the thing could be done which the gentleman from Kansas is trying to do, discussion of the bill in Committee of the Whole would be almost useless.

2718. On February 21, 1929,[2] the bill (S. 1781) to establish load lines for American vessels, was read for the third time, when Mr. John C. Schafer, of Wisconsin, moved to recommit the bill to the Committee on the Merchant Marine and Fisheries with instructions to report it back forthwith with an amendment striking out all of section 9.

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that section 9, which was proposed to be stricken out, was a committee amendment on which the gentleman could have requested a separate vote, and which had just been agreed to by the House.

The Speaker [3] sustained the point of order.

2719. It is not in order by way of a motion to recommit to strike out any portion of an amendment inserted by the House.

On January 18, 1919,[4] the pending question was on the passage of the legislative, executive, and judicial appropriation bill.

Mr. Warren Gard, of Ohio, proposed a motion to recommit the bill to the Committee on Appropriations, with instructions to report it back forthwith with an amendment striking out a portion of an amendment agreed to by the House and inserting other provisions in lieu thereof.

Mr. James R. Mann, of Illinois, made the point of order that the amendment carried by the motion to recommit proposed to strike out an amendment just inserted by the House.

The Speaker [5] ruled:

The point of order is sustained. The gentleman's motion to recommit in the nature of an amendment or instruction would repeal the Stafford amendment that has just been put into the bill by a vote of the House.

Mr. Gard argued that only a portion of the amendment was involved.

The Speaker said:

If it is bad in part, it is bad in the whole. The question is on the passage of the bill.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Seventieth Congress, Record, p. 3975; Journal, p. 402.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Third session Sixty-Fifth Congress, Record, p. 1699.

[5] Champ Clark, of Missouri, Speaker.

2720. It is not in order to modify, by instructions proposed in a motion to recommit, amendments previously adopted by the House.

On April 12, 1926,[1] pending the question on the passage of the bill (S. 41) to regulate the use of aircraft in commerce, Mr. George Huddleston, of Alabama, moved to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to strike out language adopted by the House and insert in lieu thereof certain other provisions.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion to recommit included a proposition to amend an amendment already adopted by the House.

The Speaker[2] held:

The Chair is inclined to think that the point of order of the gentleman from Illinois is well taken, that this is an effort to amend an adopted amendment, which is out of order under the rule. The Chair sustains the point of order.

2721. On April 12, 1926,[3] the Committee of the Whole House on the state of the Union reported to the House with amendments the bill (S. 41) to encourage and regulate the use of aircraft in commerce.

The amendments were agreed to, and the bill having been read a third time, Mr. George Huddleston, of Alabama, moved to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to that committee to report it back to the House forthwith, with various amendments modifying certain amendments just agreed to by the House.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion to refer might not include instructions to modify action taken by the House.

The Speaker[4] sustained the point of order and said:

The point of order of the gentleman form Illinois is well taken. This is an effort to amend an adopted amendment, which is out of order under this rule. The Chair sustains the point of order.

2722. On June 11, 1930,[5] the bill (H. R. 7638) to authorize the acquisition for military purposes of land in Alabama, was ordered to be engrossed and read a third time, and was read a third time.

Mr. John Taber, of New York, offered a motion to recommit the bill to the Committee on Military Affairs with instructions to that committee to report it back forthwith with an amendment modifying an amendment reported by the Committee of the Whole and agreed to by the House.

Mr. William H. Stafford, of Wisconsin, made the point of order that an amendment could not be included in a motion to recommit which proposed to modify an amendment previously incorporated in the bill by the House.

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[1] First session Sixty-ninth Congress, Record, p. 7330.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 7330.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Second session Seventy-first Congress, Record, p. 10511; Journal, p. 676.

The Speaker [1] held:

The rule is very clear that when the House has agreed to an amendment, it can not thereafter by a motion to recommit change that amendment. So the Chair sustains the point of order.

2723. An amendment adopted by the House is not subject to modification by instructions accompanying a motion to recommit.

On June 28, 1922,[2] the previous question had been ordered on the bill (S. 3425) to continue certain land offices.

Mr. Louis C. Cramton, of Michigan, moved to recommit the bill to the Committee on Public Lands with instructions to report it back forthwith with an amendment including in the bill certain offices stricken out by an amendment previously agreed to by the House.

Mr. James R. Mann, of Illinois, made the point of order that it was not in order to nullify an amendment inserted by the House.

The Speaker [3] ruled:

The rule is laid down very conclusively. After the House has adopted an amendment, as it has in this case, it is not subject to amendment indirectly by a motion to recommit. The Chair sustains the point of order.

2724. It is not in order to propose to recommit with instructions to perfect an amendment previously agreed to by the House.

On October 25, 1921,[4] the pending question was on the passage of the joint resolution (S. J. Res. 114) providing for participation in an exposition at Rio de Janeiro.

Mr. William H. Stafford, of Wisconsin, moved to recommit the joint resolution to the Committee on Industrial Arts and Expositions with instructions to report it back forthwith with an amendment increasing the amount of the appropriation, which amount had previously been inserted by amendment.

Mr. Everett Sanders, of Indiana, raised a question of order and submitted that the motion to recommit proposed to modify an amendment adopted by the House and was not in order.

In debating the point of order, Mr. Joseph Walsh, of Massachusetts, said:

Mr. Speaker, the original ruling was made, I think, by Mr. Speaker Clark to the effect that, the House having voted on an amendment, it was not in order in a motion to recommit with instructions to strike out or eliminate that amendment. That ruling has been held, but I do not recall any ruling which went to the effect that the House, having voted upon an amendment, that amendment could not be further amended or perfected by a motion to recommit. In fact, I think there is one precedent in Hinds to the effect that after the previous question has been ordered a motion to recommit can strike out a portion of an amendment already agreed to by the House, and it would seem that this comes within that class of cases. If the gentleman from Wisconsin had moved to strike out the amendment which had already been agreed to, it clearly would come within the ruling made by former Speaker Clark, but he has only struck out a portion of it, and substituted other matter, further amending or perfecting it. I know of no ruling which would restrain the House from doing that under a motion to recommit.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 9639.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 6775.

The Speaker [1] ruled:

The Chair thinks there is much force in the statement of the gentleman from Arkansas, Mr. Wingo, that a motion to recommit is intended to give the minority—not the political minority, but a minority of the Members—an opportunity to express itself. But there are a number of predicaments that arise where that can not be done. The Chair thinks the gentleman from Indiana, Mr. Sanders, has clearly expressed it in saying that we can not do indirectly what we can not do directly. A proposed amendment must be amended, if at all, before it is adopted and not after it has been adopted. Therefore, it can not be amended in a motion to recommit. The Chair thinks the motion to recommit is not in order.

2725. On March 1, 1923,[2] the House resumed consideration of the bill (S. 4280) providing for farm credits, on which the previous question has been ordered to final passage.

Amendments recommended by the Committee of the Whole were agreed to, and the bill was ordered to be engrossed and was read a third time.

Mr. Robert Luce, of Massachusetts, offered a motion to recommit the bill to the Committee on Banking and Currency with instructions to that committee to report it back forthwith with an amendment amending an amendment adopted by the House.

Mr. Cassius C. Dowell, of Iowa made the point of order that an amendment once adopted by the House might not be amended by instructions embodied in a motion to recommit.

The Speaker pro tempore [3] held:

It is well settled by the precedents in the House of Representatives that an amendment once agreed upon by the House may not be amended on a motion to recommit. These rulings run through the precedents of the House of Representatives so far back that it is not necessary for the Chair even to make a review of them. The Chair sustains the point of order.

2726. It is not in order to propose in instructions embodied in a motion to recommit any proposition which would not be in order if proposed as an amendment to the bill.

While an amendment once passed upon by the House is not again in order, a change in phraseology sufficient to present a substantially different proposition renders it admissible.

On October 3, 1918,[4] the Speaker announced as the unfinished business the bill (H. R. 12404) for a building for the Public Health Service in the city of Washington, which had been reported from the Committee of the Whole House on the state of the Union with one amendment, as follows:

In carrying the foregoing authorization for additional buildings to the Hygienic Laboratory into effect the Secretary of the Treasury may enter into contracts or purchase materials in the open market, or otherwise, and employ laborers and mechanics for executing the work as in his judgment may best meet the public exigencies, within the limits of the authorization herein made.

The question being taken on agreeing to the amendment, it was decided in the affirmative, yeas 63, nays 44, and the bill as amended was ordered to be engrossed and was read a third time.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Fourth session Sixty-seventh Congress, Record, p. 5013.

[3] Philip P. Campbell, of Kansas, Speaker pro tempore.

[4] Second session Sixty-fifth Congress, Record, p. 11098.

Mr. James W. Good, of Iowa, moved to recommit the bill to the Committee on Public Buildings and Grounds with instructions to forthwith report the same with the following amendment:

That no contract shall be let by the Secretary of the Treasury for the purchase of any material therefor, or for the employment of labor to construct said building on the cost-plus basis.

Mr. Finis J. Garrett, of Tennessee, raised a question of order against the motion to recommit, and submitted that the committee amendment just agreed to by the House authorized the Secretary of the Treasury to proceed "as in his judgment may best meet the public exigencies," and the proposed amendment in effect repealed that authorization, and amounted to a proposal to again vote upon a proposition already disposed of.

After the debate, the Speaker [1] ruled:

The question has arisen several times and Mr. Speaker Blaine rendered an opinion on the subject which goes the whole way. Objection was made practically on the same ground, and Mr. Speaker Blaine said:

"The Chair overrules the point of order. The gentleman might not be able to offer the resolution in precisely the same words, but this is a different resolution, differently worded, and it is a question of privilege, and is in order at any time. The difference of a single word would bring it within the rule of the House."

The point of order is overruled, and the question is on the motion to recommit.

2727. Although it is not in order in connection with a motion to recommit to offer instructions striking out an amendment agreed to by the House and insert other provisions in its place, it is in order to propose instructions to strike out such an amendment with other portions of the original paragraph so that a text of different meaning may be inserted.

Discussion of the history and function of the motion to recommit.

On October 7, 1919,[2] the previous question had been ordered on the passage of the bill (H. R. 5218) for a tariff on magnesite ores.

The question being on the passage of the bill, Mr. Claude Kitchin, of North Carolina, offered a motion to recommit it to the Committee on Ways and Means with instructions to report back instanter with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following: "That on and after the day following the passage of this act there shall be levied, collected, and paid upon the articles named herein, when imported from any foreign country into the United States or into any of its possessions, the rates of duties which are herein prescribed, namely:

"1. Magnesite, commercial ore, either crushed or ground, one-eighth of a cent per pound, etc."

Mr. Nicholas Longworth, of Ohio, raised a question of order, and said:

Mr. Speaker, it would not have been in order for the gentleman to offer any amendment which would have changed in any manner a committee amendment, but by a subterfuge of striking out all after the enacting clause he seeks to do what he otherwise could not do legitimately. Section 948 of the Manual holds that it is not in order to move to recommit with instructions to eliminate an amendment adopted by the House. That is exactly what the gentleman from North Carolina

[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 6531.

is seeking to do by this motion. The committee adopted an amendment placing a duty of one-half a cent a pound on magnesite ore. The gentleman by his motion attempts to reduce that duty and make another rate of duty. The effect is to amend a committee amendment, which is not in order, that amendment having already been adopted by the House. The Chair will recall that the House has adopted all of the committee amendments, which fixed a certain specific rate of duty in each one of these three paragraphs of the bill. It is a mere subterfuge to move to strike out all after the enacting clause and to change those rates of duty. The gentleman would not have the right to change the rate of duty in any one of these paragraphs. Therefore he has not the right to change them in all three.

In combating the point of order, Mr. Charles R. Crisp, of Georgia, argued:

The object of a motion to recommit is clearly to give the minority of the House—the legislative minority and not the political minority—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, then the motion is futile. I know the decision to which the gentleman has cited the Chair. That simply provides that you can not offer to strike out some amendment that the House has adopted, upon the theory that when the House had once acted on a matter there ought to be an end to it. I will concede that the effect of the motion is to change the rates in this bill, and that is the only office of a motion to recommit. It is to give the minority the right affirmatively to go on record as to their views. If the motion to recommit does not mean it, it is absolutely a useless motion.

Mr. Joseph Walsh, of Massachusetts, said in rebuttal:

It will be noted that in the motion to recommit the only changes made are in the rates which have been fixed in the bill, which have been adopted by the House. If the gentleman offered a motion to recommit and proposed in his motion to change those rates, it would clearly be out of order; and I submit that even if he offered a motion to strike out all after the enacting clause and then reinserted all of the bill, which he does not seek to change, and only changes on the rates, that does not bring it without the provisions of the rule, and that is what the gentleman has done, as the gentleman from Ohio has most clearly stated. The only changes in this bill which the gentleman from North Carolina seeks to make are changes in the rates fixed in the committee amendments which have already been adopted by the House. The mere fact that he seeks to strike out all after the enacting clause and reinsert the provisions of the bill which he does not propose to change, and then changes the rates that have already been adopted by the House in the form of committee amendments, clearly brings it within the ruling made by former Speaker Clark. If in his motion to strike out all after the enacting clause he had substituted an entirely different bill, the rule probably would not apply; but he has not done that. He simply seeks to change the amendments which have already been adopted by the House, and it would seem as though that would bring it within the rule that a motion to recommit can not be made to eliminate or modify amendments which have been acted upon and adopted by the House.

Mr. Finis J. Garrett, of Tennessee, submitted:

First, let us bear in mind 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. It is expressly provided in the general rules of the House that the Committee on Rules may not bring in a resolution which will prevent one motion to recommit. Of course, the reason for that is to protect the minority of the House—that is, the legislative not the political minority—in its right to present a concrete, comprehensive proposition of legislation. If the reasoning of the gentleman from Massachusetts be followed to its logical end, what is the result? Appropriation bills may be brought before the House, considered and amended in Committee of the Whole, reported to the House with amendments, and those amendments adopted, and a motion would not be in order to recommit, reducing by a single cent one of the appropriations that have been made in any amendment to the bill as adopted by the House. If the Speaker should sustain this point of order, the practical effect of that ruling would be to do by a parliamentary decision that which the Committee on Rules and the House itself can not do under the general rules of the House. It will practically destroy the efficacy of the motion to recommit with instructions.

As I remember the ruling of Mr. Speaker Clark, the case was this: The amendment which was to be affected by the motion to recommit was one that had been adopted by the House. It was to be affected by striking out the amendment—destroying it, not modifying it, not changing it, but striking it out—and of course the House had had its opportunity to do that when it voted upon the proposition. But to say that upon a revenue bill the minority of the House shall not have an opportunity to amend an amendment in one motion to recommit, oh, the gentleman surely does not propose to insist upon that.

You can not strike it out, because the House has already adopted it. That would be taking two bites at the cherry, but surely you may present in one motion to recommit a germane proposition modifying that amendment. Otherwise the minority has no chance to make an affirmative record.

The Speaker [1] ruled:

The Chair will state, to save the time of the House, that it does not seem to the Chair it is of very great importance in immediate effect which way he rules now, and the Chair would like to state his ruling provisionally, so that it will not bind him in the future. It is a subject that is somewhat intricate, and he would like to look up all the rulings and consider the principles and results before he comes to a final decision. But it does seem to the Chair that technically the decision which has been cited by the gentleman from Ohio covers this case and makes it out of order. On the other hand is the fact that a motion to recommit is intended to give the minority one chance to express fully their views so long as they are germane. And so it seems to the Chair that the general spirit and purpose of the motion ought to admit one like this. As the Chair says, the decisions cited seem to him very technical, but they do seem to him to be in the other direction; and therefore the Chair, to save time, overrules the point of order, reserving the right not to be bound by it in the future, when he shall have had opportunity to thoroughly study the question.

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, and while the decision has been cited—and the argument of the gentleman from Kansas does seem to the Chair to forcibly indicate how a committee wishing to avoid allowing the minority to get a record vote could always ingeniously bring in a bill and perfect it by amendments, and then have those amendments adopted in the House, and thereby, according to this ruling, prevent the minority from ever bringing its program before the House, yet it seems to the Chair that thereby they would nullify the main purpose of the motion to recommit. So the Chair will provisionally decide that the point of order is not good. The question is on agreeing to the motion to recommit.

2728. While a motion to recommit may not provide instructions to strike out an amendment agreed to by the House, it may nevertheless provide instructions to insert an amendment previously rejected by the House.

On August 1, 1919,[2] the bill (H. R. 7500) to protect the coastwise trade of the United States, was under consideration in the House.

Mr. Julius Kahn, of California, offered an amendment providing that the repeal of the law permitting vessels of foreign registry to engage in the coastwise trade should not take effect as to the Territory of Hawaii until July 1, 1920.

The question being taken, the amendment was rejected.

The bill was ordered to be engrossed, and was read a third time, when Mr. Kahn offered a motion to recommit with instructions to insert the amendment just disagreed to by the House.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 3524.

Mr. Frank D. Scott, of Michigan, made the point of order that instructions contravening the action of the House on proposed amendments were not in order in connection with a motion to recommit.

In discussing the point of order, Mr. James R. Mann, of Illinois, argued:

Speaker Clark held repeatedly, and it became the rule of the House, that where an amendment had been agreed to by the House it was not then in order to offer a motion to recommit striking out that amendment. That had not been the rule of the House prior to the occupancy of the Speaker's chair by the very distinguished gentleman from Missouri. But I do not recollect that he ever went so far—I am quite sure my recollection is correct upon the subject—as to hold that where the House had rejected an amendment it could not be included in a motion to recommit. It does not come within the reasoning which Speaker Clark used—a line of reasoning which I always doubted—that the House having just agreed to an amendment, it was not in order to offer a motion to recommit to strike out the amendment. Of course, it is perfectly patent that the rejection of an amendment by the Committee of the Whole would not prevent the offering of a motion to recommit.

The Speaker [1] affirmed:

A citation has been put before the Chair in accordance with the argument just made by the gentleman from Illinois and the Chair overrules the point of order.

2729. A motion to recommit may not include instructions to report out any measure other than that proposed to be committed.

It is not in order to move to direct a committee to report out a bill not recommitted to it.

On April 2, 1908,[2] the Committee of the Whole House on the state of the Union was considering the resolution (H. Res. 233) to dispose of the President's special message of January 31, 1908.

Mr. John S. Williams, of Mississippi, offered an amendment proposing to instruct the Committee on the Judiciary to—

Report bill 7636, being the bill introduced by Mr. Clayton, of Alabama, to prevent temporary restraining orders invalidating on ex parte testimony State laws, and House bill 69, introduced by Mr. Henry, of Texas, providing in case of temporary injunction for notice to the defendant and opportunity to be heard.

Mr. Sereno E. Payne, of New York, raised a question of order against the motion.

The Chairman [3] ruled:

The Chair understands it is a well-established principle that it is not within the power of the House to order a committee to report a particular bill. What the House can not do directly the committee can not do indirectly. These bills are not before the House. The Chair sustains the point of order.

2730. The term reported "forthwith" when employed in instructions accompanying a motion to recommit to a committee was construed to mean report "at once."

Instructions to report "forthwith" accompanying a motion to recommit must be complied with, and the chairman of the committee or one for him must actually report the bill back to the House as instructed.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixtieth Congress, Record, p. 4332.

[3] George P. Lawrence, of Massachusetts, Chairman.

On a motion to recommit a bill with instructions to report it back, the time of such report is within the option of the committee, and unless directions are included in the instructions to report back "forthwith" the time of making such report may be delayed at its pleasure.

On March 23, 1908,[1] the Committee of the Whole House on the state of the Union reported to the House the bill (H. R. 4063) for widening a road in the District of Columbia, with the recommendation that it be passed.

The bill was ordered to be engrossed and read the third time, when Mr. Thetus W. Sims, of Tennessee, moved to recommit the bill to the Committee on the District of Columbia, with instructions to report it back with certain amendments.

The motion was agreed to, and Mr. Sims asked that the bill be taken up for amendment as instructed.

The Speaker[2] held that inasmuch as the instructions had not required the bill to be reported back "forthwith" it was within the jurisdiction of the committee and would be reported out at their pleasure.

On motion of Mr. Sims, the vote by which the bill had been recommitted to the Committee on the District of Columbia was reconsidered and disagreed to.

Mr. Sims then moved that the bill be recommitted to the Committee on the District of Columbia with instructions to report it back forthwith with amendments originally proposed.

Mr. Samuel W. Smith, of Michigan, the chairman of the Committee on the District of Columbia, having raised a question as to the status of the bill and the definition of the term "forthwith," the Speaker said:

> The present status is the bill referred to awaits a report from the gentleman. It means forthwith. It requires, as the Chair understands it, a report of the bill from the committee, under instructions of the House.

Mr. Sims asked unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Speaker reminded:

> But the gentleman must first report the bill.

Mr. Smith reported the bill to the House from the Committee on the District of Columbia.

The title of the bill and the amendment contained in the instructions having been read by the Clerk, the amendment was agreed to, and the bill as amended was ordered to be engrossed, was read a third time, and passed.

2731. Instructions to report "forthwith" are in order in a motion to recommit notwithstanding the fact that the extent of textual changes provided by the motion preclude immediate report.

Recognition to move recommitment is governed by the attitude of the Member toward the bill, and a Member opposed to the bill as a whole is entitled to prior recognition over a Member opposed to a portion of the bill.

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[1] First session Sixtieth Congress, Record, p. 3763.

[2] Joseph G. Cannon, of Illinois, Speaker.

On February 21, 1913,[1] the question being on the passage of the sundry civil appropriation bill, Mr. S. A. Roddenbery, of Georgia, and Mr. Frank W. Mondell, of Wyoming, simultaneously requested recognition to move to recommit.

In response to an inquiry from the Speaker, Mr. Mondell said:

I am opposed to the portion of the bill that I propose to have stricken out.

Mr. Roddenbery said:

I am opposed to the bill.

Mr. James R. Mann, of Illinois, argued that Mr. Mondell, as a member of the Committee on Appropriations, was entitled to recognition over Mr. Roddenbery, who was not a member of that committee.

The Speaker[2] held that the attitude of the Member on the bill was the criterion by which right to recognition to move to recommit was determined, and recognized Mr. Roddenbery.

Mr. Roddenbery moved to recommit the bill to the Committee on Appropriations, with instructions to report the same back to the House forthwith, amended as follows:

Strike out each and every sum of money therein appropriated, including totals, and substitute therefor 90 per cent of each and every such sum of money therein appropriated, including totals, so that each and every such sum and all totals in the bill as reported from the committee shall be reduced 10 per cent.

Mr. Mann made a point of order against the motion on the grounds that the proposed changes must be reduced to writing before the bill could be reported back, and it was manifestly impossible to reduce each item 10 per cent and have the bill ready to report "forthwith."

The Speaker overruled the point of order, and said:

It would reduce everything in the bill and nothing that is not in it. It is purely a question of arithmetic; and as far as the committee not being able to report it forthwith, that is to be construed by the ordinary rules of common sense.

2732. The committee to which a bill is recommitted with instructions to report "forthwith" takes no action thereon, and the chairman or some Member acting for him, immediately reports the bill to the House as instructed.

Recommendations reported back to the House by a committee in compliance with peremptory instructions adopted with a motion to recommit must be again voted upon by the House, although just agreed to by the vote to instruct.

On February 10, 1910,[3] while the House was considering the Senate amendment to the urgent deficiency bill, a motion by Mr. John J. Fitzgerald, of New York, to commit the bill to the Committee on Appropriations with instructions to that committee to report it back to the House forthwith with certain amendments, was agreed to, yeas 136, nays 128.

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[1] Third session Sixty-second Congress, Record, p. 3618.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-first Congress, Record, p. 1721.

In response to a parliamentary inquiry as to when the Committee on Appropriations should report in compliance with the instructions so given, the Speaker[1] held:

The tenor of the instructions was that the Committee on Appropriations report forthwith.

Mr. James A. Tawney, of Minnesota, chairman of the Committee on Appropriations, submitted that the committee was not in session, and in order to comply with the instructions it would be necessary to convene the committee for that purpose.

The Speaker said:

This is largely a parliamentary fiction, and in such cases the practice has been for the chairman or some member of the committee, upon instructions of the House, to report the bill forthwith, with the amendment.

Thereupon Mr. Tawney sent to the desk to be read by the Clerk as the report from the Committee on Appropriations the amendment proposed in the motion to recommit.

Mr. Fitzgerald raised a question as to whether it was necessary to again vote upon the amendment.

The Speaker overruled the point of order, and said:

A vote was taken on a former occasion as to whether the House would agree to the amendment as reported from the committee forthwith, under the instructions of the House. It seems to be, in one sense, perchance, a useless vote, although it would not be a useless vote if the majority refused to concur. The question is, Will the House concur in the Senate amendment with this amendment?

2733. A bill recommitted and reported back "forthwith" under instructions from the House, is read in the House by title only, but accompanying amendments are read in full.

Amendments reported back with a bill recommitted under instructions to report forthwith must be again voted upon by the House when so reported.

On June 10, 1921,[2] the House agreed to a motion by Mr. Oscar E. Bland, of Indiana, to recommit the bill (H. R. 6611) establishing a veterans' bureau, with instructions to report back the same forthwith, with an amendment.

Mr. Samuel E. Winslow, of Massachusetts, chairman of the Committee on Interstate and Foreign Commerce, to which the bill was recommitted, having reported it back to the House as instructed, Mr. Joseph Walsh, of Massachusetts, submitted that the bill must be read in full.

The Speaker[3] held.:

The Chair does not think it is necessary to report the entire bill. The Clerk will report the bill by title.

The Clerk having reported the bill by title and having read the amendment in full, the Speaker put the question on agreeing to the amendment.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 2427.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment had already been voted upon with the motion to instruct, and it would be superfluous to again vote upon an identical proposition already passed upon by the House.

The Speaker ruled:

The Chair does not so understand it. The bill has been reported back. The House has now again to adopt the amendment. The question is on agreeing to the amendment.

2734. When a bill a recommitted with instructions to report back "forthwith," amendments proposed in such instructions must be voted upon by the House when reported back.

On July 9, 1914,[1] on motion of Mr. John E. Raker, of California, the House recommitted to the Committee on Election of President, Vice President, and Representatives in Congress, the bill (H. R. 8428) relating to publicity of campaign expenditures, with instructions to report the bill back forthwith with an amendment.

The previous question being ordered, the Speaker announced that the pending question was on the passage of the bill.

Mr. Martin B. Madden, of Illinois, as a parliamentary inquiry, suggested that the question should come first on the amendment proposed in the instructions accompanying the motion to recommit.

The Speaker[2] held that the question on agreeing to the amendment had been decided when the House voted on the motion to recommit, and put the question on the passage of the bill.

The question being taken, the vote disclosed the lack of a quorum, and the House adjourned.

On the following day, when the House resumed consideration of the bill, the Speaker referred to the decision on the question raised by Mr. Madden, and said:

The Chair was mistaken about what ought to have been voted on. The unfinished business is this bill in respect to publicity of campaign contributions. It seemed to the Chair at first blush in the uproar prevailing here yesterday that it was an absolutely superfluous thing to vote on that amendment again; that the vote on recommitting was equivalent to adopting the amendment. But the Chair studied it out when he had plenty of time last evening, and also conversed with a skillful parliamentarian, who is a Member of the House, upon the subject, and finally hunted up the authorities. This kind of a case might arise: The gentleman from California, instead of moving to recommit with 1 amendment, might have included 40 amendments in his motion, if he had so desired, and while the motion to recommit carries, the House might really on a separate vote vote some of those amendments in and some of them out. Then, as good luck would have it, the vote failed on account of the absence of a quorum, so that the incorrect ruling of the Chair did not make any difference. The Chair has no doubt whatever that the proper thing to vote upon when the time comes to vote in the first instance is the amendment. Then the bill will have to be engrossed and read a third time. That is the process.

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[1] Second session, Sixty-third Congress, Record, p. 11903.

[2] Champ Clark, of Missouri, Speaker.

2735. A motion to recommit with instructions to report forthwith having been agreed to, the chairman of the committee to which referred at once reports the bill in conformity with the instructions and the report is before the House for immediate consideration.

Form of report on bill recommitted with instructions.

On December 27, 1932,[1] the House agreed to a motion by Mr. Oscar De Priest, of Illinois, to recommit the Interior Department appropriation bill to the Committee on Appropriations with instructions to that committee to report it back forthwith with an amendment increasing the appropriation for Howard University.

The result of the vote having been announced, Mr. Edward T. Taylor, of Colorado, chairman of the subcommittee in charge of the bill, reported:

Mr. Speaker, pursuant to the instructions of the House on the motion to recommit, I report back the bill (H. R. 13710) making appropriations for the Interior Department for the fiscal year ending June 30, 1934, and for other purposes, with an amendment, which I send to the Clerk's desk.

The Clerk read:

On page 98, line 12, after the figures "$220,000," add the following: "For construction and completion of a heat, light, and power plant at Howard University, $460,000, to be immediately available."

The Speaker[2] put the question:

The question is on agreeing to the amendment.

The amendment was agreed to, the bill was ordered to be engrossed and read a third time, was read a third time and passed.

2736. The motions to refer, commit, and recommit are practically the same, and a motion to recommit a Senate bill to a standing committee of the House to which it had not previously been referred was held to be in order.

A motion to recommit being ruled out on a point of order, a second motion to recommit is then admissible.

To a proposition to limit costs of construction to a fixed sum, an amendment to limit such costs on a percentage basis was held not to be germane.

On February 1, 1923,[3] the bill (S. 4390) amending the Federal reserve act, was taken from the Speaker's table and considered.

The bill having been read a third time, Mr. Tilman B. Parks, of Arkansas, offered a motion to recommit the bill with instructions to amend by inserting the following proviso:

Provided, That no Federal reserve bank shall have authority to enter into any contract or contracts for the erection of buildings for its head offices or principal banks the total cost of which shall exceed 15 percent of its capital stock and surplus.

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[1] Second session, Seventy-second Congress, Record, p. 988.

[2] John N. Garner, of Texas, Speaker.

[3] Fourth session Sixth-seventh Congress, Record, p. 2837.

Mr. Otis Wingo, of Arkansas, made the point of order that the motion was not in order, first, because it moved to recommit to a standing committee a bill which had not been before it; second, because it proposed an amendment substituting for a limitation to $250,000 a limitation to 15 percent of the capital stock and surplus.

The Speaker overruled the point of order as to the first contention that the motion should have been to commit rather than to recommit, but sustained the point of order on the question of germaneness.

The Speaker then recognized Mr. Thomas L. Blanton, of Texas, to offer a further motion to recommit.

2737. A division of the question on a motion to recommit may not be demanded regardless of the number of substantive propositions involved.

Only one proper motion to recommit may be made and if rejected a second motion to recommit is not in order.

On January 30, 1922,[1] the independent offices appropriation bill was ordered to be engrossed and was read a third time.

Mr. James F. Byrnes, of South Carolina, offered a motion to recommit containing several substantive propositions.

Mr. James T. Begg, of Ohio, demanded a division of the question on the motion to recommit.

The Speaker[2] said:

It has been decided that a motion to recommit can not be divided.

Mr. John W. Langley, of Kentucky, as a parliamentary inquiry, desired to know if a second motion to recommit would be in order in event of the rejection of the pending motion.

The Speaker replied in the negative.

2738. The motion to refer being once submitted shall not be again allowed on the same day at the same stage of the question.

It is in order for one of the two Houses to recommit a conference report, if the other House, by action on the report, has not discharged its managers.

The motion to recommit is subject to amendment unless the previous question is ordered.

On August 3, 1916,[3] Mr. Asbury F. Lever, of South Carolina, called up the conference report on the bill H. R. 4961, the food control bill.

After debate, Mr. Caleb Powers, of Kentucky, moved to recommit the report to the committee of conference with instructions to the managers on the part of the House to disagree to Senate amendment No. 69, relative to fixing the price of coal.

Mr. J. Hampton Moore, of Pennsylvania, as a parliamentary inquiry, asked if it would be in order to offer a second motion to recommit.

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[1] Second session, Seventy-seventh Congress, Record, p. 1934.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Fourth session Sixth-fifth Congress, Record, p. 5767.

The Speaker [1] replied:

It is not. The gentleman can offer an amendment to a motion to recommit or a substitute for it, but he can not offer two motions to recommit.

2739. It is not in order to recommit a bill to a subcommittee even though such subcommittee may have had charge of the bill during primary consideration by the committee reporting it.

On February 14, 1921,[2] the previous question was ordered on the naval appropriation bill and amendments thereto to final passage.

Mr. Thomas L. Blanton, of Texas, moved to recommit the bill to the subcommittee of the Committee on Appropriations, which had considered it, with certain instructions.

Mr. James R. Mann, of Illinois, made the point of order that a bill could not be recommitted to a subcommittee.

The Speaker [3] sustained the point of order.

2740. The simple motion to refer or commit is debatable, but the merits of the proposition which it is proposed to refer may not be brought into the debate.

On August 15, 1911 [4] the Speaker laid before the House a message from the President of the United States returning without his approval the joint resolution (H. J. Res. 14), to admit as States the Territories of New Mexico and Arizona.

Mr. Henry D. Flood, of Virginia, moved to refer the resolution, with the message, to the Committee on Territories, and proceeded to discuss the motion, when Mr. James R. Mann, of Illinois, as a parliamentary inquiry, desired to know if the motion was debatable.

The Speaker [5] replied:

No; it is not, on the merits of the proposition. It is debatable when confined strictly to the question of reference to the committee.

2741. The ordering of the previous question on a bill and all amendments to final passage precludes debate on a motion to recommit but does not exclude amendments to such motion.

On January 25, 1929,[6] the Speaker announced that the unfinished business was the District of Columbia appropriation bill, on which, with all amendments, the previous question had been ordered to final passage before adjournment on the previous day.

The bill having been read a third time, Mr. Anthony J. Griffin, of New York, moved to recommit it to the Committee on Appropriations instructions to report it back to the House forthwith with an amendment.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 3165.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-second Congress, Record, p. 3966.

[5] Champ Clark, of Missouri, Speaker.

[6] Second session Seventieth Congress, Record, p. 2227.

Mr. Finis J. Garrett, of Tennessee, rising to a parliamentary inquiry, asked if the order for the previous question on the bill and all amendments to final passage applied to the motion to recommit and if the motion was open to debate.

The Speaker [1] replied:

The motion to recommit is open to amendment but not to debate. In other words the motion to recommit with instructions is treated in the same category as an amendment to the bill, and the previous question having been ordered on the bill and all amendments thereto to final passage, the motion to recommit is then not debatable.

The Chair has before him a precedent and will call the attention of the gentleman from Tennessee to 5571 of Hinds's Precedents, which is exactly in point.

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[1] Nicholas Longworth, of Ohio, Speaker.

Chapter CCLII.[1]

THE MOTION TO REFER AS RELATED TO THE PREVIOUS QUESTION.

2742. The motion to commit after the ordering of the previous question, as provided by section 1 of Rule XVII, applies to simple resolutions as well as to bills and joint resolutions.

The motion to recommit may not be made while another has the floor, having begun debate, and a Member proposing a resolution is entitled to one hour for debate, during which time the motion may not be offered without his consent.

On January 12, 1916,[2] Mr. Frank Buchanan, of Illinois, rising to a question of privilege, presented articles of impeachment against H. Snowden Marshall, United States district attorney for the Southern District of New York, and offered a resolution (H. Res. 90) directing the Committee on the Judiciary to investigate the charges preferred.

Mr. John J. Fitzgerald, of New York, proposed a motion to commit the resolution to the Committee on the Judiciary.

Mr. Buchanan submitted that he had not yielded the floor, and Mr. Fitzgerald was therefore not entitled to recognition for the purpose of moving to commit.

The Speaker sustained the point of order and recognized Mr. Buchanan for one hour.

At the conclusion of the hour Mr. Fitzgerald, being recognized, moved to refer the resolution to the Committee on the Judiciary.

Mr. Buchanan raised a question of order against the motion on the ground that the rule providing for the motion applied to bills and joint resolutions only.

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[1] Supplementary to Chapter CXXII.

[2] First session Sixty-fourth Congress, Record, p. 971.

The Speaker [1] ruled:

As there was some question about that some time ago, the Chair will clear it all up at once.

There are two rules relating to the previous question and the motion to commit, which at first blush seem to be in conflict, but the Chair thinks there is no conflict. Rule XVII, section 1, provides:

"PREVIOUS QUESTION.

"1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee."

It has been decided that this rule applies to House resolutions as well as to the others.

Clause 4 of Rule XVI, which relates to joint resolutions, misled some of us in the beginning. That is as follows:

"4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely, which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. 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 for such purpose to a Member who is opposed to the bill or joint resolution."

Now, that subdivision of Rule XVI applies to bills and joint resolutions, and if it applied here it would cut out this House resolution, but Rule XVII lets this motion in. The question is on the motion to refer this resolution to the Committee on the Judiciary.

2743. The Committee of the Whole having reported back Senate amendments to a bill with recommendations for their disposition, it was held that a motion to recommit properly applied to the bill and not to the amendments.

It is not in order by way of a motion to recommit to strike out language inserted by the House.

On August 16, 1921,[2] the House resolved into the Committee of the Whole House on the state of the Union under motion authorized by the following resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the amendments of the Senate to the bill (H. R. 7294) entitled "An act supplemental to the national prohibition act," under the five-minute rule. After the completion of such consideration the committee shall arise and report the amendments of the Senate to the House with such recommendation as may have been adopted, whereupon the previous question shall be considered as ordered on the Senate amendments and all motions incidental thereto recommended by the committee to final passage without intervening motion except one motion to recommit.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 5081.

Consideration having been concluded, the Committee rose and the Chairman reported—

that that committee had had under consideration the Senate amendments to H. R. 7294, and had directed him to report the same to the House with the recommendation that the amendments be agreed to and that the House concur in the action of the committee.

The question being taken on agreeing to the recommendation of the Committee of the Whole, it was decided in the affirmative.

Mr. Thomas L. Blanton, of Texas, asked recognition to move to recommit the bill.

Mr. John Q. Tilson, advanced the suggestion that—

we have been here passing upon a series of amendments to the bill in their order. The bill as a whole has not been before the House and is not before the House now, but a series of amendments.

Now, what would a motion to recommit carry? Would it carry one amendment or all amendments? I do not see what the motion to recommit can be made to apply to here. Each amendment has been passed upon seriatim and adopted and the matter closed. It seems to me we are not in a position of passing a bill through the House.

Mr. James R. Mann, of Illinois, too, the position that—

the bill is still in the possession of the House, and under the practice of the House, if not under the strict rules of the House, a motion to recommit is in order so long as the bill remains before the House and is not sent to conference. The rule itself is drawn, of course, in conformity with the usual provisions of rules, except the motion to recommit being cut out by the previous question.

Now, frequently it happens that a gentleman does not know, or the House does not know, whether it desires to vote for a motion to recommit until it has disposed of pending amendments. The last amendment recommended by the Committee of the Whole House on the state of the Union has just been voted on by the House. To say that a motion to recommit must have been made before the amendment was disposed of is to put the House in a very awkward position. It seems to me, in view of the practice and the precedents, it is not desirable to cut out the motion to recommit practically entirely, because it could not well be made until the committee amendments were acted upon.

You can order the bill to be engrossed and read a third time; you can make a motion to recommit generally, or make a motion to recommit with instructions as to certain amendments. The only amendments that would be in order now would be amendments, of course, to the Senate amendments. But the House might reverse its opinion as to a Senate amendment, although it had been disagreed to or agreed to.

That is what the motion to recommit is for. That is the practice—under the motion to recommit to reverse the action of the House and order a bill to the third reading.

Mr. Philip P. Campbell, of Kansas, agreed:

I was about to suggest, Mr. Speaker, that we are speculating now without knowing what the motion to recommit may be. I have no doubt the motion to recommit will be subject to the point of order, but I think there is no question that it is in order to offer a motion to recommit.

The Speaker held the motion to recommit in order, and recognized Mr. Blanton, who moved—

to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following language stricken from the bill:

"Provided further, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this act."

Mr. Tilson made the point of order that the motion to recommit proposed to strike out language just adopted by the House.

Mr. Mann support the point of order, and said:

Speaker Clark held repeatedly—and his holdings have been followed by the present Speaker—that it was not in order in a motion to recommit to direct the committee to report back striking out an amendment which had been agreed to by the House; so this motion is not in order, because that is what it proposes to do.

The Speaker [1] sustained the point of order.

2744. The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to recommit is in order.

On February 10, 1910,[2] the House was considering amendments of the Senate to the urgent deficiency appropriation bill.

Mr. Augustus P. Gardner, of Massachusetts, moved that the House recede from its disagreement to Senate amendment No. 39, providing for a commission to study immigration problems, and concur therein.

On motion of Mr. James A. Tawney, of Minnesota, the previous question was ordered.

Mr. John J. Fitzgerald, of New York, moved to commit the bill and amendment to the Committee on Immigration and Naturalization, with instructions to report it back to the House with an amendment to the Senate amendment.

Mr. Gardner made the point of order that while motion to recommit would be in order before the stage of disagreement was reached, under the pending status that motion would be in order which would tend to most speedily bring the Houses together.

The Speaker [3] said:

The Chair will read:

"The previous question having been ordered on a motion to agree to a Senate amendment to a House bill"—

Which is this case—

"a motion to commit is in order.

"On November 1, 1893, the House was considering the Senate amendments to the bill (H. R. 1) to repeal a part of the act of July 14, 1890, relating to the purchase of silver bullion.

"Mr. Leonidas F. Livingston, of Georgia, submitted the question of order whether after the previous question should have been ordered on a motion to concur in a Senate amendment, it would be in order to commit the bill and amendment to a committee with instructions.

"The Speaker expressed the opinion that the motion to commit would in such case be in order."

That was a ruling by Mr. Speaker Crisp, of Georgia. The Chair has not been referred to, and does not recollect any other precedents, but upon general principles it seems to the Chair that the precedent referred to is correct. The previous question operates upon a motion to recede and concur. Under the operation of that question the House has receded, and the question now is, the previous question operating, whether the House will concur, which brings the two bodies together. But the motion to commit with instructions, under Rule XVII and under the precedents, seems to the Chair to be in order. The Clerk will report the motion.

2745. On March 1, 1915,[4] the House was considering Senate amendments to the agricultural appropriation bill.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-first Congress, Record, p. 1720.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-third Congress, Record, p. 5053.

The previous question having been ordered, Mr. Otis Wingo, of Arkansas, offered a motion to recommit, and on that motion moved the previous question.

Mr. Augustus P. Gardner, of Massachusetts, raised a question of order against the motion and argued:

Mr. Speaker, the general practice of a motion to recommit under general parliamentary law is that it shall not be in order after the previous question. But the practice grew up because it was found that we considered bills in such a narrow way that there was only one amendable stage.

The House was given an extra stage for a record vote, for a last glance, by a motion to recommit after the previous question was ordered. That was done because it was found that the House was in the habit of ordering the previous question without much thought. Therefore this new stage in the consideration of a bill when it first went through the House, the equivalent of an extra reading, as it were, was allowed. That is allowed by two rules; first by section 4 of Rule XVI, which reads:

"After the previous question shall have been ordered on the passage of a bill or joint resolution"—

This is not a bill or joint resolution, with the question of passage pending, but a question of agreeing to a certain amendment—"one motion to recommit shall be in order, and the Speaker shall give preference"—

And so forth.

That is Rule XVI, section 4. Now, there is another rule of the House under which a motion to recommit is permissible after the previous question is ordered. It is Rule XVII, paragraph 1. The last sentence of that paragraph reads:

"It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage"—

This is not the question of the passage; this is a question of agreeing to a Senate amendment—"for the Speaker to entertain and submit a motion to recommit, with or without instructions, to a standing or select committee."

In other words, Mr. Speaker, this is not a case for one of these extra stages. They are not separate readings, first, second, and third, motions to engross, and so forth, but a plain question of agreeing to a Senate amendment. It is not a question needing a successive stage.

The Speaker [1] overruled the point of order, and said:

By analogy there must be some place, somewhere, to make the motion to recommit. The question now is on the motion for the previous question on the motion to recommit.

2746. The motion to refer is in order before the previous question is demanded, but after the previous question has been ordered on a bill to final passage, the motion to refer is not admissible until after the third reading.

On March 5, 1930,[2] the House was considering the bill (H. R. 9683) to amend the Federal reserve act by prescribing a penalty for circulation of statements derogatory to National and State member banks.

The consideration of the bill for amendment having been completed, a motion by Mr. Luis T. McFadden, of Pennsylvania, for the previous question on the bill and all amendments to final passage was agreed to.

Whereupon, Mr. Charles H. Brand, of Georgia, asked recognition to offer a motion to refer the bill to the Committee on Banking and Currency.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Seventy-first Congress, Record, p. 4389.

The Speaker pro tempore [1] declined recognition and said:

That comes on the final passage of the bill, before the question is put on the final passage.

It seems to the Chair that the practice is well established, the previous question on the bill to final passage having been adopted, the motion to recommit is not in order until after the vote on the engrossment and third reading of the bill and before the final passage of the bill.

Mr. Charles F. Crisp, of Georgia, took issue with the Chair and argued that the distinction between the two motions, the motion to refer and the motion to recommit, had not been taken into consideration, and that the former was in order either before or after the ordering of the previous question.

The Speaker pro tempore dissented and held:

The previous question shuts off the right to make a motion to refer until after the motion on the engrossment and third reading of the bill is disposed of. The motion to refer might have been in order before the previous question was ordered on the bill to final passage; but the previous question having been ordered it seems clear to the Chair that a motion to refer is not now in order until after the vote on the engrossment and third reading.

The rule, as the Chair understands it, is, as stated in the Manual—section 790—as follows:

"The motion to commit may be made pending the demand for the previous question on the passage, whether a bill or resolution be under consideration (V, 5576); but when the demand covers all stages of the bill to the final passage the motion to commit is made only after the third reading, and is not in order pending the demand or before the engrossment or third reading. (V, 5578–5581.)"

The previous question was ordered on the bill to final passage, so that it seems clear to the Chair that the motion to recommit is not in order until after the motion on the engrossment and third reading is disposed of.

2747. Where the motion for the previous question covers all stages of the bill to final passage the motion to recommit is made after the third reading, and is not in order after the question has been put on the passage of the bill.

On March 11, 1924,[2] the previous question has been ordered on the resolution (H. Res. 216) regarding a request Attorney General for certain information relative to charges against two Members of the House.

A pending amendment having been agreed to, the Speaker put the question on agreeing to the passage of the resolution.

Mr. Finis J. Garrett, of Tennessee, demanded the yeas and nays on the question and, a parliamentary inquiry, asked if it would be in order to move to recommit the resolution.

The Speaker [3] said:

It was in order before this vote was taken. The Chair has put the question on agreeing finally to the resolution, and the gentleman from Tennessee has demanded the yeas and nays. Obviously, it is too late. The gentleman from Tennessee demands the yeas and nays.

2748. The motion to recommit a simple resolution may be made at any time before the question is put on the passage of the resolution and is not in order after the resolution has been agreed to.

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[1] Carl E. Mapes, of Michigan, Speaker pro tempore.

[2] First session Sixty-eighth Congress, Record, p. 3994.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

The Member in charge of the bill is entitled to prior recognition to move the previous question.

On June 11, 1919,[1] Mr. Carl E. Mapes, of Michigan, by direction of the Committee on Accounts, presented as privileged the resolution (H. Res. 98) authorizing expenditures by the Select Committee on Expenditures in the War Department.

Mr. Thomas L. Blanton, of Texas, asked recognition to offer an amendment.

Mr. Mapes requested recognition to move the previous question on the resolution.

The Speaker recognized Mr. Mapes, as the Member in charge of the bill, to demand the previous question.

The previous question was ordered, and the question recurring on the passage of the resolution it was decided in the affirmative without division.

Mr. Blanton offered a motion to recommit the resolution to the Committee on Accounts with instructions to report it back forthwith with an amendment striking out provision for compensation for legal services.

Mr. Madden made the point of order that the motion was not in order after the resolution had been agreed to.

After debate the Speaker[2] said:

> The gentleman from Texas rose and said he wished to offer an amendment, and at the same time the gentleman from Michigan who had charge of the bill rose and moved the previous question. The Chair followed the precedent of all Speakers in recognizing the gentleman who had charge of the bill for the motion for the previous question. If the House wished to consider the amendment of the gentleman from Texas and did not wish the previous question it could have voted it down. The previous question, however, was ordered by the House and the gentleman then made no motion to recommit. The resolution itself was then adopted, and after the resolution was adopted the gentleman from Texas offered a motion to recommit. The time for the motion to recommit is before the passage of a bill, but a resolution differs from an ordinary bill, because with an ordinary bill there is a third reading and after that and before the passage of the bill the motion to recommit must be made. Here there was no third reading, so there was but one motion for the passage of the resolution and the motion to recommit should have been made before that motion. It can not be made after the resolution has passed. The Chair sustains the point of order.

2749. The previous question having been ordered, a motion to recommit embodying argument is not in order.

On November 29, 1922,[3] the House had under consideration the bill (H. R. 12817) to amend the merchant marine act of 1920.

The previous question having been ordered, Mr. Rufus Hardy, of Texas, offered a motion to recommit the bill to the Committee on Merchant Marine and Fisheries with instructions to report it back to the House forthwith with certain amendments, including an amendment to—

> Strike from the bill all the provisions of Title IV, all of which relate to granting subsidies to shipowners.

Mr. Everett Sanders, of Indiana, made the point of order that the instructions carried by the motion to recommit embodied argument and was not admissible under the operation of the previous question.

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[1] First session Sixty-sixth Congress, Record, p. 975.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-seventh Congress, Record, p. 427.

The Speaker [1] held that argument was not in order in a motion to recommit, and that the instructions included descriptive matter which might be construed as argumentative.

2750. The motion to recommit is not admitted after the previous question has been ordered on a report from the Committee on Rules.

On April 5, 1909,[2] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported a resolution providing for the consideration of the bill H. R. 1438, the tariff bill.

The previous question having been ordered, Mr. Champ Clark, of Missouri, offered a motion to recommit the resolution to the Committee on Rules with instructions to report it back with an amendment providing for consideration under the five-minute rule.

Mr. Dalzell made the point of order that the motion to recommit was not admissible after the previous question had been ordered on a report from the Committee on Rules.

After debate, the Speaker [3] read a decision [4] by former Speaker Crisp, and said:

This ruling of Mr. Speaker Crisp has been four times, the Chair is reminded, sustained by Mr. Speaker Henderson, and the present occupant of the chair has on two occasions followed the rulings of Mr. Speaker Crisp and Mr. Speaker Henderson. The Chair now reads from the Manual, page 273, at the bottom, the rule that was adopted in the Congress presided over by Mr. Speaker Crisp, as follows:

"It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of."

And under that rule these decisions were made by Mr. Speaker Crisp, by Mr. Speaker Henderson, and the present occupant of the chair. It is an exception under the express rule to the ordinary practice arising under Rules XVI and XVII.

The question is on the motion of the gentleman from Pennsylvania.

2751. On June 17, 1910,[5] Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, reported the resolution (H. Res. 808) amending the rules of the House by adding a new section to Rule XXVIII, providing for the motion to discharge committees from the further consideration of bills under certain circumstances.

After debate, on motion of Mr. Walter I. Smith, of Iowa, the previous question was ordered.

Mr. William W. Rucker, of Missouri, as a parliamentary inquiry, asked if it would be in order to move to recommit the resolution.

The Speaker [6] said:

Under the decisions, beginning with Speaker Crisp down to the present time, a motion to recommit a resolution from the Committee on Rules does not apply; is not in order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-first Congress, Record, p. 1117.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Section 5594 of Hinds' Precedents.

[5] Second session Sixty-first Congress, Record, p. 8445.

[6] Joseph G. Cannon, of Illinois, Speaker.

2752. On October 5, 1917,[1] Mr. Finis J. Garrett, of Tennessee, reported from the Committee on Rules the resolution (H. Res. 168) providing for consideration of the bill H. R. 5723, the war-risk insurance bill, and, after debate, moved the previous question on the resolution.

Mr. Frederick H. Gillett, of Massachusetts, offered a motion to recommit.

Mr. John J. Fitzgerald, of New York, made the point of order that the rule admitting the motion to recommit after the demand for the previous question did not apply to reports from the Committee on Rules.

The Speaker[2] cited a decision by former Speaker Cannon on a similar question of procedure, and sustained the point of order.

2753. On January 31, 1929,[3] Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, presented for privileged consideration the resolution (H. Res. 303) to take from the Speaker's table and send to conference the first deficiency appropriation bill with Senate amendments thereto.

Mr. Charles R. Crisp, of Georgia, submitted a parliamentary inquiry as to whether it would be in order to move to recommit the resolution to the Committee on Rules with instructions.

After extended debate, the Speaker[4] held:

Clause 4 of Rule XVI of the House with regard to the full liberty of the motion to recommit is as follows:

"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 for such purposes to a Member who is opposed to the bill or joint resolution."

This is not a joint resolution. It is a House resolution. The Chair thinks that a motion to recommit this resolution is not in order.

2754. On May 31, 1932,[5] Mr. Edward W. Pou, of North Carolina, from the Committee on Rules, by direction of that committee, reported a resolution providing for the appointment of a special committee to investigate Government competition with private enterprise.

The previous question having been ordered, Mr. Tilman B. Parks, of Arkansas, inquired if it would be in order to move to recommit the resolution.

The Speaker pro tempore[6] said:

A motion to recommit a special rule from the Committee on Rules is not in order.

The question is on the passage of the resolution.

2755. Before the adoption of rules, while the House was acting under general parliamentary law, it was held that the motion to recommit was in order pending the motion for the previous question or after it has been ordered on a resolution.

On April 7, 1913,[7] at the organization of the House and prior to the adoption of rules, Mr. Robert L. Henry, of Texas, offered a resolution (H. Res. 8) to adopt the rules of the Sixty-second Congress as the rules of the Sixty-third Congress.

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[1] First session Sixty-fifth Congress, Record, p. 7849.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Seventieth Congress, Journal, p. 399; Record, p. 2550.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] First session Seventy-second Congress, Record, p. 11681.

[6] Loring M. Black, of New York, Speaker pro tempore.

[7] First session Sixty-third Congress, Record, p. 77.

After debate, on motion of Mr. Henry, the previous question was ordered on the adoption of the resolution.

Mr. A. W. Lafferty, of Oregon, moved to recommit the resolution to a select committee to be appointed by the Speaker,[1] with instructions to report the resolution back to the House with a substitute providing for the adoption of the rules of the Sixty-second Congress with certain amendments.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that the motion to recommit was not admissible under general parliamentary law.

The Speaker, in ruling, cited decisions by former Speakers Crisp, Reed, and Carlisle holding that under parliamentary law and the practice of the House it was customary before the adoption of rules to entertain the motion to recommit pending a motion for the previous question or after ordering of the previous question, and overruled the point of order.

2756. On December 7, 1931,[2] at the opening session of the Seventy-second Congress, prior to the adoption of rules, Mr. Edward W. Pou, of North Carolina, offered a resolution providing for the adoption of rules.

Mr. Carl E. Mapes, of Michigan, rising to a parliamentary inquiry, asked if in event the previous question was ordered on the resolution a minority Member would be recognized to offer a motion to recommit.

The Speaker[3] said:

> Within the spirit of the rules of the Seventy-first Congress on the motion to recommit, the Chair thinks that they would have that right. Speaker Clark, at the beginning of the Sixty-third Congress, ruled to the same effect.

2757. A rule provides that after the previous question is ordered on the passage of a bill preference in recognition to move to recommit shall be given a Member opposed to the bill.

Form and history of section 4 of Rule XVI.

A paragraph of section 4 of Rule XVI provides:

> 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 for such purpose to a Member who is opposed to the bill or joint resolution.

This amendment to section 4 of Rule XVI was agreed to March 15, 1909,[4] in the adoption of the rules at the organization of the House in the Sixty-first Congress.

Provision for the motion to recommit after the ordering of the previous question had been afforded by the rules[5] since 1880.[6] But debate on the adoption of this amendment indicates that the 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

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Seventy-second Congress, Record, p. 12.

[3] John N. Garner, of Texas, Speaker.

[4] First session Sixty-first Congress, Record, p. 22.

[5] Section 1 of Rule XVII.

[6] Record, p. 23.

motion. This amendment is intended 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.

2758. A unanimous-consent agreement to close debate and vote at a specific time is in effect an order for the previous question, and the motion to recommit is in order under Rule XVI.

The motion to recommit and the motion to recommit with instructions are of equal privilege and have no relative precedence.

Recognition to move recommitment is determined by the attitude of proponents on the pending bill, and a Member opposed to the bill without qualification is recognized in preference to a Member opposed to the bill in part or conditionally.

On July 12, 1909,[1] on motion of Mr. Sereno Payne, of New York, by unanimous consent, the joint resolution (S. J. Res. 40) proposing a constitutional amendment providing for an income tax, was taken up for consideration, debate thereon to continue until 4 o'clock p. m., at which time a vote should be taken.

The time for debate having expired, Mr. Robert L. Henry, of Texas, proposed to offer a motion to recommit the joint resolution.

Mr. Payne made the point of order that the agreement limiting debate was equivalent to ordering the previous question and amendments were not in order.

After debate, the Speaker[2] ruled:

The Chair will rule in this case according to the order of the House, whatever the consequences of that ruling may be. It is not the office or the duty of the Chair to disobey the rules of the House upon one hand as its presiding officer, or set aside the order upon the other. Now, what is the situation? In a colloquy between the gentleman from New York, Mr. Payne, and the gentleman from Missouri, Mr. Clark, as to time for discussion upon this joint resolution it was agreed, in substance, that general debate should be closed upon the resolution at 4 o'clock, at which time a vote should be taken upon the joint resolution. Now, then, in the opinion of the Chair, that is equivalent to the previous question, by unanimous consent, and if there was no such thing as the previous question under the rules of the House an agreement made by unanimous consent that a vote shall be taken upon a joint resolution at a given time would only be dispense with by the same unanimous consent, in the opinion of the Chair, that made the agreement; so that the agreement operates as the previous question, and was something more than the previous question, because under that agreement, made by unanimous consent, in the opinion of the Chair it would require unanimous consent to unmake it. Therefore the Chair must hold that the point of order is well taken upon the amendment.

An appeal by Mr. Henry from the decision of the Chair was, on motion of Mr. Payne, laid on the table, yeas 186, nays 144.

The joint resolution was ordered to a third reading and was read a third time.

Mr. Henry again proposed to offer a motion to recommit. Mr. Augustus P. Gardner, of Massachusetts, also asked recognition to move to recommit the joint resolution.

The Speaker said:

After the previous question shall have been ordered on the passage of a bill or joint resolution, a motion to recommit shall be in order; and the Speaker shall give preference of recognition for

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[1] First session Sixty-sixth Congress, Record, p. 4438.

[2] Joseph G. Cannon, of Illinois, Speaker.

such purpose to a Member who is opposed to the bill or joint resolution. Is the gentleman an opponent of the joint resolution?

Mr. Henry replied:

I am opposed to it as long as there is any chance under the rules to amend it and make it a better proposition.

Mr. Gardner stated:

Mr. Speaker, I am opposed to the joint resolution.

The Speaker thereupon recognized Mr. Gardner as complying with the requirements of the rule.

Mr. Henry, as a parliamentary inquiry, asked if the motion to recommit with an amendment did not take precedent of the simple motion to recommit.

The Speaker replied in the negative.

2759. Unless the previous question is ordered, a motion to recommit with instructions is open to amendment, and a substitute striking out all proposed instructions and substituting others can not be ruled out as interfering with the right of the minority to move recommitment.

On August 16, 1912,[1] under authorization of a special order (H. Res. 1196), Mr. John A. Moon, of Tennessee, moved to take from the Speaker's table the Post Office appropriation bill, disagree to the Senate amendments thereto, and send the same to conference.

The previous question having been ordered, Mr. James R. Mann, of Illinois, moved to commit the Senate amendments to the Committee on the Post Office and Post Roads with instructions to report back forthwith with the recommendation that Senate amendment No. 118 be agreed to.

Mr. Moon moved to amend the motion by striking out the instructions and substituting others.

Mr. George W. Norris, of Nebraska, made the point of order that the amendment in proposing to strike out all instructions in effect deprived the minority of the right to move to recommit.

The Speaker[2] ruled:

The Chair does not believe that at all. The Chair thinks that when the Chair has given to the minority a right to make a motion, although Rule XVII does not recognize and does not require it, though Rule XVI does, and when the minority exercises that right under the preference given by the item to make the motion, then the motion is in the hands of the House and subject to every rule of the House and to every rule of amendment. But there is no question in the mind of the Chair but that the motion of the gentleman from Tennessee is germane to the subject, and it does not take away from the minority the preferential right in the matter, but it has a right to say whether it prefers the proposition of the minority or the majority.

2760. Under Rule XVII, one proper motion to recommit is in order pending demand for the previous question or after the previous question has been ordered.

A motion to recommit having been ruled out of order, another motion is in order if offered in good faith, but subsequent recognition to move

[1] Second session Sixty-second Congress, Record, p. 11090.

[2] Champ Clark, of Missouri, Speaker.

recommitment is within the discretion of the Speaker and may be denied if dilatory.

On December 5, 1912,[1] the House resumed consideration of the bill (H. R. 22593) for the physical valuation of railroads, on which the previous question had been ordered and on which a motion to recommit with instructions offered by Mr. James R. Mann, of Illinois, was pending.

Mr. Thetus W. Sims, of Tennessee, made a point of order that the instructions proposed included amendments not germane to the bill.

The point of order being sustained, Mr. Mann proposed to offer a further motion to recommit with instructions.

Mr. William A. Cullop, of Indiana, raised a question of order against the motion, first, on the ground that the motion to recommit was not admissible after the previous question had been ordered, and, second, that a similar amendment proposed in a motion to recommit had already been ruled out of order.

The Speaker[2] ruled:

The Chair overrules the first point of order that this motion to commit could not be offered after the previous question was ordered. The rule is clear on that question. Rule XVII, says:

"It shall be in order, pending the motion for or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee."

The Chair, for the elucidation of the matter, will state this in regard to how many motions anybody is allowed to make to recommit. Of course a Member can only make one if it is germane, but a motion to recommit is not a motion to recommit at all if it is ruled out on the point of order, and the logic of the rule is that everybody wanted the privilege of making a motion to recommit to be absolute so nobody could take the power away from a Member, and a Member would have the right to offer a motion to recommit which is germane. If that turned out to be obnoxious to the point of order, that would go out. Well, now, the Chair does not undertake to say that a Member can offer motions to recommit interminably that are not germane. That is a matter in the discretion of the Chairman at the time, but where the Chair believes a Member is acting in good faith he will entertain them within reasonable limits. The Chair overrules the second point of order on the proposition submitted now, and the question is on the motion to recommit with the last instructions read.

2761. A motion to recommit having been ruled out of order with the previous question operating, a proper motion to recommit may be offered.

On January 15, 1932,[3] the Committee of the Whole House on the state of the Union reported the bill H. R. 7360, the farm relief bill, providing for the establishment of the Finance Relief Corporation, with amendments and with the previous question operating under the special order under which it was being considered.

Mr. Louis T. McFadden, of Pennsylvania, moved to recommit the bill to the Committee on Banking and Currency with instructions including an amendment which was ruled out of order as not germane.

Whereupon, Mr. Fiorello H. LaGuardia, of New York, offered a motion to recommit.

Mr. John J. O'Connor, of New York, made the point of order that one motion to recommit having been offered under the rule, a second motion was not in order.

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[1] Third session Sixty-second Congress, Record, p. 176.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Seventy-second Congress, Record, p. 2080.

The Speaker [1] said:

The point of order having been sustained to the motion to recommit by the gentleman from Pennsylvania, Mr. McFadden, a motion to recommit by the gentleman from New York, Mr. LaGuardia, is in order. I will ask the gentleman from New York if he is opposed to the bill?

Mr. LaGuardia having answered in the affirmative, the Speaker directed the Clerk to report the motion.

2762. Under the later rule but one motion to recommit is in order, and the Speaker in recognizing for the motion is required to give preference to a Member opposed to the bill.

The motion to recommit is subject to amendment, as by adding instructions, unless the previous question is ordered.

In construing the rules no distinction is made between the motion to recommit and the motion to recommit with instructions, and neither is entitled to precedence over the other.

In recognizing for the motion to recommit, the Speaker gives preference to members of the committee reporting the bill, and if no member of the committee rises, recognizes within his discretion any Member opposed to the bill and from such recognition there is no appeal.

On March 15, 1910,[2] the pending question was on the passage of the legislative, executive, and judicial appropriation bill.

Mr. William S. Bennet, of New York, moved to recommit the bill to the Committee on Appropriations.

Simultaneously, Mr. Martin D. Foster, of Illinois, and Mr. William A. Cullop, of Indiana, respectively, asked recognition to offer motions to recommit.

The Speaker,[3] after severally ascertaining their attitude on the bill, ruled:

Neither of the three gentlemen, rising at substantially the same time, are on the Committee on Appropriations. Neither one, so far as the Chair can determine, has any prior title to recognition, and therefore the Chair under that condition will recognize the gentleman on the majority side.

There can be but one motion to recommit, and the motion to recommit with instructions is, in fact, substantially the same as the motion to recommit. A motion to recommit is amendable with instructions, provided the motion for the previous question is defeated. They are, in fact, therefore the same motions. And the Chair may state further that the practice of the House has been, so far as the Chair recollects, on motions to recommit, prior to the adoption of the late rule upon that subject, to recognize a friend of the bill. The interjection of the motion to refer after the previous question is ordered is an anomalous proceeding, and in order only because of a special provision of the rules. 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 change to perfect it, as perchance there might be some error that the House desired to correct. But since the adoption of the late rule upon this subject, the Chair is compelled, provided some one arises and moves to recommit the bill, to submit the question: "Is the gentleman opposed to the bill?" And if so, the Chair, following the kindred practice of the House, would have recognized some one on the Committee on Appropriations who was opposed to the bill.

But no one arising, the Chair is at liberty to recognize any gentleman that arises to make the motion. The gentleman from New York, who first addressed the Chair, states that he is opposed to the bill, and therefore the Chair recognizes the gentleman from New York.

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[1] John N. Garner, of Texas, Speaker.

[2] Second session Sixty-first Congress, Record, p. 3220.

[3] Joseph G. Cannon, of Illinois, Speaker.

Mr. Foster proposed to appeal from the decision of the Chair.

The Speaker declined to entertain an appeal on a question of recognition.

Mr. Bennet moved the previous question on his motion to recommit.

The question being taken on ordering the previous question was decided in the negative.

Mr. Foster moved to amend the motion to recommit by adding instructions to report the bill back forthwith with an amendment striking out appropriations for automobiles for the Speaker and the Vice President, and on that motion asked the previous question.

Mr. Cullop then requested recognition to offer an amendment to the pending amendment.

The Speaker reminded that the previous question has been ordered and further amendment was not in order.

2763. One proper motion to recommit is in order under operation of the previous question, and one motion being ruled out, another motion to recommit is in order.

On May 8, 1913,[1] the House was considering the bill H. R. 3321, the tariff bill, which had come over as unfinished business from the preceding day with the previous question ordered.

Mr. Sereno E. Payne, of New York, offered a motion to recommit with instructions which was held not to be germane to the bill, on a point of order raised by Mr. Oscar W. Underwood, of Alabama.

Mr. Payne then offered a motion to recommit with other instructions.

Mr. Victor Murdock of Kansas, raised the question of order that Mr. Payne had already been recognized to offer a motion to recommit and was not entitled to a second recognition for that purpose.

The Speaker[2] overruled the point of order, and held that the first motion to recommit, having been ruled out, was not considered as complying with the requirement of the rule and it was still in order to entertain a proper motion to recommit.

2764. The leading opponent of the pending measure is entitled to prior recognition to move to recommit.

A motion may be withdrawn in the House at any time before action or decision thereon.

On August 5, 1911,[3] the House was considering the resolution (H. Res. 246) adopting the report of the Committee on Expenditures in the State Department on charges against certain officials in that department in connection with the painting of the portrait of former Secretary of State Day.

The previous question having been ordered, Mr. John Q. Tilson, of Connecticut, moved to recommit the resolution to the Committee on Expenditures in the Department of State.

Mr. John A. Martin, of Colorado, also proposed to offer a motion to recommit.

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[1] First session Sixty-third Congress, Record, p. 1384.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-second Congress, Record, p. 3666.

The Speaker [1] ruled:

The gentleman from Connecticut, who led the fight against this resolution is, I think, entitled to make the motion to recommit.

Mr. Tilson thereupon announced the withdrawal of his motion in order to permit Mr. Martin to move to recommit.

The Speaker said:

The Chair is of the opinion that the spirit of the rule is that the leader on the side of opposition to a particular measure has the right to make the motion to recommit, and his side itself has that preference. The Chair offered to recognize the gentleman from Connecticut, Mr. Tilson, to make the motion to recommit, but the gentleman from Connecticut waived his right and asked the Chair to recognize the gentleman from Colorado.

Mr. Ollie M. James, of Kentucky, made the point of order that a motion could not be withdrawn in the House save by unanimous consent.

The Speaker said:

Any motion in the House can be withdrawn before action is taken.

2765. The practice is for the Speaker to ask a Member offering a motion to recommit if he is opposed to the bill, and if he is not, then to inquire if any Member opposed to the bill desires to move recommitment, and if none rises the Member first rising is recognized.

On October 1, 1918,[2] the bill H. R. 12776, the emergency power bill, was ordered to be engrossed and was read a third time.

Mr. Richard Wayne Parker, of New Jersey, proposed to offer a motion to recommit the bill with instructions.

The Speaker [3] asked:

Is the gentleman opposed to the bill?

Mr. Parker replied:

No.

The Speaker then inquired:

Does any gentleman in the House who is opposed to the bill desire to make a motion to recommit? If not, the Chair will recognize the gentleman from New Jersey.

There being no response, the Speaker recognized Mr. Parker to offer the motion proposed.

2766. On February 28, 1919,[4] the House was considered the sundry civil appropriation bill, on which the previous question had been ordered to final passage.

Mr. John L. Burnett, of Alabama, offered a motion to recommit the bill to the Committee on Appropriations.

The Speaker [5] asked if the gentleman was opposed to the bill, and on being answered in the negative announced:

If anybody who is opposed to the bill wants to offer a motion to recommit, the Chair will recognize him. Anybody who qualifies by stating that he is opposed to the bill has the right

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 11011.

[3] Champ Clark, of Missouri, Speaker.

[4] Third session Sixty-fifth Congress, Record, p. 4673.

[5] Champ Clark, of Missouri, Speaker.

of way. If nobody does that, then the gentleman from Alabama will be recognized. The Clerk will report the motion offered by the gentleman from Alabama.

2767. In recognizing Members to move to recommit the Speaker gives preference, first, to the ranking minority member of the committee reporting the bill; then to the remaining minority members of that committee in the order of their rank, and if no member of the committee qualifies, then to the leader of the minority party in the House.

On May 7, 1913,[1] during consideration of the bill H. R. 3321, the tariff bill, the speaker,[2] in response to a parliamentary inquiry submitted by Mr. Victor Murdock, of Kansas, said:

The Chair laid down this rule, from which he never intends to depart unless overruled by the House, that on a motion to recommit he will give preference to the gentleman at the head of the minority list, provided he qualifies, and then go down the list of the minority of the committee until it is gotten through with. And then if no one of them offer a motion to recommit the Chair will recognize the gentleman from Illinois, Mr. Mann, to make it, but if he does not do so, will recognize the gentleman from Kansas, Mr. Murdock, as the leader of the third party in the House. Of course he would have to qualify. The Chair will state it again. The present occupant of the chair laid down a rule here about a year ago that in making this preferential motion for recommitment the Speaker would recognize the top man on the minority of the committee if he qualified—that is, if he says he is opposed to the bill—and so on down to the end of the minority list of the committee. Then, if no gentleman on the committee wants to make the motion, the Speaker will recognize the gentleman from Illinois, Mr. Mann, because he is the leader of the minority. Then, in the next place, the Speaker would recognize the gentleman from Kansas, Mr.. Murdock. But in this case, the gentleman from Kansas, Mr. Murdock, is on the Ways and Means Committee, which would bring him in ahead, under that rule, of the gentleman from Illinois, Mr. Mann.

2768. Members of the committee reporting a bill are entitled to prior recognition for the purpose of moving to recommit.

On February 22, 1921,[3] the conference report on the first deficiency appropriation bill was under consideration in the House.

The previous question having been ordered, Mr. Alben W. Barkley, of Kentucky, asked recognition to offer a motion to recommit.

Mr. George Holden Tinkham, of Massachusetts, claimed prior right to recognition to move to recommit for the reason that he was a member of the Committee on Appropriations reporting the bill.

The Speaker[4] thereupon recognized Mr. Tinkham.

2769. A member of the committee reporting a bill is entitled to prior recognition to move recommitment in preference to one not a member of the committee.

A Member opposed to the bill as a whole is recognized to move to recommit in preference to one opposed to a portion of the bill only.

On January 14, 1913,[5] the House had under consideration the Post Office appropriation bill, on which the previous question had been ordered to final passage.

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[1] First session Sixty-third Congress, Record, p. 1373.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 3645.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Third session Sixty-second Congress, Record, p. 1519.

The bill having been read a third time, Mr. John J. Gardner, of New Jersey, and Mr. Victor Murdock, of Kansas, rose to move to recommit the bill.

The Speaker [1] inquired of the gentlemen in turn if they were opposed to the bill.

Mr. Gardner replied:

I am not opposed to the bill in the sense that I would vote against it as it now stands, but I am opposed to a provision in it as it stands, and I would like to get it out.

Mr. Murdock replied:

I am opposed to this bill.

The Speaker held:

Under the rulings the gentleman from Kansas has the right, being on the committee, to offer the motion to recommit. The gentleman from New Jersey is also on the committee and ranks the gentleman from Kansas, but the gentleman from New Jersey does not answer affirmatively.

2770. Prior right to move to recommit belongs to the member of the committee reporting the bill who first rises and qualifies as opposed to the bill.

In recognizing for the motion to recommit the Speaker will not investigate the attitude of a Member on the bill further than to inquire, and accepts his statement as final.

Under the rule for the previous question, but one proper motion to recommit is in order.

On March 8, 1910,[2] the House had under consideration the Post Office appropriation bill, the previous question having been ordered on the bill to final passage.

Following the third reading of the bill, Mr. J. Sloat Fassett, of New York, and Mr. Charles E. Townsend, of Michigan, respectively, addressed the Chair and requested recognition for the purpose of offering a motion to recommit.

Speaker [3] said:

Two gentlemen have arisen and asked for recognition—the gentleman from Michigan and the gentleman from New York. The gentleman from New York is a member of the Committee on the Post Office and Post Roads. Under the practice it is proper that the first recognition should go to a member of the committee, provided that he arises to make a motion that is in order, and he is opposed to the bill, and the gentleman states that he is. The Chair, therefore, following the usage, recognizes the gentleman from New York.

Mr. Townsend submitted that Mr. Fassett's attitude during consideration had not demonstrated that he was opposed to the bill.

The Speaker replied:

The Chair must take the word of the gentleman—he is entitled to recognition if he is opposed to the bill—as the Chair took the word of the gentleman from Michigan.

The question being taken on agreeing to the motion to recommit offered by Mr. Fassett, it was decided in the negative.

Mr. Townsend thereupon asked recognition to offer a motion to recommit with instructions.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-first Congress, Record, p. 2917.

[3] Joseph G. Cannon, of Illinois, Speaker.

The Speaker ruled:

But one motion to recommit is in order. The question is on the passage of the bill.

2771. When the previous question has been ordered on a bill and amendments to final passage, members of the committee reporting the bill who qualify without condition or reservation are entitled to priority in recognition to move to recommit.

On January 6, 1932,[1] the previous question had been ordered on the first deficiency appropriation bill, when Mr. Andrew J. Montague, of Virginia, Mr. Fiorello LaGuardia, of New York, and Mr. William B. Oliver, of Alabama, rose simultaneously to offer a motion to recommit.

The Speaker[2] said:

The gentleman from Virginia, Mr. Montague, and the gentleman from New York, Mr. LaGuardia, desire to submit a motion to recommit the bill. The practice of the House heretofore has been to give to the minority the right to make the motion to recommit when a member of the minority qualifies for that purpose. So the Chair will ask the gentleman from New York and the gentleman from Virginia if each of them is opposed to the bill?

Mr. Montague said he was opposed to the bill; Mr. LaGuardia said he was opposed to the bill in its present form and expected to vote against it; Mr. Oliver said:

Mr. Speaker, as a member of the committee and as one who is opposed to the bill in its present form, I should like to offer a motion to recommit.

Mr. Joseph W. Byrns, of Tennessee, objected to the form of Mr. Oliver's qualification, and the Speaker said:

Permit the Chair to say to the gentleman from Tennessee that a member of the committee who qualifies as being opposed to the bill undoubtedly would have preference in recognition. Is the gentleman opposed to the bill as it stands?

Mr. Oliver answered in the affirmative and announced his intention to vote against the bill.

The Speaker held:

The gentleman from Alabama qualifies and is entitled to submit a motion to recommit.

2772. The right to move to recommit a House bill with Senate amendment belongs to a Member opposed to the bill rather than to one opposed to the Senate amendment only.

On April 25, 1916,[3] the House agreed to a resolution (H. Res. 216) reported from the Committee on Rules, sending to conference without intervening motion except one motion to recommit the bill H. R. 12766, the Army reorganization bill, with Senate amendments thereto.

Mr. Julius Kahn, of California, ranking minority member of the Committee on Military Affairs, reporting the bill, being recognized, offered a motion to recommit.

Mr. Meyer London, of New York, who was not a member of the Committee on Military Affairs, also demanded recognition to move to recommit.

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[1] First session Seventy-second Congress, Record, p. 1396.

[2] John N. Garner, of Texas, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 6821.

Mr. Kahn, for the purpose of qualifying, announced that he was opposed to the Senate amendment.

Mr. London submitted that he was opposed both to the Senate amendment and to the bill.

The Speaker [1] remarked tentatively:

The Chair is inclined to the opinion that the matter in controversy here is the Senate amendment, and that it is the only thing in controversy.

Mr. Pat Harrison, of Mississippi, argued that the attitude of a Member on the bill and not on the amendment was the true criterion under the rule providing for the motion to recommit.

Mr. James R. Mann, of Illinois, dissented:

Mr. Speaker, this is a House bill that has passed the House. A motion to reconsider the vote by which the bill was passed was made and that motion was laid on the table, and it is not within the power of the House itself under the rules of the House to change a word in the House bill of its own motion. The only way that it can make a change in the House bill as it passed the House is by agreeing to some proposition which the Senate proposes or which comes to the House as a result of a conference between the House and the Senate. The House can not take any vote upon the House bill now. The only thing that the House can dispose of now are the Senate amendments. To ask whether a Member is opposed to the original House bill upon which the House can not act would be ridiculous, as it seems to me. The question is, What will the House do with the Senate amendments? That is the question that has to be put when the Speaker asks whether the Member making the motion is opposed to the proposition.

The Speaker ruled:

The Chair is inclined to think, after reflection, that the gentleman from New York who is opposed to the whole business from start to finish, and who not only speaks for a minority but is the whole minority in himself, is entitled to recognition to make that motion. The Chair recognizes the gentleman from New York.

2773. In qualifying to offer a motion to recommit, the attitude of the Member at the time the motion is made and not at any previous time governs, and statements previously made by the proponent in the discussion of the bill are not taken into consideration.

In recognizing under the rule to move to recommit, the Speaker is governed by the attitude of Members toward the bill and not by their political affiliation.

A member of the committee opposed to the bill reporting the measure is entitled to recognition to move recommitment over one not a member of the committee but otherwise equally qualified.

On September 5, 1918,[2] the previous question was ordered on the bill S. 1419, the water-power bill, to final passage.

Mr. Scott Ferris, of Oklahoma, a member of the Committee on Water Power, reporting the bill, proposed to offer a motion to recommit.

Mr. Joseph Walsh, of Massachusetts, also asked recognition to propose a motion to recommit, and argued that he was entitled to prior recognition for the purpose because, although not a member of the committee reporting the bill, he

[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 10051.

was a member of the political minority while Mr. Ferris belonged to the political majority of the House.

The Speaker [1] ruled:

The Chair laid down the rules covering a motion to recommit in the first Congress in which he was Speaker. It is a triple condition. The first one is, if anyone is opposed to the bill, if one man is and no one else is, the one who is out and out opposed to it is entitled to recognition. That is condition No. 1. The second one is the mandate in the rule that a member of the minority shall be recognized in preference to a member of the majority. The Chair has ruled half a dozen times that that does not mean a political majority and minority, that it means a majority and minority on the bill. The third condition is that a member of the committee has preference over the other Members of the House equally qualified. The gentleman from Oklahoma, a member of the committee, the second member upon it, makes a motion to recommit. Of course, the contention of the gentleman from Oklahoma that he received recognition has nothing to do with the matter. He has every qualification, however. In the first place, he is a member of the committee. In the second place, he is opposed to the bill out and out, and in the third place, so far as the Chair can ascertain at the present time, he is a member of the minority—that is, in a minority touching this bill. The Chair does not know how it is going to turn out on the roll call, but from the beginning, since the time the bill was first considered, the gentleman from Oklahoma has been in opposition. If the gentleman from Iowa, Mr. Haugen, had arisen before the gentleman from Oklahoma, the Chair would have been delighted to recognize him, but the question of majority and minority has nothing to do with the political complexion of the House on a motion to recommit. The gentleman from Oklahoma is recognized, and the Clerk will report his motion.

Mr. Walsh then submitted that Mr. Ferris did not qualify to offer a motion to recommit because he had on previous occasions voiced support of the bill and referred to citations from the Congressional Record:

Mr. THOMAS. Do you not think the best thing to do with this bill is to defeat it?

Mr. FERRIS. I do not; I have tried here for years; and I want to try a little longer to help get this bill through.

Also:

Mr. THOMAS. does the gentleman not think, to be plain about this matter, that this bill is purely a socialistic bill?

Mr. FERRIS. Mr. Chairman, of course I think this is a good bill.

The Speaker said:

The gentleman from Oklahoma rose and offered his motion, and the Chair asked him, as he would have asked anyone else, as he has always done, if he was opposed to the bill, and the gentleman from Oklahoma answered without any equivocation or hesitation that he was. What the gentleman from Oklahoma thought yesterday the Chair does not know. The bill may have changed for all he knows in a dozen different directions. All that the Chair knows about a bill that has been in the Committee of the Whole House or the Committee of the Whole House on the state of the Union is what the chairman reports to him. The Chair does know this, that the gentleman from Oklahoma filed a minority repot, and just judging from what the Chair heard when he came in here once in a while he thought that he was leading the fight against the bill. But, however that may be, what he said yesterday or the day before or the day before that has nothing in the world to do with the answer that he gave the Speaker when the Speaker propounded the acid test. So the point of order of the gentleman from Massachusetts is overruled.

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[1] Champ Clark, of Missouri, Speaker.

Chapter CCLIII.[1]

THE MOTION TO RECONSIDER.

2774. A Member who failed to vote may not move to reconsider.

On June 28, 1918,[2] the House agreed to the conference report on the Post Office appropriation bill, yeas 150, nays 149.

Mr. William Gordon, of Ohio, when his name was called, failed to vote on the question.

The vote having been announced, Mr. Gordon addressed the Speaker and desired to know if it would be in order for him to move to reconsider the vote by which the conference report was agreed to.

The Speaker[3] called attention to the rule providing that only those Members voting in the affirmative were authorized to move to recommit, and held that as the gentleman had not voted either in the affirmative or in the negative he could not be recognized to offer a motion to reconsider.

2775. Where the yeas and nays on a vote have not been ordered recorded in the Journal, any Member, irrespective of whether he voted with the majority or not, may make the motion to reconsider.

On June 27, 1918,[4] Mr. John A. Moon, of Tennessee, called up the conference report on the Post Office appropriation bill.

The question being taken on agreeing to the conference report was decided in the negative.

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[1] Supplementary to Chapter CXXIII.

[2] Second session Sixty-fifth Congress, Record, p. 8423.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 8386.

Mr. Martin B. Madden, of Illinois, as a parliamentary inquiry, asked if it were competent, where a viva voce vote had been taken, for any Member of the House to move to reconsider, or if only a Member who had voted with the majority was authorized to offer the motion.

The Speaker[1] held that under the circumstances any Member, irrespective of whether he had voted with the majority or not, might move to reconsider.

2776. A motion to reconsider the vote by which the House had decided a question of parliamentary procedure was held not to be in order.

A bill once rejected may not be taken up for consideration the second time in the same session.

On March 9, 1910,[2] during the Wednesday call of committee, Mr. Frank O. Lowden, of Illinois, by direction of the Committee on Foreign Affairs, called up the bill (H. R. 22312) for the acquisition of consular buildings abroad.

Mr. George W. Prince, of Illinois made a point of order that a bill practically identical in substance had been previously rejected by the House during the same session.

After exhaustive debate, the Speaker[2] decided to submit the question to the House for decision, and put the question:

Shall the point of order made by the gentleman from Illinois be sustained?

The question being decided in the affirmative, yeas 150, nays 134, Mr. Prince offered a motion to reconsider and moved to lay that motion on the table.

Mr. Swager Sherley, of Kentucky, made the point of order that the motion to reconsider was not in order.

The Speaker sustained the point of order.

2777. The vote by which the House refuses to order a third reading may be reconsidered.

On May 4, 1921,[4] Mr. Joseph W. Fordney, of Michigan, moved to reconsider the vote by which the House on the preceding day had refused to order the third reading of the joint resolution (S. J. 38) admitting Emil S. Fischer to the rights and privileges of a citizen of the United States.

Mr. Otis Wingo, of Arkansas, made the point of order that the refusal of the House to advance the bill to a third reading amounted to a refusal of consideration and was not subject to reconsideration.

After debate,[5] the Speaker ruled:

The rule provides that:

"When a motion has been made and carried or lost, it shall be in order for any Member of the majority, on the same or succeeding day, to move for the reconsideration thereof."

On the face of that the gentleman from Michigan, who voted yesterday with the majority, is obviously entitled to-day to make a motion to reconsider. The gentleman from Arkansas makes the point of order that this being Calendar Wednesday, the motion is not in order. He first makes the claim that the defeat of a bill on the third reading is the same as a refusal to con-

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-first Congress, Record, p. 2966.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 1032.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

sider a bill, and therefore the motion to reconsider is not in order. The Chair thinks the gentleman is correct in his claim that when the question of consideration is raised it is not in order to reconsider that decision. But the Chair does not think that the defeat of a bill on the third reading is at all the same as refusing consideration. If it were, then this bill could be taken up again, because refusing to consider a bill does not defeat it. But this bill can not be taken up again. It is dead unless it can be revived by the motion to reconsider, and the Chair does not think that the defeat of a bill on the third reading is at all identical with a refusal to consider a bill. Therefore the Chair overrules the point of order made by the gentleman from Arkansas.

2778. The motion to reconsider may not be applied to the vote on reconsideration of a bill returned with the objection of the President.

Where a two-thirds vote is required, the motion to reconsider may be made by anyone who voted on the prevailing side.

On February 19, 1913,[1] the House, upon consideration, refused to pass the bill S. 3175, the immigration bill, returned by the President without his approval.

Mr. William E. Murray, of Massachusetts, submitted a parliamentary inquiry as to who might move to reconsider.

The Speaker[2] replied:

It is required that he vote with the majority.

Thereupon Mr. Augustus P. Gardner, of Massachusetts, offered a motion to reconsider the vote by which the House had refused upon reconsideration to pass the immigration bill, the President's objections to the contrary notwithstanding.

Mr. James R. Mann, of Illinois, raised a question of order against the motion.

The Speaker ruled:

This vote was taken under the second subdivision of section 7 of Article I of the Constitution, which reads in this way:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal and proceed to reconsider it. If, after reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively."

The Chair thinks that the motion to reconsider does not apply. This question, so far as the Chair has found, has never been raised but once, and that was on June 12, 1844, when the Hon. John W. Jones, of Virginia, was Speaker. The Chair will read the syllabus:[2]

"The motion to reconsider may not be applied to the vote on reconsideration of a bill returned with the objections of the President."

The fact that that decision has never been raised since and has been acquiesced in for a period of 66 years is very persuasive.

A motion to reconsider is carried by a simple majority vote, but a bill can be passed over the presidential veto only by a two-thirds majority. If any other view were taken than the one held by Mr. Speaker Jones, quoted above, we might go on in a circle to the end of the session, never getting anywhere.

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[1] Third session Sixty-second Congress, Record, p. 3430.

[2] Champ Clark, of Missouri, Speaker.

[3] Section 5644 of Volume V.

Another thing, under a suspension of the rules, also requiring a two-third majority, the motion to reconsider does not apply. For the reasons above stated the point of order raised by the gentleman from Illinois is sustained.

2779. On October 27, 1919,[1] the House, on reconsideration, passed, over the veto of the President, the bill H. R. 6810, the prohibition-enforcement bill.

Mr. Thomas L. Blanton, of Texas, moved to reconsider the vote just taken.

The Speaker[2] held that the motion to reconsider was not in order.

2780. On August 19, 1919,[3] the Speaker laid before the House the bill (H. R. 3854) for the repeal of the daylight saving law, which has been returned with the objections of the President.

After debate, the question being taken on the passage of the bill, the objections of the President to the contrary notwithstanding, it was decided in the affirmative, yeas 223, nays 101.

Mr. Thomas L. Blanton, of Texas, offered a motion to reconsider the vote by which the bill was passed, and moved to lay that motion on the table.

The Speaker[4] held that the motion to reconsider a vote on reconsideration of a bill returned with the objections of the President was not in order.

2781. The motion to reconsider may not be applied to the vote on a motion to suspend the rules.

On March 2, 1909,[5] Mr. Jesse Overstreet, of Indiana, moved to suspend the rules and pass the bill (S. 28) providing for ocean mail service between the United States and foreign ports.

After debate, the yeas and nays being demanded and ordered on the motion, it was decided in the negative, yeas 172, nays 175.

Mr. Champ Clark, of Missouri, moved to reconsider the vote by which the motion was rejected.

The Speaker[6] said:

There is nothing to reconsider. This was a motion to suspend the rules, and that can not be reconsidered. If the House will be in order and the Speaker can have the floor, the Chair will state that this is a motion to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill and pass the same under suspension of the rules. Now, the House has by its vote refused to suspend the rules and discharge the Committee of the Whole House on the state of the Union, and the bill remains on the Union Calendar.

2782. The motion to reconsider may not be applied to a vote on the reference of a bill to a committee.

On March 12, 1920,[7] Mr. Sam Rayburn, of Texas, moved to reconsider the vote taken on the preceding day by which the bill (H. R. 10835) to fix compensation of certain officers in the Army, had been referred to the Committee on Ways and Means.

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[1] First session Sixty-sixth Congress, Record, p. 7611.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 3983.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Sixtieth Congress, Record, p. 3695.

[6] Joseph G. Cannon, of Illinois, Speaker.

[7] Second session Sixty-sixth Congress, Record, p. 4256.

Mr. Frank W. Mondell, of Wyoming, raised a question of order against the motion.

The Speaker pro tempore [1] ruled:

The Chair sustains the point of order. A motion to reconsider a reference of a bill, by action of the House, is not in order under the rules. The gentleman can make a motion at the proper time for the references. This is not the proper time. The rule sets forth that the time for taking up the matter of correcting the reference of bills is immediately after the reading of the Journal.

2783. Bills reported from committees shall be accompanied by reports which shall be printed.

Bills unaccompanied by written reports are not in order for consideration.

Instance wherein, by unanimous consent, a bill was presented and referred to the calendar in advance of receipt of the report.

On April 25, 1932,[2] Mr. John McDuffie, of Alabama, from the select Committee on Economy, by direction of that committee, presented the bill (H. R. 11597) to effect economies in the National Government, unaccompanied by a report, and asked unanimous consent that the committee have until midnight of the following day in which to submit a report on the bill.

Mr. John C. Schafer, of Wisconsin, reserved the right to object and inquired when the report would be available, and whether it was proposed to call up the bill for consideration before opportunity had been afforded to examine it in connection with the report.

The Speaker [3] said:

Let the Chair state to the gentleman from Wisconsin and to the Members of the House that the bill will not be printed unless there is some kind of a report accompanying it. Unless this request is granted, or a similar request, the bill will not be available to-morrow.

2784. The motion to reconsider and the motion to lay that motion on the table are admitted while the previous question is operating.

On January 11, 1918,[4] Mr. Simeon D. Fess, of Ohio, rising to a parliamentary inquiry, called attention to an ambiguous statement made by the Speaker on the preceding day [5] relative to the right of a Member to move to reconsider and simultaneously move to lay that motion on the table, and asked for a ruling on the question.

The Speaker [6] said:

Both of those motions can be made. There is no necessity for making both at once—that is, you are not compelled to—but one can file a motion to reconsider any time during the day on which the thing occurs or the next day, and you can let that motion hang up as long as you please, until the end of the Congress. The motion to lay upon the table cuts out debate. The motion to reconsider is debatable. In the confusion the Chair did not know, but supposed that

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[1] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[2] First session Seventy-second Congress, Record, p. 8909.

[3] John N. Garner, of Texas, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 851.

[5] Record, p. 811.

[6] Champ Clark, of Missouri, Speaker.

what was desired was an opportunity to get at the matter to-day. A Member can undoubtedly make both motions.

There is one other matter to which the Chair wishes to direct attention. Two gentlemen suggested yesterday that the Constitution provided there must be a roll call on a constitutional amendment. It does not provide anything of the sort. Everybody was rising, however, and, without ruling on the matter, the Chair ordered the Clerk to call the roll, because there was no use wasting time about it.

2785. Entering a motion to reconsider and consideration of such motion, are separate propositions and have respective privilege.

While the motion to reconsider may be entered at any time during the two days prescribed by the rule, it may not be considered while another question is before the house, and when relating to a bill belonging to a particular class of business, the consideration of the motion is in order only when that class of business is in order.

On a vote on which the yeas and nays have not been ordered recorded, any Member may move to reconsider regardless as to whether he voted with the prevailing side.

An affirmative vote on the motion to lay on the table may be reconsidered.

A motion to reconsider may be entered at any time, even when privileged business is pending, as pending a motion to resolve into the Committee of the Whole for the consideration of an appropriation bill, but such motion may not be considered until the business to which it relates is again in order.

On February 11, 1909,[1] Mr. James S. Sherman, of New York, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Indian appropriations bill.

Pending that motion Mr. William S. Bennet, of New York, moved to reconsider the vote by which the conference report on the bill (H. R. 21052) amending the act establishing the Bureau of Immigration had been laid on the table earlier in the day.

Mr. John F. Fitzgerald, of New York, moved to lay the motion on the table.

The Speaker[2] reminded:

There is a matter of privilege pending, namely, to go into Committee of the Whole.

Mr. Fitzgerald protested that the motion to lay on the table took precedence of all motions except the motion to adjourn and was in order if the motion to reconsider was in order.

The Speaker differentiated:

Entering a motion to reconsider is one thing, and its consideration is another thing. A motion to reconsider, under the rule, can be entered at any time; for obvious reasons, of course, it can not take a gentleman off the floor. A motion to lay on the table may be reconsidered. Under the rules and practice a motion to reconsider may be entered at any time; but the consideration of that motion is not in order until business is in order to which the motion referred. Now, the gentleman from New York has the floor on a motion that the House resolve itself into the Com-

[1] Second session Sixtieth Congress, Record, p. 2238.

[2] Joseph G. Cannon, of Illinois, Speaker.

mittee of the Whole on an appropriation bill, which is a motion of higher precedence, and he asks consideration of that.

Under the rules of the House a motion to reconsider must be entered within two days; that is, to-day or to-morrow. Now, the entry of the motion is one thing. The consideration of the motion is another thing. If it were not in order to enter the motion at any time, privileged business might be pending both to-day and to-morrow, and the Member would be cut off from the exercise of his right, or the House might prevent him fro entering a reconsideration of the motion if it desired to do so. So that, the motion being entered, it can be called up to-day, a wee from now, or any other time that it is the pleasure of the House to call it up. Consideration of the motion in only in order when the class of business to which it refers is in order. Now, that class of business is not in order, because there is a motion pending that the House resolve itself into the Committee of the Whole to consider a privileged bill, namely, a general appropriation bill.

Mr. Martin B. Madden, of Illinois, made the point of order that the motion might not be entertained because the proponent had not voted in the affirmative when the question of laying on the table was taken.

The Speaker said:

There was no record vote. Any Member can enter a motion to reconsider.

2786. A motion to reconsider business which is in order on certain days only, may be entered on any day, but consideration of such motion is in order only when that class of business is in order.

When a motion to reconsider relates to a bill belonging to a particular class of business, the consideration of the motion is in order only when that class of business is in order.

A motion to reconsider the vote by which recommendation of the Committee of the Whole House that the enacting clause of a bill on the Private Calendar be stricken out was agreed to, may be entered on any day on which recognition is had for that purpose, but the motion may be taken up for consideration on Private Calendar Friday only.

The vote by which the enacting clause of a bill on the Private Calendar was stricken out being reconsidered, the question is pending on agreeing to the recommendation of the Committee of the Whole and being decided in the negative, sends the bill back to the Private Calendar.

On January 7, 1911,[1] Mr. William Sulzer, of New York, entered a motion to reconsider the vote by which the House on the preceding day, had agreed to the recommendation of the Committee of the Whole House to strike out the enacting clause of the bill (S. 1028) for the relief of Capt. Warren C. Beach.

Mr. James R. Mann, of Illinois, while conceding the right to enter the motion at this time objected to its present consideration.

The Speaker[2] said:

The gentleman enters the motion.

It would come up for reconsideration on Private Calendar day, unless the House, by unanimous consent, should agree to the motion.

The proper way is for the gentleman to ask unanimous consent to take up the motion at this time to reconsider.

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[1] Third session Sixty-first Congress, Record, p. 640.

[2] Joseph G. Cannon, of Illinois, Speaker.

The motion to reconsider has been entered. It would be in order to consider it only on Friday, when the bill itself would be in order; but the gentleman, as the Chair understands, desires unanimous consent to consider the motion to reconsider at this time.

In response to further inquiries by Mr. Sulzer, the Speaker also held that if the motion to reconsider prevailed the question before the House was on concurrence in the recommendation of the Committee of the Whole that the enacting clause be stricken out; but if concurrence was delayed until the day set apart for the consideration of bills on the Private Calendar, the bill would go back to the Committee of the Whole for further report.

The Speaker added:

If the motion to reconsider prevails, one more step would be necessary, namely, Will the House concur in the recommendation? And if the House refuses to concur in the recommendation, it would then go to the Private Calendar.

Under the rule it would go to the calendar. Is there objection? [After a pause.] The Chair hears none and it is so ordered.

2787. A motion to reconsider having been entered within the time prescribed by the rule, is privileged and may be called up at pleasure.

On June 12, 1916,[1] Mr. Frank Buchanan, of Illinois, moved reconsideration of the vote by which the House had passed the bill (H. R. 15158) to fix the time for commencement of the annual term of the Supreme Court.

Pending which, Mr. Buchanan submitted a parliamentary inquiry as to the status of the bill and when it would be in order to take up the motion for consideration.

The Speaker[2] held:

And it comes up whenever the gentleman wants to bring it up or the House wants to consider it.

2788. The House decided (overruling the Speaker) that the motion to reconsider the vote on a proposition having been once agreed to, and the vote having again been taken, a second motion to reconsider may not be made unless the nature of the proposition has been changed by amendment.

The vote on a substitute and the vote on the original resolution as amended by the substitute, if the substitute entirely replaces the original resolution, is the same proposition within the practice prohibiting a second motion to reconsider the same proposition unless changed by amendment.

On March 1,[3] 1919, at the conclusion of debate on the contested-election case of Britt *v.* Weaver, Mr. Walter A. Watson, of Virginia, offered a resolution declaring the constestee elected.

Mr. Cassius C. Dowell, of Iowa, offered a substitute for the resolution declaring the contestant duly elected.

The substitute being agreed to, yeas 182, nays 177, Mr. Watson offered a motion to reconsider the vote by which the substitute had been adopted.

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[1] First session Sixty-fourth Congress, Record, p. 9478.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 4807.

The question being put, the House decided in favor of reconsideration—yeas 180, nays 177.

The question recurring on the resolution proposed by Mr. Dowell, as a substitute for the resolution offered by Mr. Watson, the substitute was again agreed to—yeas 185, nays 183.

The resolution as amended by the substitute was then passed—yeas 185, nays 182.

Mr. Watson moved to reconsider the vote by which the resolution as amended had been agreed to.

Mr. James R. Mann, of Illinois, made the point of order that the resolution as amended was identical with the substitute and the vote on the substitute having been reconsidered, and being the second time decided in the affirmative, a second motion to reconsider was not in order on the same proposition.

The Speaker [1] overruled the point of order.

Mr. Mann, of Illinois, appealed from the decision of the Chair and Mr. Martin D. Foster, of Illinois, moved to lay the appeal on the table.

The motion of lay the appeal on the table was not agreed to; and the question recurring on the appeal from the decision of the Speaker, it was decided in the negative—yeas 173, nays 182, and the decision of the Chair was not sustained.

The Speaker pro tempore [2] announced:

> The effect of the vote just announced is that the ruling of the Speaker does not stand as the judgment of the House, and the point of order against the motion to reconsider is sustained. The Chair therefore announces that the resolution of the gentleman from Virginia, as amended by the substitute of the gentleman from Iowa, is adopted, thereby establishing the right of the gentleman from North Carolina, Mr. Britt, to a seat in this House.

2789. After the passage of a bill, reconsideration of the vote on any amendment thereto may be secured only by motion to reconsider the vote by which the bill was passed.

On April 21, 1926, [3] the Senate passed the bill (H. R. 6773) for the settlement of the indebtedness of the Kingdom of Italy to the United States of America. Subsequently, on the same day, [4] in the Senate, Mr. James A. Reed, on Missouri, proposed to enter a motion to reconsider the vote by which an amendment offered by Mr. Robert B. Howell, of Nebraska, had been rejected.

Mr. David A. Reed, of Pennsylvania, made the point of order that the vote on a subsidiary question could not be considered after the passage of the bill.

The Vice President [5] sustained the point of order and said:

> The point of order is well taken. The motion for reconsideration should be upon the passage of the bill and then the bill would be open to amendment.

2790. A motion to reconsider may be applied to a vote ordering the yeas and nays.

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[1] Champ Clark, of Missouri, Speaker.

[2] Edward W. Saunders, of Virginia, Speaker pro tempore.

[3] Edward W. Saunders, of Virginia, Speaker pro tempore.

[4] Record, p. 7968.

[5] Charles G. Dawes, of Illinois, Vice President.

On July 15, 1919[1] the House was considering the sundry civil appropriation bill.

Mr. Thomas L. Blanton, of Texas, moved to recommit the bill with instructions, to which motion Mr. James W. Good, of Iowa, offered an amendment in the nature of a substitute.

Mr. Good offered a motion for the previous question which was agreed to, and the yeas and nays were ordered, when Mr. Good moved to reconsider the vote by which the previous question had been ordered, and pending that moved to reconsider the vote by which the yeas and nays were ordered.

Mr. Charles R. Crisp, of Georgia, made the point of order that in view of the Constitutional provision by which one-fifth may demand the yeas and nays, the admission of the motion to reconsider under which a majority would be required to sustain the order for the yeas and nays already made, would virtually nullify this Constitutional prerogative.

The Speaker[2] ruled:

> The Chair is disposed to think that the House has a right to reconsider the motion for the yeas and nays, but if it does so of course immediately the motion is pending, and one-fifth of the House could order the yeas and nays again, so that it seems to the Chair that the question is one of propriety and of usefulness rather than of parliamentary law. The Chair thinks that the motion to reconsider is in order.

Mr. Michael F. Phelan, of Massachusetts, suggested that if the vote were reconsidered, one-fifth of those present would again order the yeas and nays, and inquired if a second motion to reconsider would then be in order.

The Speaker replied:

> The Chair thinks the second motion to reconsider would be a dilatory motion. But the Chair does not see why it is not now in order to reconsider the vote by which the yeas and nays were ordered. It might happen that on reflection the whole House might want to do away with the ordering of the yeas and nays and ought to have an opportunity to do it.
>
> Immediately the question would recur on ordering the yeas and nays, which, under the Constitution, can be ordered by one-fifth.

2791. The motion to reconsider may not be entertained while the House is dividing.

On August 21, 1911,[3] Mr. Robert L. Henry, of Texas, by direction of the Committee on Rules, reported the resolution (H. Res. 295) providing for the consideration of the bill (H. R. 12812) the cotton schedule tariff bill.

On motion of Mr. Henry, by unanimous consent, the previous question was ordered on the resolution.

The question being put on agreeing to the resolution, on a division, the yeas were 115, nays 90.

Pending which, Mr. Oscar W. Underwood, of Alabama, moved to reconsider the vote by which the previous question was ordered.

Mr. John Dalzell, of Pennsylvania, made the point of order that the motion to reconsider was not in order which the House was dividing.

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[1] First session Sixty-sixth Congress, Record, p. 2663.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-second Congress, Record, p. 4314.

The Speaker [1] rules:

The motion of the gentleman from Alabama to reconsider is out of order when the House is dividing. The House had divided on a rising vote. The yeas and nays are incident to the division, and the yeas and nays have been ordered. The Clerk will call the roll.

2792. A motion to reconsider is debatable if the motion proposed to be reconsidered was debatable.

On January 19, 1925,[2] Mr. Daniel R. Anthony, Jr., of Kansas, moved to reconsider the vote by which the bill (H. R. 5084) amending the national defense act had been passed.

Pending that motion, Mr. Anthony inquired if the motion to reconsider the vote was debatable.

The Speaker [3] held:

It is debatable if the bill itself is debatable.

2793. The motion to reconsider, while not entertained in the Committee of the Whole, is in order in the House as in Committee of the Whole.

On July 9, 1913,[4] Mr. Robert L. Henry, of Texas, from the Committee on Rules, reported the resolution (H. Res. 198) providing for the investigation of an alleged lobby.

On motion of Mr. Henry, by unanimous consent, it was ordered that general debate on the resolution be limited to one hour, at the close of which time the resolution should be read for amendment under the five-minute rule.

General debate having been exhausted, the resolution was being considered under the five-minute rule, when Mr. Jefferson M. Levy, of New York, offered an amendment striking out authorization for employment of legal counsel, which was agreed to.

Subsequently, Mr. James R. Mann, of Illinois, moved to reconsider the vote by which the amendment offered by Mr. Levy had been adopted.

Mr. James Hay, of Virginia, made the point of order that the motion to reconsider was not admissible for the reason that the agreement to consider the resolution under the five-minute rule in the House was equivalent to consideration in the Committee of the Whole.

Mr. Mann in discussing the point of order said:

Mr. Speaker, it is undoubtedly true, as stated by the gentleman from Virginia that instead of pursuing an ordinary course which would be pursued in the House, where the gentleman in charge of the bill controls it and no one can offer an amendment without his consent, we are considering the bill under the five-minute rule for amendment. The gentleman from Virginia, however, failed to distinguish between the House considering a bill under the five-minute rule and the Committee of the Whole House considering a bill under the five-minute rule. The House in session can entertain a motion to reconsider. The Committee of the Whole can not entertain the motion to reconsider, and the reason is manifest.

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[1] Champ Clark, of Missouri, Speaker,

[2] Second session Sixty-eighth Congress, Record, p. 2099.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-third Congress, Record, p. 2348.

The adoption of an amendment in the Committee of the Whole does not adopt an amendment. It is a mere recommendation to the House, and the House adopts the amendment, and after the House has adopted an amendment or agreed to an amendment recommended by a Committee of the Whole it could reconsider the vote by which the amendment was adopted. Now, the gentleman's position would put the House in a position where, having agreed to an amendment, there was no way by which the House could change its mind. In the Committee of the Whole when an amendment is agreed to it still has to be passed through the House; still has to run gauntlet of a motion to reconsider.

There is no rule in reference to the five-minute rule that prevents a motion for reconsideration at all. The prevention of the reconsideration is in the Committee of the Whole. A motion to recommit is not recognized in the Committee of the Whole, and the reason is that the action of the committee is not final. It still has to be agreed to by the House. The amendment has to be reported to the House and agreed to. That is the reason why the motion for reconsideration is not recognized.

Now, we frequently consider bills in the House as in Committee of the Whole, and it has always been held that that does not change the status of the House. The motion to reconsider is a motion of right in the House under the rules. The rules provide that any motion agreed to in the House is open to the motion for reconsideration until you have gone to a certain extent, where you stop.

The Speaker [1] said:

There are certain motions that can be made in the House and that can also be made in the House as in Committee of the Whole which are not permissible in the Committee of the Whole. For instance you can not have roll calls in Committee of the Whole, and you can not move the previous question in Committee of the Whole, and several other things not necessary to enumerate all of which are permissible in the House, but not in Committee of the Whole.

Now, the House is really not in the House acting as in Committee of the Whole. But here is a resolution which was presented by the gentleman from Texas, which was to be considered in the House. He had an hour. He might do as he pleased with that hour. He could move the previous question whenever he got ready. But if he let the hour slip by without moving the previous question, then the next gentleman who was recognized would have an hour. But everybody recognized that this was a resolution of a good deal of importance. So the gentleman from Texas and the rest of the gentlemen entered into an agreement by which they would have a general debate of an hour and then consider the resolution under the five-minute rule.

Now, if all these other things can be done in the House as in the Committee of the Whole that can not be done in the Committee of the Whole, the Chair thinks this motion to reconsider is proper to entertain.

2794. A request for unanimous consent is in effect a motion and action predicated thereon is subject to reconsideration.

Instance wherein the Speaker reversed as erroneous a decision made in a previous session.

On May 23, 1916,[2] Mr. Martin B. Madden, of Illinois, called up for consideration a motion entered on the preceding day to reconsider the action of the House in changing the reference of the bill (H. R. 6915) relating to civil service pensions, from the Committee on the Post Office and Post Roads to the Committee on Reform in the Civil Service.

Mr. William E. Cox, of Indiana, made the point of order that inasmuch as the change in reference was made by unanimous consent, the motion to reconsider did not apply.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-fourth Congress, Record, p. 8516.

The Speaker [1] sustained the point of order.

Subsequently, on February 16, 1917,[2] the Speaker addressed the House and said:

With the consent of the House, the Chair wants to correct a ruling which he has been intending to do for some time. It will be remembered that during the last session the gentleman from Illinois, Mr. Madden, made a motion to reconsider a vote by which unanimous consent was granted in a certain matter. The Chair ruled that the motion to reconsider does not apply to unanimous consent. On subsequent reflection and investigation the Chair is convinced that the ruling of the Chair was incorrect and untenable, and that the motion to reconsider does apply in such cases.

The Chair makes this correction now, when no such controversy is pending, to the end that the former erroneous ruling may not go into the footnotes of the next Manual, to the misleading of Members.

2795. A majority vote is sufficient to reconsider a vote taken under the requirements that two-thirds shall be necessary to carry the question.

On October 3, 1918,[3] in the Senate, Mr. Andrieus A. Jones, of New Mexico, in calling up a motion entered on a previous day to reconsider the action taken by the Senate relative to a proposed amendment (H. J. Res. 200) to the Constitution providing for woman suffrage, as a parliamentary inquiry, asked if the motion to reconsider such action was determined by a majority vote.

The Vice President [4] replied:

The Chair is of the opinion that the rule plainly provides that a majority is all that is needed to reconsider.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fourth Congress, Record, p. 3429.

[3] Second session Sixty-fifth Congress, Record, p. 11037.

[4] Thomas R. Marshall, of Indiana, Vice President.

Chapter CCLIV.[1]

DILATORY MOTIONS.

2796. If apparent that a motion is offered for the purpose of delaying the business of the House it is the duty of the Speaker to rule it out as dilatory without waiting for suggestion from the floor.

On July 26, 1921,[2] the House had under consideration the resolution (H. Res. 121) to pay half of the expenses of the Committee on Reorganization from the contingent fund.

Mr. Clifford Ireland, of Illinois, moved the previous question on the resolution.

The vote being taken, on a division, the Speaker announced that the yeas were 150, nays 55, not a quorum, and directed a call of the House.

Mr. Finis J. Garrett, of Tennessee, moved that the House adjourn.

The Speaker[3] said:

The Chair is only hesitating as to whether or not the motion is dilatory.

Mr. Garrett submitted that no one on the floor had suggested that the motion was dilatory.

The Speaker replied:

It is not necessary that it is suggested. It is the duty of the Speaker not to admit a dilatory motion. The Chair is always slow to hold a motion dilatory. The Chair thinks the only time he should hold a motion dilatory is when he not only thinks it dilatory himself but when he thinks the whose membership would agree that it is dilatory. Early in the afternoon, the gentleman from Tennessee announced his implacable hostility to this resolution. He has moved to adjourn several times, and all these motions have been defeated by a party vote. If the gentleman from Tennessee will say that the motion is not dilatory, then the Chair will recognize it; but, of course, the Chair has no right to ask the gentleman to say that.

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[1] Supplementary to Chapter CXXIV.

[2] First session Sixty-seventh Congress, Record, p. 4326.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Being made as it is, the Chair thinks the motion is dilatory and that the gentleman has no right to make it.

Mr. Alben W. Barkley, of Kentucky, offered a motion to adjourn.

The Speaker ruled:

It has been a partisan vote right through during the afternoon, and the gentleman from Kentucky having voted, the Chair presumes, in the same way—all of the Democratic side have voted to adjourn. The Chair holds the motion to be dilatory. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on ordering the previous question.

2797. The motive of a Member in offering a motion is a persuasive, though not conclusive, consideration in determining the question as to whether it is dilatory.

Although circumstances seemed to indicate that a motion had been made for purposes of obstruction, the Speaker inquired as to the motives prompting the motion, and being assured by the proponent that it was offered in good faith, declined to hold it dilatory.

On May 5, 1924,[1] the House was considering the bill (H. R. 7358) to provide for arbitration of disputes between carriers and their employees.

After sixteen roll calls on questions obviously intended to delay consideration of the bill, Mr. J. N. Tincher, of Kansas, moved to reconsider a vote just taken by which the House had refused to agree to an amendment offered by Mr. Nicholas Longworth, of Ohio.

Mr. Alben W. Barkley, of Kentucky, made the point of order that the motion was dilatory, and said:

In view of the proceeding that has occurred here to-day and to-night; in view of the fact that numerous motions to adjourn have been made by Members on the other side, and on numerous occasions we have seen droves of Members on that side leaving the House in order to break a quorum so that a motion to adjourn might not be held dilatory; to view of the fact that the gentleman from Kansas has voted in favor of every dilatory tactic and every obstructive motion that has been made during the day; in view of the fact that he voted with the majority in this particular instance in order that he might qualify to make this dilatory motion, I submit to the Chair it is a dilatory motion.

The Speaker[2] inquired of Mr. Tincher tentatively:

The Chair will state he was rather disposed to think it was dilatory, but does the Chair understand the gentleman to state that in his opinion he has some reason to think Members will vote to reconsider?

Mr. Tincher replied:

I know of some men who voted "No" who want to vote "Aye" on the motion to reconsider, and that leads me to believe that we will be successful in the motion to reconsider.

The Speaker ruled:

The Chair will state that he was disposed to rule that it was a dilatory motion, but not motion to adjourn has been made for two hours, and in view of what the gentleman has stated, the Chair overrules the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 7899.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

2798. Where obviously offered for the purpose of delaying consideration the Chair has declined to entertain an amendment.

On April 14, 1924,[1] the bill (H. R. 7962) to regulate rents in the District of Columbia, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. John Philip Hill, of Maryland, offered an amendment to strike from the bill the word "service."

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that the proposal was dilatory and said:

Mr. Chairman, I make the point of order against the amendment that it is clearly and obviously dilatory. It makes no sense, and it follows an amendment which is in the same class.

The gentleman from Maryland a few moments ago offered an amendment to strike out the word "water" following "hot and cold," a purely dilatory motion. He now offers a motion to strike out the word "service" so that the section will read: "The term includes the furnishing of, etc.," obviously and clearly dilatory, and I make the point of order for that reason.

The Chairman[2] held:

Various amendments have been offered here by the gentleman from Maryland, none of which seems to have any pertinency to the mater discussed. If a Member rises in his place and offers a series of amendments which are obviously absurd and mean nothing and have no apparent object except delay, the Chair is satisfied the amendments are offered only for delay, and the point of order is sustained.

The Chair is not very well satisfied about this proposition, but of one thing the Chair is satisfied and that is that a filibuster is going on and that attempts are being made to delay the progress of this bill. Several amendments have been offered by the gentleman from Maryland along similar lines. Without going into the effect of this or what it might be or what it might not be, the Chair is of opinion judging from past proceedings, that this amendment was offered for the purpose of delay, and therefore sustains the point of order.

2799. On July 15, 1919,[3] during consideration of the sundry civil appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Martin B. Madden, of Illinois, offered a motion to strike out $6,000,000 and insert in lieu thereof $9,000,000.

The amendment being rejected, Mr. Madden offered an amendment to strikeout $9,000,000 and insert $6,500,000.

The second amendment having been rejected, Mr. Madden proposed to offer an amendment to strike out $9,000,000 and insert $7,500,000.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the motion was dilatory.

The Chairman[4] ruled:

The Chair sustains the point or order upon the ground that it is dilatory. The amount that the gentleman has moved to insert is between the two amounts voted down.

On appeal by Mr. Madden, the decision of the Chair was sustained, yeas 163, nays 83.

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[1] First session Sixty-eighth Congress, Record, p. 6347.

[2] William J. Graham, of Illinois, Chairman.

[3] First session Sixty-sixth Congress, Record, p. 2661.

[4] Horace M. Towner, of Iowa, Chairman.

2800. The point of order that a motion is dilatory may be raised in the Committee of the Whole as in the House.

A motion that the Committee of the Whole rise has been ruled out when dilatory.

On July 7, 1921,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 7456) to provide revenue, regulate commerce with foreign countries, and encourage the industries of the United States.

Mr. Thomas L. Blanton, of Texas, moved that the committee rise.

Mr. Cassius C. Dowell, of Iowa, raised a question of order against the motion and submitted that it was made for the purpose of obstructing consideration of the bill.

The Chairman[2] said:

The Chair did not feel that it was his duty to rule that the motion of the gentleman from Texas was dilatory, although it is perfectly apparent that it is dilatory. Whether the rule is reference to dilatory motions applies in Committee of the Whole the present occupant of the chair does not now recall. If a motion to adjourn the House were made at this time in the day, during the consideration of the most important bill that this Congress has so far considered, anyone, regardless of parliamentary law, would know that the motion was dilatory and made for dilatory purposes. But the present occupant of the chair is not at present clear that the question of dilatoriness can be raised in the Committee of the Whole.

Mr. Everett Sanders, of Indiana, argued in support of the point or order, and cited section 5730 of Hinds' Precedents in support of that position.

The Chairman ruled:

The gentleman from Texas has been consuming the time of the House, requiring a count of the committee to ascertain the presence of a quorum, although each time the count, having been made, showed a considerable number over a quorum. The gentleman now moves that the committee rise. But the rules provide, paragraph 10 of Rule XVI, that—

"No dilatory motion shall be entertained by the Speaker."

Paragraph 8 of Rule XXIII provides:

"The rules of proceeding in the House shall be observed in Committee of the Whole House, so far as they may be applicable."

Following the rule it is perfectly manifest that the motion is a dilatory motion. Whether or not the point of order was applicable in committee the present occupant of the chair did not at that time feel warranted in ruling. The gentleman from Texas having accomplished his purpose, however, of delaying the consideration of this important bill so far, the present occupant of the chair presumes that the gentleman is satisfied with the time uselessly used by him, and the Chair sustains the point of order.

2801. The Chair will not hold a point of no quorum dilatory unless repeated when apparent beyond question that a quorum is present.

On April 14, 1924,[3] the bill (H. R. 7962) to establish a rent commission for the District of Columbia was being considered in the Committee of the Whole House on the state of the Union.

After having previously raised the question of a quorum without being sustained, Mr. John Philip Hill, of Maryland, again made the point of order that there was not a quorum present.

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[1] First session Sixty-seventh Congress, Record, p. 3437.

[2] James R. Mann, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 6351.

Mr. James C. McLaughlin, of Michigan, called attention to the fact that the presence of a quorum had just been ascertained, and made the point of order that the point of no quorum was dilatory.

The Chairman [1] ruled:

As to the point of order which has been made, the Chair is very reluctant in holding that a point of order based upon the absence of a quorum is out of order. The Chair has heard that matter discussed by Mr. Mann, a parliamentarian for whom we all had the very highest respect, and it was his contention that it was rarely that a Speaker or a Chairman would be justified in holding that a point of no quorum would be dilatory. It has been done once or twice in the history of Congress, but it is a very rare thing. The right is constitutional. The Chair will count.

2802. On May 19, 1924,[2] during the consideration of the bill (H. R. 7358) for the arbitration of railroad labor disputes, and in the course of prolonged obstructive tactics, Mr. Thomas L. Blanton, of Texas, made the point of order that there was not a quorum present.

Mr. Ashton C. Shallenberger, of Nebraska, submitted that the point of no quorum was dilatory, and argued that recent roll calls demonstrated the presence of a quorum.

The Speaker [3] ruled:

The only time when a point of no quorum is dilatory is when it is clear that there is a quorum present.

This is a question to which the Chair has given considerable consideration at various times. The mere fact that a division shows that there is no quorum voting does not establish the fact that a quorum is not present. The question is whether there is a quorum present in the House.

Now, any Member has a constitutional right to insist that a quorum shall be present. Of course that is not obligatory upon any gentleman, but upon the insistence of any Member it is necessary that a quorum be present for the conduct of the business of the House. Now, the fact that a count had just been made and showed a quorum present, in the opinion of the Chair, would prevent a point of no quorum being made immediately afterwards. Nobody can keep raising the point of no quorum when it is manifest to the Chair and to the House that a quorum is really present, and that is the only occasion, it seems to the Chair, when a point of no quorum can be dilatory. It often happens, as we know, that a roll call is had, and when the roll call is over there is, in fact, no quorum present, and the Chair feels that the only time when a point of no quorum is dilatory is when it is obvious that a quorum is present. Just now the Chair is uncertain as to whether there is a quorum present or not. The Chair thinks it is pretty close, but the Chair can not hold it dilatory.

2803. On June 23, 1922,[4] while the House was considering the third deficiency appropriation bill, Mr. Edward Voigt, of Wisconsin, immediately following a roll call on which 239 Members had answered to their names, made the point of no quorum.

Mr. Wells Goodykoontz, of West Virginia, made the point of order that the point of no quorum was dilatory.

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 8948.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-seventh Congress, Record, p. 9273.

The Speaker [1] ruled:

The Chair thinks that regardless of what motives a man may have, anyone has at any time the right to make the point of order that there is no quorum present, if it be made in good faith. If a Member should make the point of order of no quorum at a time when it was obvious that a quorum was present, the Chair would not entertain it, but so far to-day whenever the point has been made the Chair has been really in doubt and therefore has entertained the point. The Chair is now in doubt and will count.

2804. The House having divided following the ascertainment of the presence of a quorum, the Speaker considered that a sufficient transaction of business to warrant the entertainment of a point of no quorum.

The question of dilatoriness is not necessarily determined by the length of time which has elapsed since the ascertainment of the presence of a quorum, or the character of business intervening, but by the opinion of the Speaker as to whether under the circumstances the motion is made with intent to delay the business of the House.

On July 24, 1919,[2] the House resumed consideration of the bill (S. 180) to incorporate Near East relief, coming over from the preceding day as the unfinished business.

After some time spent in debate, the House found itself without a quorum and a call of the House was ordered. The roll was called and 251 Members answered to their names, a quorum, and further proceedings under the call were dispensed with.

Mr. Louis C. Cramton, of Michigan, moved to lay the bill on the table.

On a division the yeas were 37 and the nays were 77.

Mr. Cramton made the point of no quorum.

Mr. Merrill Moores, of Indiana, made the point of order that the point of no quorum was dilatory.

The Speaker [1] said:

The Chair thinks that is a delicate question. There is always a right to have a quorum in the House. Speakers have decided that immediately after a quorum was disclosed by a roll call the point could not be made, but since then there has been business—there has been a division on another question, and the Chair is disposed to think that a Member has always the right to have a quorum on a question. The Chair will count.

The question having been decided in the negative, yeas 86, nays 166, Mr. Cramton immediately moved that the House adjourn.

Mr. James R. Mann, of Illinois made the point of order that the motion was dilatory.

The Speaker sustained the point of order and said:

The question whether the motion to adjourn is dilatory, the Chair thinks, does not depend simply on the time that has elapsed or the business that has intervened. The question is whether the motion is really dilatory or not; and one of the decisions which the Chair thinks is entitled to

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 3113.

great weight says that not only should the Chair himself be satisfied that the motion is dilatory but that the Chair should be satisfied that the House is satisfied that it is dilatory. In the present instance the Chair thinks the House must be satisfied that the motion is dilatory, and the Chair sustains the point of order.

2805. An instance in which brief debate was held by the Speaker to be an intervention of business warranting the raising of a second point of no quorum.

On March 4, 1919,[1] Mr. Joseph Walsh, of Massachusetts, was debating the report of the select committee appointed to investigate the National Security League, then under consideration in the House when interrupted by Mr. Gilbert A. Currie, of Michigan, with a point of no quorum.

A quorum not being present, a call of the House was ordered, to which a quorum responded, and further proceedings under the call where dispensed with.

Mr. Walsh continued in debate for several minutes when again interrupted with a point of no quorum made by Mr. Oscar E. Bland, of Indiana.

Mr. Adolph J. Sabath, of Illinois, made the point of order that no business had intervened since a call of the House to which a quorum had answered, and the point of no quorum was dilatory.

The Speaker[2] held that intervention of debate constituted a transaction of business warranting the point of no quorum and overruled the point of order.

2806. The point of no quorum may not be held dilatory when well taken, and regardless of the fact that a roll call has just disclosed the presence of a quorum, the Speaker will entertain a point of no quorum when manifestly justified.

On February 5, 1913,[3] Mr. Thetus W. Sims, of Tennessee, was addressing the House on a question of personal privilege.

A point of no quorum made by Mr. Thomas U. Sisson, of Mississippi, was sustained by the Speaker and a call of the House was ordered on which 274 Members answered to their names, a quorum.

Mr. Sims resumed debate and had proceeded briefly when Mr. Sisson again suggested the absence of a quorum.

The Speaker[4] intimated an intention to overrule the point of order as dilatory.

Mr. Edward W. Saunders, of Virginia, argued in support of the point of order:

In strict conformity with the precedents if it is evident to the Speaker that there is no quorum present then the point of no quorum, even if dilatory, must be sustained. Such is the ruling of Mr. Speaker Reed, and the situation is not affected by the fact that a roll call has developed a quorum.

It is perfectly true that a recent roll call has shown the presence of a quorum, and if the Speaker is now satisfied, upon an inspection of the House, that a quorum is present, he is justified in holding the point of no quorum to be dilatory. But if the Speaker, and this is Mr. Reed's ruling, even if a roll call shows a quorum, is satisfied that a quorum is not present, a different situation is presented, and the point of order is well taken.

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[1] Third session Sixty-fifth Congress, Record, p. 5041.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-second Congress, Record, p. 2616.

[4] Champ Clark, of Missouri, Speaker.

Mr. Speaker, I am not without authority, and I would not have consumed the time of the Chair for a moment except for the following ruling:

"The Chair does not feel quite certain that there is a quorum now. The fact that it is dilatory does not make any differences, if there is not a quorum present."[1]

Now, the Chair has counted the House often, and looking over this House he can readily see that there is barely a quorum of the Committee of the Whole present, much less a quorum of the entire body of the House.

This proposition is like a call for the yeas and nays. It is a constitutional right. Even if it is made for a dilatory purpose, the call for the yeas and nays must be entertained. The Chair can rely upon a roll call recently made, and his own inspection of the House, to justify a belief that a quorum is present, and rule accordingly. But if his inspection satisfies him that a quorum is not present, the constitutional right to a quorum is presented, and the point of order is well taken,

The Speaker held:

And evidently there is not a quorum present. There are two constitutional rights that Members have—one is to have a quorum here, and the other is to have the yeas and nays if they can get sufficient Members to support the demand.

The Chair holds there is no quorum present.

2807. The point of no quorum has been ruled out as dilatory immediately following a roll call or count by the Chair disclosing the presence of a quorum, but the Chair will not so rule unless the presence of a quorum is patent.

On May 26, 1922,[2] during consideration of the bill (S. 745) to amend the judicial code, the House found itself without a quorum, and the roll being called, 224 Members answered to their names, a quorum; and further proceedings under the call were dispensed with.

The Speaker thereupon put the question on a pending amendment offered by Mr. John F. Carew, of New York. On a division, the yeas were 24 and the nays were 72.

Mr. Thomas L. Blanton, of Texas, made the point of order that a quorum was not present.

Mr. Joseph Walsh, of Massachusetts, called attention to the roll call just completed and made the point of order that the point of no quorum was dilatory.

The Speaker[3] decided:

The question in the mind of the Chair is whether, a roll call having been just taken and no business having been transacted in between, a point of no quorum can be made; but the Chair is disposed to hold that it can. The Chair does not believe there is a quorum present, and the Chair will sustain the point of order made by the gentleman from Texas.

2808. The Chair being satisfied that a quorum was present and that a point of no quorum was made for dilatory purposes declined to entertain it.

On July 7, 1921,[4] the bill (H. R. 7456), the tariff bill, was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Thomas L. Blanton, of Texas, made the point of order that a quorum was not present.

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[1] Section 5724 of Vol. V.

[2] Second session Sixty-seventh Congress, Record, p. 7760.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 3438.

Mr. Everett Sanders, of Indiana, made the point of order that the proceeding was dilatory.

The Chairman [1] ruled:

The Chair must take into account the number of times the gentleman from Texas has made the point of order during the consideration of the bill within the last two hours and a half, that no quorum was present. The Chair thinks that 12 times the gentleman from Texas has made the point of no quorum, and 12 times a quorum has been present. It is clear to the Chair that the gentleman from Texas must know that there is a quorum of the committee present within the radius of the voice of the Clerk who is reading the bill.

The Chair is of the opinion that the gentleman from Texas in indulging in a filibuster of his own and that he is raising the point of no quorum for the purpose of delaying the consideration of this measure, and the Chair sustains the point of order.

2809. On August 21, 1922,[2] the House was considering bills on the Private Calendar in the Committee of the Whole House.

The bill (S. 3163) amending the public buildings act was called, and Mr. Meyer London, of New York, objected to its consideration.

Mr. George Huddleston, of Alabama, made the point that there was no quorum present.

The Speaker [3] overruled the point of order and said:

The Chair does not think a gentleman can compel the Chair to count every five minutes. Of course, any gentleman has the right to have a quorum present, but the Chair believes there is a quorum present. Every time the Chair has counted there has been considerably more than a quorum.

2810. In the absence of intervening business, the Speaker declined to entertain a point of no quorum made immediately following a yea-and-nay vote on which a quorum voted.

On February 6, 1918,[4] it being Calendar Wednesday, Mr. Henry D. Flood, of Virginia, moved to dispense with the proceedings in order on that day under the rule.

The yeas and nays being ordered on the question, it was decided in the negative, yeas 112, nays 255, a quorum.

John L. Burnett, of Alabama, by direction of the Committee on Immigration and Naturalization called up the bill (H. R. 5667) providing for the deportation of certain aliens, when Mr. Meyer London, of New York, made the point of order that there was no quorum present.

The Speaker [5] said:

The vote completed less than two minutes ago showed a quorum present.

No business has been transacted since the presence of a quorum was disclosed. The point is overruled.

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[1] Philip P. Campbell, of Kansas, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 11645.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 1766.

[5] Champ Clark, of Missouri, Speaker.

2811. When convinced that a point of no quorum is made for purposes of obstruction the Speaker has declined to entertain it even after the intervention of business.

On May 28, 1920,[1] Mr. Gilbert N. Haugen, of Iowa, called up the conference report on the agricultural appropriation bill.

Mr. Frank Murphy, of Ohio, made the point of no quorum.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the point of now quorum was dilatory.

The Speaker[2] ruled:

The Chair will state the rule as to a quorum. If there is not a quorum present, the point of no quorum is not dilatory, but the Chair would hold that it is dilatory when a roll call is just finished and a quorum has been disclosed. Business has intervened and the Chair thinks he ought to count. [After counting.] Two hundred and twenty-seven Members are present, a quorum, and the Clerk will read the conference report.

The conference report having been read, Mr. Haugen offered a motion for its disposition and debate on the motion was in progress, when Mr. Murphy again raised the question of a quorum.

The Speaker said:

The Chair will state that there can be no business transacted if the gentleman rises continually and makes a point of no quorum and keeps the Chair counting. The whole afternoon might be spent in counting while there was a quorum present all the while. The point of order is overruled.

2812. A roll on a motion to recommit having disclosed the presence of a quorum, a point of no quorum raised for their purpose of securing a roll call on the passage of the bill was held to be dilatory.

On October 30, 1919,[3] the question was pending on a motion offered by Mr. Sydney Anderson, of Minnesota, to recommit the bill (S. 2775) to promote the mining of coal, oil, phosphates, sodium, and gas.

The question being put, on a division, the yeas were 23, nays 66, when Mr. Anthony J. Griffin, of New York, made the point of no quorum.

A quorum not being present, the roll was called under the rule and the question was decided in the negative, yeas 44, nays 201, answering present 6, a quorum.

The question recurring on the passage of the bill, Mr. Thomas L. Blanton, of Texas, made the point of no quorum.

Mr. James H. Mays, of Utah, submitted that the roll call just taken demonstrated the presence of a quorum and made the point of order that the question raised by the gentleman from Texas was dilatory.

The Speaker[2] sustained the point of order and declined to entertain the point of no quorum.

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[1] Second session Sixty-sixth Congress, Record, p. 7810.

[2] Ferderick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 7791.

2813. The motion to adjourn has been ruled out when dilatory.

On January 10, 1922,[1] following the disposition of business on the Speaker's table, Mr. Finis J. Garrett, of Tennessee, made the point of order that there was not a quorum present.

The Speaker sustained the point of order and Mr. Frank W. Mondell, of Wyoming, moved a call of the House.

A quorum having responded, Mr. Mondell moved to suspend further proceedings under the call.

On demand of Mr. Garrett, the yeas and nays were ordered on the motion to dispense with proceedings under the call, and the vote being taken was decided in the affirmative, yeas 272, nays 56.

Mr. Garrett offered a motion that the House adjourn.

Mr. Nicholas Longworth, of Ohio, made the point of order that the motion was dilatory.

Mr. Garrett submitted that the motion to adjourn had not been previously made during the day's session.

The Speaker[2] ruled:

The Chair does not think the fact that it is the first time to-day that the motion to adjourn has been made proves that it is not dilatory. The Chair believes that it is well known to all Members of the House that when this antilynching bill has been up before, or has been imminent, there has been a deliberate attempt at obstruction led by the gentleman from Tennessee, and today on the vote just taken the gentleman from Tennessee demanded the yeas and nays on the motion to dispense with further proceedings under the call, a mere formal motion on which a record vote meant nothing. That obviously was done to kill time.

In deciding what is dilatory the Chair thinks he should be very careful, because his decision is final; but, on the other hand, he does not think there can be any question in the minds of any of the Members of the House present that the purpose of the gentleman from Tennessee in making this motion is delay and not the expectation or intention of accomplishing any other result by the motion. Therefore the Chair thinks that the motion is dilatory.

2814. Repetition of the motion to adjourn when apparently for purposes of obstruction has been held dilatory.

On May 22, 1926,[3] during a prolonged filibuster against the river and harbor bill, Mr. Roy O. Woodruff, of Michigan, moved that the House adjourn.

Mr. Martin B. Madden, of Illinois, made the point of order that the motion was dilatory and in support of that contention pointed out that the motion had been repeatedly offered and voted down during consideration of the pending bill.

The Speaker[4] said:

The Chair is informed that the motion was made just prior to the last roll call, and therefore the Chair holds that it is dilatory.

2815. A motion to reconsider a yea and nay vote, by which a resolution was greed to unanimously, has been held to be dilatory.

On April 2, 1908,[5] the pending question was on agreeing to the resolution (H. Res. 233) for the distribution of the message of the President.

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[1] Second session Sixty-seventh Congress, Record, p. 1006.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 9874.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] First session Sixtieth Congress, Record, p. 2336.

The yeas and nays being ordered and taken on the question, the yeas were 212, nays 0, answering present 19.

The result of the vote being announced, Mr. Oscar W. Underwood, of Alabama, moved to reconsider the vote by which the resolution was agreed to.

The Speaker [1] declined to entertain the motion and said:

With the unanimous vote—ayes 213, present 19—the Chair holds the motion to be dilatory.

2816. A motion to lay on the table, which submitted in effect a proposition previously rejected, was held to be dilatory.

On April 12, 1916,[2] the House was considering the bill (S. 1424) incorporating the American Academy of Arts and Letters.

Mr. George Huddleston, of Alabama, offered an amendment to the bill.

Mr. Pat Harrison, of Mississippi, moved to lay the amendment on the table.

In response to a parliamentary inquiry from Mr. Harrison, the Speaker held that affirmative action on the motion would carry the bill to the table with the amendment.

The question being taken on agreeing to the motion to lay the amendment on the table was rejected, yeas 82, nays, 179.

Mr. Harrison then moved to lay the bill on the table.

Mr. James R. Mann, of Illinois, made the point of order that the motion was dilatory and said:

Mr. Speaker, there has been no change whatever in the status of the bill since the House voted upon the question of laying the amendment on the table, which, under the parliamentary practice of the House, would have carried the bill with it, and precisely the same object would have been accomplished if the motion had prevailed as would be accomplished by the present motion. Hence the motion is dilatory.

The Speaker [3] said:

The Chair will ask the gentleman from Mississippi a question. A few moments ago the gentleman from Mississippi made the motion to table the amendment of the gentleman from Alabama, and the parliamentary inquiry was made as to what would happen if that motion to table prevailed. The Chair answered, and answered correctly, that the tabling of the amendment carried with it the bill, and that it was the end of the whole matter. The motion was to table an amendment, but the effect of it was to kill the bill, if it carried. Now comes the gentleman from Mississippi and moves to table the bill itself, which has precisely the same effect. There can not be any two opinions about that. Therefore the Chair holds this motion dilatory.

2917. Amendments changing immaterially the limit of time in a motion to close debate were ruled out as dilatory.

On June 28, 1918,[4] while the bill (H. R. 11984) to provide for the Fourteenth and subsequent decennial censuses, was being read for amendment in the Committee of the Whole House on the state of the Union, Mr. Harvey Helm, of Kentucky, moved that debate on the pending paragraph be limited to ten minutes.

Mr. Frederick H. Gillett, of Massachusetts, offered an amendment to limit the time to 20 minutes.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-fourth Congress, Record, p. 5998.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 8448.

The amendment being rejected, Mr. Gillett proposed an amendment to limit the time to 21 minutes.

This amendment being rejected, Mr. Gillett moved to amend the motion by making the time limit 1 minute.

The question on the amendment being decided in the negative Mr. Gillett submitted an amendment to limit the time for debate to 23 minutes.

Mr. Flood made the point of order that the motion was dilatory.

The Chairman [1] ruled:

The Chair will not recognize the gentleman now. The gentleman from Massachusetts insists that these were not dilatory motions. The Chair begs to state that there is a decision [2] by a Chairman of the Committee of the Whole, Mr. James E. Watson, of Indiana.

After a second amendment to change the time had been offered by Mr. Fitzgerald the point of order was made by Mr. James A. Tawney that the motion was dilatory, and the chairman held that is was. In this case more than two amendments have been offered to change the time, and under those circumstances the Chair thinks he is justified in holding the motion dilatory.

2818. A demand for tellers has been held to be dilatory when the vote on a division was so decisive as to preclude possibility of change or error.

On April 2, 1908,[3] the House was considering the resolution (H. Res. 233) distributing the message of the President.

Mr. John Sharp Williams, of Mississippi, offered various amendments, all of which were disagreed to and on all of which he demanded tellers.

At length, Mr. Williams having offered a further amendment which was disagreed to, yeas 51, nays 87, again demanded tellers.

Mr. Sereno E. Payne, of New York, made the point of order that the demand for tellers was dilatory.

The Chairman [4] held:

The Chair will state that the object of tellers is simply to verify the vote. A division was had, and the Chair will state that he counted with great care. The vote was so decisive—ayes 51, nays 87—that the Chair is justified in holding the demand for tellers to be dilatory.

Thereupon, the committee rose and reported the resolution to the House with the recommendation that it be agreed to.

The question being taken on the adoption of the resolution, on a division demanded by Mr. Williams, the yeas were 125, noes 75.

Mr. Williams demanded tellers.

Mr. Payne raised a question of order against the request and submitted that in view of the decisive vote on the question, the demand for tellers was obviously dilatory.

The Speaker [5] sustained the point of order.

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[1] Israel M. Foster, of Ohio, Chairman.

[2] Hinds' Precedents, sec. 5734.

[3] First session Sixtieth Congress, Record, p. 4334.

[4] George P. Lawrence, of Massachusetts, Chairman.

[5] Joseph G. Cannon, of Illinois, Speaker.

2819. On April 3, 1908,[1] Mr. John Dalzell, Pennsylvania, from the Committee on Rules, reported the resolution (H. Res. 325) providing for consideration of the District of Columbia appropriation bill.

After debate, Mr. Dalzell, demanded the previous question on the resolution.

The question being taken, on a division, the yeas were 150 and the nays were 95.

Mr. John Sharp Williams, of Mississippi, demanded tellers.

Mr. Payne made the point of order that the demand for tellers was dilatory.

In response to an inquiry from the Speaker[2] as to whether the demand for tellers was made for purposes of obstruction, Mr. Williams replied that it was a question for the Speaker to decide.

The Speaker held:

As the preponderance of the vote was so large in favor of the proposition, and as the gentleman from Mississippi declines to state what the Chair is able to realize, the Chair feels that he is authorized to sustain the point of order.

2820. On April 6, 1908,[3] following the reading of the Journal of the proceedings of the preceding day, Mr. Sereno E. Payne, of New York, moved that the Journal be approved as read.

The question being put, on a division demanded by Mr. John S. Williams, of Mississippi, the yeas were 130 and the nays were 80.

Mr. Williams requested tellers on the vote.

Mr. Payne raised a question of order against the demand for tellers and submitted that under the circumstances the request was obviously dilatory.

The Speaker[2] sustained the point of order.

2821. On January 4, 1922,[4] Mr. Frank W. Mondell, of Wyoming, by unanimous consent, addressed the House for 10 minutes on the legislative program of the House.

At the close of Mr. Mondell's remarks, Mr. Finis J. Garrett, of Tennessee, called attention to the lack of a quorum.

On motion of Mr. Mondell a call of the House was ordered, to which 272 Members answered, a quorum.

Mr. Mondell moved to dispense with further proceedings under the call. The question being put, on a division, the yeas were 125 and the nays were 63.

Mr. Garrett requested tellers.

The Speaker[5] said:

The Chair thinks that is dilatory:

2822. Under exceptional circumstances the motions to reconsider, adjourn, lay on the table, and an appeal from the decision of the Chair, have been held dilatory.

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[1] First session Sixtieth Congress, Record, p. 4350.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixtieth Congress, Record, p. 4426.

[4] Second session Sixty-seventh Congress, Record, p. 785.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

On March 4, 1911,[1] the last day of session, Mr. John Dalzell, of Pennsylvania, by direction of the Committee on Rules, reported the resolution (H. Res. 1008) relative to consideration of the conference report on the tariff bill.

Mr. John J. Fitzgerald, of New York, moved that the House adjourn.

Mr. John Dalzell, of Pennsylvania, made the point of order that the motion was dilatory.

In debating the point of order, Mr. Fitzgerald called attention to the fact that the House had been in continuous session for 24 hours and 5 minutes, and cited the rule authorizing one motion to adjourn on the calling up for consideration of a report from the Committee on Rules.

The Speaker[2] ruled:

The rule says—

"It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn."

It occurs to the Chair that there is a discretion resting with the Speaker to entertain that motion, and then there are other rules that dilatory motions are not in order, and the Chair believes that the gentleman himself would, after that has transpired, and within two hours—the Chair does not see accurately—of the expiration of the Congress, considering the unfinished business before the House, the Chair would have to hold the point of order well taken that the motion is dilatory.

Mr. Fitzgerald appealed from the decision of the Chair.

Mr. Dalzell made the point of order that the appeal was dilatory.

The Speaker held:

The Chair is compelled to hold that the motion is dilatory and also to overrule the appeal as dilatory.

Mr. Fitzgerald moved to lay the pending resolution on the table.

The Speaker declined to entertain the motion and said:

Precedents can be presented where the Speaker would hold the question to be dilatory when it is not dilatory; but the Chair is compelled to hold that the motion of the gentleman is dilatory.

The resolution having been agreed to, the conference report on the tariff bill was taken up and the question being taken on agreeing to the report, it was decided in the affirmative—yeas 179, nays 128.

Mr. Fitzgerald moved to reconsider the vote by which the conference report was adopted.

Mr. Dalzell submitted the point of order that the motion was dilatory.

The Speaker sustained the point of order.

2823. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn, but thereafter no other motion may be made.

Form and history of section 8 of Rule XVI.

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[1] Third session Sixty-sixth Congress, Record, p. 4329.

[2] Joseph G. Cannon, of Illinois, Speaker.

Section 8 of Rule XVI provides:

Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion till the vote is taken on suspension.

The form of this rule has been modified but once since its adoption in 1868.[1] As originally framed the interdiction was limited to "dilatory" motions, but in the revision of 1911 [2] this word was omitted and the rule has since retained its present form.

[1] Second session Fortieth Congress, Record, p. 1424.

[2] First session Sixty-second Congress, Record, p. 80.

Chapter CCLV.[1]

AMENDMENTS.

2824. The motion to postpone to a day certain is subject to amendment. An amendment may not be offered to a motion against which a point of order is pending.

On May 15, 1924,[2] the Speaker laid before the House the message from the President returning without his approval the bill (H. R. 7959) providing adjusted compensation for veterans of the World War.

The message having been read, Mr. Nicholas Longworth, of Ohio, moved that consideration be postponed until Monday next, to be taken up on that day immediately after the reading and approval of the Journal.

Mr. Thomas L. Blanton, of Texas, raised a question of order against the motion.

Mr. Elton Watkins, of Oregon, asked recognition to offer an amendment to the motion.

The Speaker[3] said:

The gentleman can not do that while a point of order is pending.

After debate, the Speaker ruled:

The situation seems clear to the Chair. The gentleman from Ohio has made a motion to postpone to a day certain action on the President's veto. Now, the Constitution, as the Chair has already read, provides that "the House shall proceed to consider it." If that meant that the

[1] Supplementary to Chapter CXXV.

[2] First session Sixty-eighth Congress, Record, p. 8663.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

House should proceed immediately to vote upon it, then the action of the House for a great many years has been entirely wrong, because the House has repeatedly entertained and voted on motions to refer it to a committee and to postpone. It seems to the Chair that the language "the House shall proceed to consider it" means that the House shall immediately proceed to consider it under the rules of the House, and that the ordinary motions under the rules of the House—to refer, to commit, or to postpone to a day certain—are in order. One gentleman suggested that such a construction put it in the hands of one gentleman to determine what the House shall do; but, on the contrary, it leaves it entirely in the hands of the House. If the House does not like the motion that is made, it can vote it down, and the House can have its will. It seems to the Chair that is an exact compliance with the Constitution and is also the action which allows the House entire freedom of action. So the Chair overrules the point of order.

2825. For the purposes of amendment, a Senate amendment has the status of an original bill when considered in the House, and the four amendments permitted by the rule may be pending simultaneously.

On February 23, 1921,[1] the House was considering Senate amendment No. 9 to the post office appropriation bill.

The House having receded from its disagreement to the Senate amendment, Mr. Martin B. Madden, of Illinois, moved to concur in the amendment with an amendment.

Mr. Halvor Steenerson, of Minnesota, offered an amendment to the amendment proposed by Mr. Madden.

Mr. Eugene Black, of Texas, made a point of order that the amendment to the amendment was not in order, being in the third degree.

The Speaker[2] held:

The Senate amendment is not considered as an amendment here.

2826. The rule requiring motions to be reduced to writing on the demand of a Member applies to amendments as to other motions and is applicable in the Committee of the Whole as in the House.

While the rules provide for the submission of amendments in writing, under the practice of the House they are frequently presented orally if no Member objects but such presentation is within the discretion of the Chair.

On January 13, 1913,[3] the post office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Several amendments having been dictated to the Clerk from the floor, Mr. J. Hampton Moore, of Pennsylvania, made the point of order that amendments were required to be presented in writing.

The Chairman[4] said:

That is the fact, but, of course, it is of very frequent occurrence that a number of amendments are offered otherwise.

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[1] Third session Sixty-sixth Congress, Record, p. 3717.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session of Sixty-second Congress, Record, p. 1458.

[4] Finis J. Garrett, of Tennessee, Chairman.

The parliamentary clerk at the Speaker's table has just handed to the Chair the following rule:

"RULE XVI

"1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and it shall be entered on the Journal in the name of the Member making it, unless it is withdrawn the same day."

It would seem that if a Member proposes an amendment it is within the power of any other Member to demand that it shall be reduced to writing. Otherwise it seems to be in the discretion of the Chair.

2827. Amendments must be reduced to writing on demand and the Committee of the Whole is not required to delay its proceedings in order to permit the writing of a proposed amendment even though during the delay thus occasioned the section to which the amendment is proposed may be passed in reading and so preclude consideration of the amendment.

On December 8, 1919,[1] while the bill (H. R. 8067) to establish standard weights and measures for the District of Columbia, was being read for amendment in the Committee of the Whole House on the state of the Union, Mr. Warren Gard, of Ohio, proposed an oral amendment which he proceeded to dictate to the Clerk.

The Chairman[2] requested that the amendment be reduced to writing and sent to the desk.

Mr. Gard demurred:

I think I can state it so it can be read by the Clerk.

The Chairman said:

Amendments must be reduced to writing and sent to the Clerk's desk and read.

The Chair is simply announcing the rule of the House. The gentleman can govern himself accordingly. The Clerk will read.

Thereupon the Clerk read the succeeding section and the proposed amendment was no longer in order.

2828. Amendments are required to be reduced to writing on demand in their entirety and if any portion of a proposed amendment remains to be filled in, it is not in order.

On January 31, 1921,[3] the bill (H. R. 15935) the river and harbor appropriation bill, was being considered in the Committee of the Whole House on the state of the Union.

Mr. John H. Small, of North Carolina, offered an amendment appropriating various amounts due on certain contracts.

A point of order raised by Mr. Thomas L. Blanton, of Texas, against amounts proposed in the amendment being sustained, Mr. Small offered the amendment in modified form leaving blank spaces to be filled in by the Clerk with amounts as ascertained.

Mr. Blanton made the point of order that the entire amendment must be reduced to writing before eligible to consideration.

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[1] First session Sixty-sixth Congress, Record, p. 300.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 2352.

The Chairman [1] sustained the point of order and said:

The gentleman from Texas makes the point of order that the amendment offered by the gentleman from North Carolina is not in proper form in that it has not been reduced to writing in all respects.

The Chair will request the Clerk to advise him if the amendment has been reduced to writing in all respects. The Clerk informs the Chair that it is not in due form as now offered.

2829. Amendments are sometimes submitted orally, but on demand must be reduced to writing and sent to the Clerk's desk.

On February 16, 1929,[2] during consideration of the bill (S. 5094) for the deportation of aliens, Mr. Adolph J. Sabath, of Illinois, addressed the Chair and said:

Mr. Chairman, I offer the following amendment: On page 4 strike out the "ten" and substitute "five" for it.

Mr. Charles G. Edwards, of Georgia, raised a question of order and said:

Mr. Chairman; I make the point of order that there is no amendment pending. The gentleman has not sent it to the desk in writing.

The Chairman [3] sustained the point of order and directed the Clerk to continue the reading of the bill.

2830. Amendments may not be offered by proxy.

On May 23, 1933,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5661) to provide for the safer and more effective use of the assets of banks, to regulate interbank control, and to prevent the undue diversion of funds into speculative operations.

Mr. John C. Lehr, of Michigan, rising to a parliamentary inquiry, explained that his colleague, Mr. John D. Dingell, of Michigan, who was unavoidably absent on account of illness, had prepared an amendment to the pending paragraph of the bill, and desired that it be proposed in his name. Mr. Lehr inquired if it would be in order for him to offer the amendment as proxy for his colleague, Mr. Dingell.

The Chairman [5] said:

Amendments may not be proposed by proxy. The gentleman may offer the amendment himself.

2831. It is not in order to offer more than one motion to amend at a time.

On October 24, 1921,[6] the bill (H. R. 8762) for refunding foreign obligations was being considered in the Committee of the Whole House on the state of the Union.

Mr. James W. Collier, of Mississippi, offered the following amendment:

Page 1, line 10, after the word "authorized," insert "to enter into agreements with representatives of foreign nations"; and page 2, at the end of section 2, insert *"Provided,* That no agree-

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[1] James W. Husted, of New York, Chairman.

[2] Second session Seventieth Congress, Record, p. 3617.

[3] Robert L. Bacon, of New York, Chairman.

[4] First session Seventy-third Congress, Record, p. 4044.

[5] Clarence Cannon, of Missouri, Chairman.

[6] First session Sixty-seventh Congress, Record, p. 6701.

ment or agreements so entered into with respect to any matter herein authorized shall be deemed to have been completed, nor to have force and effect until it shall have been submitted to the Congress of the United States and embodies in a law passed by Congress."

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment embodied two substantive propositions, and was virtually two amendments in that it sought to authorize a change in the language of the bill and also to insert an independent proviso.

Mr. Finis J. Garrett, of Tennessee, took issue with this point of view and argued that if there was objection to the form of the amendment it could be reached by a demand for a division of the question.

The Chairman [1] held:

The point of order made by the gentleman from Wisconsin occurs to the Chair as being well taken. The gentleman from Wisconsin makes the point of order that the amendment consists of two parts; that it is an attempt to amend two different portions of the paragraph. The point of order is that we can not consider both amendments at the same time.

Permit the Chair to call the gentleman's attention to the fact that it appears on the face to be a little different from the usual method when amendments of this character are offered. This amendment seeks to authorize a change in the language in a part of the bill, and then follows that with an independent proviso. It hardly seems to the Chair that they can be considered together.

The point of order is sustained by the Chair. The gentleman from Mississippi can decide which amendment he wishes to represent first.

2832. 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.

On December 16, 1918,[2] during consideration of the bill (H. R. 13366) providing for retention of uniforms and personal equipment by honorably discharged soldiers and sailors, an amendment was offered including the phrase "persons who served in the United States Army."

Mr. Julius Kahn, of California, proposed to amend the amendment by substituting for the word "persons" the phrase "enlisted men."

Mr. J. M. C. Smith, of Michigan, the Member in charge of the bill, announced that he would accept the amendment.

The Speaker [3] ruled:

The gentleman from Michigan has no right to accept the amendment.

After debate, the Speaker submitted the question to the House, and Mr. William W. Hastings, of Oklahoma, called attention to the acceptance of the amendment by the Member in charge of the bill.

The Speaker said:

The gentleman from Michigan had no power to accept the amendment.

2833. On December 10, 1921,[4] during consideration of the bill (H. R. 9130) for the appointment of additional judges for certain courts of the United States,

[1] Horace M. Towner, of Iowa, Chairman.

[2] Third session Sixty-fifth Congress, Record, p. 530.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-seventh Congress, Record, p. 272.

Mr. John E. Raker, of California, offered an amendment providing that appointment of such judges conform to section 13 of the Judicial Code.

Mr. Andrew J. Volstead, of Minnesota, the Member in charge of the pending bill, said:

The committee accepts that amendment.

Mr. William B. Bankhead, of Alabama, made the point of order that it was not within the province of the Member in charge of the bill to accept an amendment, and it would be necessary for the committee to vote on the proposition.

The Chairman [1] held:

The point of order made by the gentleman from Alabama is well taken. The Chair did not intend to have the amendment adopted merely upon the ipse dixit of the gentleman from Minnesota.

2834. It is not in order to offer an amendment identical with one previously disagreed to.

On March 10, 1924,[2] the Committee of the Whole House on the state of the Union was considered the bill (H. R. 518) to authorize the sale of the Muscle Shoals plant to Henry Ford.

Mr. Olger Burtness, of North Dakota, offered an amendment, against which Mr. W. Frank James, of Michigan, raised the point of order that the amendment had been once voted on and rejected.

In response to an inquiry from the Chairman [3] as to whether the amendment was couched in the identical language in which a previous amendment had been offered, Mr. Burtness replied.

The identical language, but offered to a separate section.

After debate, the Chairman ruled:

The gentleman from North Dakota offers an amendment which he states is in the identical language of that offered by the gentleman from Michigan, Mr. McLaughlin, at an earlier place in the bill. The Chair examined the amendment offered by the gentleman from Michigan somewhat carefully at the time it was offered. It seemed to be an amendment which was germane to the bill, more perhaps than being germane to any particular section. No point of order was raised to the amendment when it was offered as being not germane at the time. The Committee of the Whole had the amendment before it in a definite and concrete way. There would be no end to consideration of a bill in Committee of the Whole if an amendment could be offered and reoffered at different stages during the progress of the bill. The Chair therefore sustains the point of order.

2835. 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.

On May 18, 1916,[4] during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 15455) to establish a United States

[1] William H. Stafford, of Wisconsin.

[2] First session Sixty-eighth Congress, Record, p. 3923.

[3] Carl E. Mapes, of Michigan, Chairman.

[4] First session Sixty-fourth Congress, Record, p. 8273.

Shipping Board, Mr. William S. Bennet, of New York, offered the following amendment:

Page 2, line 9, after the word "possession," insert the words "but for the purposes of this act the term 'common carrier by water in interstate commerce' shall not include ferryboats running on regular routes."

The question being taken on agreeing to the amendment, it was decided in the negative, yeas 50, nays 61, and the amendment was rejected.

Subsequently Mr. Bennet proposed this amendment:

Page 2, line 4, after the word "carrier," insert the words "except ferryboats running on regular routes."

Mr. Edward W. Saunders, of Virginia, submitted that the amendment had been previously rejected and was not again in order.

Mr. Bennet in combating the point of order said:

If the Chair will look to the precedents, he will find that it is for the committee and not the Chair to say, even if there is a change of as much as one word.

Mr. Chairman, this precise point was ruled upon by Speaker James G. Blaine in this House, and if the Chair will look he will find the ruling. It was made by Speaker Blaine, who was a good parliamentarian. He says that the change of a single word made the new amendment admissible.

After extended discussion, the Chairman [1] held:

The Chair is familiar with that ruling. The Chair thinks the reason Mr. Speaker Blaine ruled that way was that on account of the particular language submitted at that time there was a possibility of there being a different meaning attached to the subsequent amendment from that which was attached to the first amendment. The Chair thinks certainly that was the view of Mr. Speaker Blaine. The Chair thinks it is clear to a man of good ordinary common sense that if the Chair can see that a second amendment is not capable of any other construction than that which would be given to the first amendment that it would be a waste of time to consider it, and for that reason the Chair will sustain the point of order.

There is no doubt that Speaker Blaine was one of the greatest parliamentarians that ever presided over the House. As far as his rulings have been examined by the present occupant of the chair they always seemed to go to the substance, and not to the technical form. The present occupant of the chair is following that principle and wise practice now.

On this specific matter would there be the slightest difference in construction if the amendment now proposed be adopted from what would have been if the amendment proposed a few moments ago had been adopted?

The Chair is simply following the wise rule which provides that an amendment which has once been passed upon shall not be again in order and again be submitted. It is a well-recognized principle of parliamentary law, and the Chair, relying upon reason and common sense, will sustain the point of order.

2836. It is not in order to offer an amendment previously rejected and the mere change of figures carried in an amendment already acted on is insufficient to relieve it of that objection.

On December 12, 1919,[2] the Committee of the Whole House on the state of the Union was considering the army appropriation bill.

A committee amendment was read by the Clerk as follows:

For purchase of Dayton-Wright plant and real estate at Dayton, Ohio, $2,740,228.

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 496.

The question being taken on agreeing to the committee amendment, the yeas were 58 and the nays were 58 and the Chairman announced that the amendment was not agreed to.

After a time, Mr. Warren Gard, of Ohio, offered this amendment:

Page 10, line 10, insert: "For purchase of Dayton-Wright plant and real estate at Dayton, Ohio, $2,740,000."

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment has already been passed on.

The Chairman [1] sustained the point of order and said:

The point of order is sustained. There can be no question about it.

The Chair believes that, having disposed of the subject matter of lines 10 and 11 by rejecting them and later having adopted amendments putting on two other propositions, the amendment of the gentleman from Ohio is not in order. The Chair believes that his amendment is substantially the same as the amendment which was rejected, and therefore the Chair sustains the point of order.

2837. It is not in order to offer an amendment previously rejected but to come within the inhibition the amendment proposed must be identical with that previously disposed of.

On March 12, 1920,[2] during consideration of the bill H. R. 12775, the army reorganization bill, Mr. Charles C. Kearns, of Ohio, offered an amendment providing for a separate transportation service.

Mr. Daniel R. Anthony, Jr., of Kansas, raised a question of order against the amendment on the ground that substantially the same amendment had been previously rejected by the Committee of the Whole.

The Chairman [3] ruled:

The Chair will overrule that; it would have to be identically the same amendment, and this is not the identical amendment. The Clerk will report the amendment as modified.

2838. It is in order to offer as an amendment a proposition similar, but not substantially identical, with one previously rejected.

On June 9, 1921,[4] during consideration of the bill (H. R. 661) to establish a veterans' bureau in the Treasury Department, the following amendment offered by Mr. Oscar E. Bland, of Indiana, was rejected.

Page 5, line 10, after the word "exceeding," strike out the work "fifty" and insert in lieu thereof "one hundred and forty."

Subsequently, Mr. Hamilton Fish, Jr., proposed this amendment:

Page 5, line 10, after the word "exceeding," strike out the word "fifty" and insert the words "one hundred."

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was practically the same proposition rejected in the amendment proposed by Mr. Bland and was therefore not in order.

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[1] Martin B. Madden, of Illinois, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 4241.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-seventh Congress, Record, p. 2338.

The Chairman [1] ruled:

The Chair thinks it would have been in order when the original proposition was pending to amend that amendment by a further amendment or by a substitute. That was not done. If it had been done, the Chair thinks it would then have been in order to offer a further amendment. But the amendment of the gentleman from Indian having been voted down, the Chair thinks it is in order to offer another amendment not substantially the same as that already voted on. The Chair therefore overrules the point of order.

2839. While not in order to insert by way of amendment a paragraph similar to one already stricken out, an amendment will not be ruled out for that reason unless practically identical.

On February 20, 1923,[2] the House resumed consideration of the bill (H. R. 14270) amending the Federal farm loan act.

The pending question, on an amendment offered by Mr. Nathan L. Strong, of Pennsylvania, to strike out section 5 of the bill, being taken, was decided in the affirmative, yeas 203, nays 117, and the amendment was agreed to, and section 5 was stricken out.

Mr. Otis Wingo, of Arkansas, moved to recommit the bill to the Committee on Banking and Currency with instructions to report it back forthwith with an amendment incorporating in the bill with other matter certain provisions of section 5.

Mr. Thomas L. Blanton, of Texas, raised a question of order against the motion on the ground that the amendment carried in the instructions proposed to insert in the bill provisions of section 5 already stricken out by amendment.

After debate, the Speaker [3] held:

The Chair thinks it very clear that while this does repeat some of the provisions already stricken out, yet it is coupled with new provisions in such a way as to make it quite different. The Chair thinks this comes within the precedents that while, of course, you can not insert the same matter that was stricken out, yet it must be very nearly identical in order to have the point of order apply. The Chair thinks it very clear that this, while in some measure it repeats what the House has already acted upon, changes it so much that the Chair thinks the House is entitled to say that it prefers the change or prefers to leave it as it was. Of course, it is matter for the House to decide. The Chair overrules the point of order.

2840. Similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition.

On January 23, 1923,[4] while the joint resolution (H. J. Res. 314) proposing a Constitutional amendment regulating the issuance of tax-exempt securities, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Marvin Jones, of Texas, proposed this amendment.

Page 2, line 10, after the word "State," insert the following proviso: *"Provided,* This article shall not apply to or affect income derived from securities issued under the provisions of the Federal farm loan act or any amendments thereto."

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] Fourth session sixty-seventh Congress, Journal, p. 246.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Fourth session Sixty-seventh Congress, Record, p. 2281.

The amendment was rejected, and Mr. John C. Ketcham, of Michigan, offered the following:

Add a new section to the resolution, to be known as section 3, to read as follows:

"Nothing contained in this amendment shall be construed to refer to securities or bonds issued under the terms of the act known as the Federal farm loan act."

Mr. Carl R. Chindblom, of Illinois, objected to consideration of the amendment on the ground that it embodied the same proposition previously rejected in the form of the amendment proposed by Mr. Jones.

The Chairman [1] held:

The amendment proposed by the gentleman from Michigan as a new section in substance is similar to the amendment proposed by the gentleman from Texas, but in form it is not the same. It has been held by occupants of the Chair, including the late Mr. Speaker Clark, that a verbal change sometimes will make an amendment caused a deviation making that second amendment in order. Therefore the Chair will overrule the point of order.

2841. A negative vote on an amendment does not prevent the offering of another amendment embodying a similar proposition in slightly different phraseology.

It is for the House rather than the Chair to decide on the legislative effect of a proposition.

On March 21, 1916,[2] the House was in the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 12766, the army reorganization bill.

Mr. Julius Kahn, of California, offered this amendment:

After the expiration of two years' service in a first or subsequent enlistment, enlisted men serving within the continental limits of the United States may be furloughed to the Army reserve in the grade in which then serving, or may, in the discretion of the Secretary of War, be reenlisted for a period of seven years: *Provided, however,* That after the expiration of one year's honorable service any enlisted man serving within the continental limits of the United States whose company, troop, battery, or detachment commander shall report him as proficient and sufficiently trained, may, in the discretion of the Secretary of War, be furloughed to the Army reserve, under such regulations as the Secretary of War may prescribe, in which event he shall not be eligible to reenlist in the service until the expiration of his term of seven years.

The question being taken on agreeing to the amendment, it was decided in the negative and the amendment was rejected.

Thereupon Mr. Augustus P. Gardner, of Massachusetts, proposed the following:

Provided, That after the expiration of one year's honorable service any enlisted man of the Regular Army, whose company, troop, battery, or detachment commander shall report him as proficient and sufficiently trained, may, in the discretion of the Secretary of War, be furloughed to the Regular Army reserve, under such regulations as the Secretary of War may prescribe, in which event he shall not be eligible to reenlist in the service until the expiration of his term of seven years.

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[1] Clifton N. McArthur, of Oregon, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 4561.

Mr. James Hay, of Virginia, made the point of order that the amendment was substantially the amendment just disagreed to by the House and it was not in order to again vote on the proposition.

Mr. William S. Bennet, of New York, opposed the point of order and said:

Mr. Chairman, if the Chair will take the House Manual and turn to page 192 he will see that under the decisions of the House if there is a change of even a single word, following the ruling of Mr. Speaker Blaine, it is not for the Chair to pass upon the competence of the amendment, but that is for the House. So long as the amendment is not identical, then the House has the right to say whether it will accept or reject, and, with all due respect, it is not within the province of the Chair. That has been held time and time again in the provisions cited under section 459 of the House Manual.

The Chairman [1] overruled the point of order.

2842. On January 31, 1923,[2] the Committee of the Whole House on the state of the Union resumed consideration of the bill (H. R. 13773) to amend an act regulating radio communication.

Mr. Marvin Jones, of Texas, proposed an amendment providing for the right of appeal from orders of the Secretary of Commerce, to a court of competent jurisdiction.

Mr. Carl R. Chindblom, of Illinois, made the point of order that a similar amendment had previously been offered to the bill and rejected by the committee.

After debate the Chairman [3] ruled:

A distinction should be made in passing upon the question whether the same provision has been acted upon heretofore, as to whether the amendment has been voted up or voted down. If it has been voted into the bill and then it is offered again, with a slight modification by the addition of a word or two or a phrase or clause, that would not entitle it to be held in order for the reason that the subject matter was under consideration and opportunity had been given to offer and have adopted any germane amendment. But where an amendment is voted down, as in this case, and it is again proposed with a modification which makes it different from the form in which it was offered before, the Chair holds that it is within the province of the Member to offer the amendment in the changed form. Therefore the Chair overrules the point of order.

2843. A proposition offered as a substitute amendment and rejected, may nevertheless be offered again as an amendment in the nature of a new section.

On April 8, 1922,[4] the Committee of the Whole House on the state of the Union having under consideration the Departments of State and Justice appropriation bill, Mr. Ben Johnson, of Kentucky, proposed as a new section an amendment previously offered to the preceding paragraph and rejected.

Mr. James W. Husted, of New York, made the point of order that the amendment had just been rejected in the precise form in which now offered and was not again in order.

The Chairman [5] referred to section 5797 of Hinds' Precedents, holding that a proposition, though rejected when offered as a substitute amendment, might

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 2781.

[3] William H. Stafford, of Wisconsin, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 5211.

[5] Cassius C. Dowell, of Iowa, Chairman.

nevertheless be offered again as an amendment in the nature of a new section, and overruled the point of order.

2844. An amendment once rejected may be again proposed at another place in the bill to which germane.

On February 26, 1921,[1] the House was considering an amendment of the Senate to the executive, legislative and judicial appropriation bill, providing for an annual bonus of $240 per annum to civilian employees of the Government.

Mr. William R. Wood, of Indiana, moved to concur in the Senate amendment in the nature of a substitute providing for a bonus of varying amounts graduated in proportion to salary received, and exempting certain employees from the benefits of the proposed law.

Mr. James W. Dunbar, of Indiana, moved to amend the substitute with a provision limiting the amount of bonus payable to employees of the Bureau of War Risk Insurance receiving less than $400 per annum.

Mr. Adolph J. Sabath, of Illinois, as a parliamentary inquiry, asked if it would be in order, in event of the rejection of the amendment to the substitute, for Mr. Dunbar to again offer it as an original amendment.

The Speaker pro tempore[2] held it would not be in order to again offer the amendment to the substitute, but should the substitute be defeated it would then be in order to offer the same amendment to the Senate amendment.

2845. A negative vote on an amendment offered to a preceding paragraph does not prevent the offering of a similar amendment as a new section.

On May 12, 1992,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10972) providing for the readjustment of pay of the Army, Navy, and Marine Corps.

Mr. Oscar E. Bland, of Indiana, offered an amendment authorizing the computation of 5 per cent of National Guard service by commissioned officers for longevity pay.

Mr. William H. Stafford of Wisconsin, raised a question of order against the amendment and said:

I wish to call the Chair's attention to the fact that on yesterday when section 1 was under consideration, that part which provides for longevity pay to which this amendment directly relates, this amendment in substance was offered twice in a different form and rejected by the committee. Twice was it offered and by this committee rejected. It is substantially the same amendment.

The Chairman[4] held:

The Chairman is not convinced that there is delay in legislation by permitting the amendment to be introduced in a different form from that of the day before. Therefore The Chair will overrule the point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 4001.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[3] Second session Sixty-seventh Congress Record, p. 6848.

[4] Simeon D. Fess, of Ohio, Chairman.

2846. A motion to strike out a paragraph being pending, and the paragraph then being perfected by an amendment in the nature of substitute, the motion to strike out necessarily falls.

On May 12, 1922,[1] while the bill (H. R. 10972) for readjustment of army pay, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Frank W. Mondell, of Wyoming moved to strike out the pending paragraph.

Mr. William H. Stafford, of Wisconsin, offered an amendment in the nature of a substitute for the entire paragraph.

The substitute having been agreed to, Mr. Joseph Walsh, of Massachusetts, made a point of order that the question recurred on the motion to strike out the paragraph.

The Chairman[2] ruled:

The amendment agreed to was in the nature of a substitute, and, therefore the motion to strike out has no effect.

A motion to strike out a paragraph being pending and the paragraph then being perfected by an amendment in the nature of a substitute, a motion to strike out necessarily falls.

2847. To a motion to strike out certain words in a bill and insert others, a simple motion to strike out the words in the bill may not be offered as a substitute.

On August 19, 1921,[3] while the bill H. R. 8245, the revenue bill, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Nicholas Longworth, of Ohio, moved to strike out lines 12 to 17, inclusive, on page 2 of the bill, and insert a paragraph in lieu therof.

Mr. Edward J. King, of Illinois, offered, as a substitute for the proposed amendment, the following:

Page 2, strike out, beginning with line 12, up to and including line 17.

The Chairman[4] held that the motion to strike out was not in order as a substitute for the motion to strike out and insert as the latter motion was not divisible.

2848. When it is proposed to strike out certain words in a paragraph, it is not in order to amend by adding to them other words of the paragraph.

To an amendment relating to the molasses schedule in a tariff bill an amendment affecting the sugar schedule in the same paragraph of the bill is not germane.

On May 25, 1929,[5] the Committee of the Whole House on the state of the Union was considering the bill H. R. 2667, the tariff bill.

Mr. Charles B. Timberlake, of Colorado, for the Committee, offered an amendment to strike out certain language in the molasses schedule.

To this amendment Mr. Fiorello H. LaGuardia, of New York, proposed to offer a substitute striking out additional language of the paragraph in the sugar schedule.

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[1] Second session Sixty-seventh Congress, Record, p. 6843.

[2] Simeon D. Fess, of Ohio, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 5285.

[4] Joseph Walsh, of Massachusetts, Chairman.

[5] First session Seventh-first Congress, Record, p. 1937.

Mr. Willis C. Hawley, of Oregon, raised a question of order against the substitute.

The chairman [1] held:

In the opinion of the Chair, the amendment offered by the gentleman from New York is not in accord with the ruling made by Chairman Olmstead, which may be found in Volume V, section 5768, of Hinds' Precedents. Chairman Olmstead in effect rules that when it is proposed to strike out certain words in a paragraph it is not in order to amend by adding to them other words of the paragraph. Another objection that the Chair can see in the amendment offered by the gentleman from New York is that it is not germane to the committee amendment. The committee amendment affects only the blackstrap schedule. The amendment of the gentleman from New York affects the sugar schedule. For these reasons the Chair does not think the amendment to be in order and sustains the point of order.

2849. The motion to strike out and insert is a perfecting amendment and takes precedence of a simple motion to strike out.

A motion to strike out and insert is not in order as a substitute for a simple motion to strike out.

On May 25, 1929,[2] during consideration oft he bill H. R. 2667, the tariff bill, in the Committee of the Whole House on the state of the Union, Mr. Charles B. Timberlake, of Colorado, offered an amendment to strike out certain provision in the sugar schedule.

To this amendment Mr. William E. Hull, of Illinois, offered a substitute inserting language in lieu of that proposed to be stricken out.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the purported substitute was not, in fact, a substitute.

The Chairman [3] ruled:

The amendment offered by the gentleman from Colorado is to strike out certain words. To this the gentleman from Illinois has offered a substitute amendment to strike out and insert.

This is offered as a substitute for the amendment offered by the gentleman from Colorado.

In the opinion of the Chair, a motion to strike out and insert is not in order as a substitute amendment to a simple motion to strike out. If the gentleman from Illinois had offered him amendment as a perfecting amendment, the present occupant of the Chair would have ruled it in order.

The Chair sustains the point of order.

2850. While it is not in order to submit for consideration by way of amendment a proposition previously passed on, an amendment raising the same question, but in other words, is admissible.

On October 3, 1918,[4] the House resumed consideration of the bill (H. R. 12404) authorizing a building for the public health service, coming over from the preceding day with the previous question ordered.

A committee amendment authorizing the purchase of material in the open market was agreed to, and the bill was read a third time.

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[1] Earl C. Michener, of Michigan, Chairman.

[2] First session Seventy-first Congress, Record, p. 1926.

[3] Bertrand H. Snell, of New York, Chairman.

[4] Second session Sixty-fifth Congress, Record, p. 11098.

Mr. James W. Good of Iowa, moved to recommit the bill with instruction to report back forthwith with an amendment forbidding the purchase of material on a cost-plus basis.

Mr. Finis J. Garrett, of Tennessee, made the point of order that amendment embodied a proposition already passed upon by the House in the adoption of the committee amendment just agreed to, and was not admissible.

The Speaker [1] cited a decision by Mr. Speaker Blaine on a similar question and overruled the point of order.

2851. A motion to strike out an amendment just inserted is not in order.

On January 5, 1921,[2] during consideration of the sundry civil appropriation bill in the Committee of the Whole House on the state of the Union, an amendment proposed by Mr. James W. Good, of Iowa, was agreed to providing fro transportation facilities on inland and coastwise waterways.

Mr. James A. Frear, of Wisconsin, moved to strike out the amendment as adopted.

The Chairman [3] declined to recognize the gentleman for that purpose.

2852. After a vote to insert a proposition in a bill it is too late to perfect the proposition by amendment.

On January 24, 1928,[4] during the consideration of the independent offices appropriation bill, in the Committee of the Whole House on the state of the Union, an amendment was agreed to changing the amount of the United States Shipping Board fund from $12,000,000 to $13,400,000.

Subsequently, Mr. Henry A. Cooper, of Wisconsin, offered an amendment proposing to change the amount to $12,300,000.

Mr. William R. Wood, of Indiana, made the point of order that after the original amendment had been inserted in the bill it was then too late to offer amendments proposing to perfect the language embodied in the amendment.

The Chairman [5] sustained the point of order.

2853. Words inserted by amendment may not afterwards be changed. It is not in order to strike out an amendment already agreed to by the House.

On June 23, 1919,[6] the joint resolution (H. J. Res. 104) for the appointment of clerks to Members was under consideration in the Committee of the Whole House on the state of the Union.

An amendment in the nature of a substitute recommended by the Committee on Accounts, reporting the bill was agreed to as follows:

Strike out all after the enacting clause and insert the following:

That the appropriation in the legislative, executive, and judicial appropriation act, approved March 1, 1919, for clerk hire for Members, Delegates, and Resident Commissioners may

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 999.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] First session Seventieth Congress, Record, p. 1967.

[5] Cassius C. Dowell, of Iowa, Chairman.

[6] First session Sixty-sixth Congress, Record, p. 1606.

be paid by the Clerk of the House of Representative to one or two persons to be designated by each Member, Delegate, and Resident Commissioner, the names of such persons to be placed upon the roll of employees, of the House of Representatives, together with the amount to be paid each, and Representatives and Delegates elect to Congress shall likewise be entitled to make such designations: *Provided,* That such person shall be subject to removal at any time by such Member, Delegate, or Resident Commissioner with or without cause.

The joint resolution having been read a third time, Mr. Martin B. Madden, of Illinois, moved to recommit the joint resolution to the Committee on Accounts with instructions to that committee to report it back to the House forthwith with an amendment striking out all after the enacting clause and inserting the following:

That hereafter each Member, Delegate, and Resident Commissioner of the House of Representatives shall be allowed for clerical assistance necessarily employed by him in the discharge of his official and Representative duties $3,200 per annum, payable in monthly installments, the name or names of such person or persons, with the address of each so employed, to be filed with the Clerk of the House, together with the amount or amounts paid or to be paid such person or persons.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the amendment proposed in the motion to recommit involved the striking out of an amendment already agreed to by the House.

The Speaker [1] sustained the point of order and said:

The Chair thinks the point of order is well taken; that the committee has already substituted an amendment for everything after the enacting clause, and what the committee has already inserted can not be taken out.

The Chair will state that this is a peculiar situation. The Committee of the Whole has stricken out the entire resolution as it originally stood has reported a substitute. Now that substitute is an amendment, and the House can not strike out an amendment which already has been adopted by the committee and by the House.

2854. It is not in order to strike out a paragraph previously inserted by amendment.

A motion to strike out a paragraph being pending, and the paragraph being then perfected by an amendment in the nature of a substitute, the motion to strike out necessarily falls.

To a motion to strike out certain words and insert others a simple motion to strike out the words in the bill may not be offered as a substitute.

A motion to strike out and insert takes precedence of a simple motion to strike out the same language.

On August 19, 1921, [2] the House in the Committee of the Whole House on the state of the Union was considering the bill H. R. 8245, the revenue bill.

Mr. Edward J. King, of Illinois, offered an amendment to strike out the pending paragraph.

Mr. Nicholas Longworth, of Ohio, offered as preferential, a motion to strike out the pending paragraph and insert certain language in lieu thereof.

The Chairman [3] held that the motion to strike out and insert took precedence of the motion to strike out.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 5284.

[3] Joseph Walsh, of Massachusetts, Chairman.

The motion to strike out and insert being put was agreed to.

Mr. King requested that the question then be taken on his motion to strike out the paragraph.

The Chairman said:

The amendment of the gentleman from Ohio was to strike out the paragraph and insert new language. That motion being carried the pending motion to strike out the paragraph falls.

Mr. King moved to strike out the paragraph as amended.

The Chairman rules:

The motion is not in order. The rulings, in the recollection of the Chair, state that a committee having stricken out language and inserted language and substituted an entire new paragraph, that a pending motion to strike out falls by the action of the committee. That action upon the motion to strike out the entire paragraph could only be had on the failure of the motion to strike out and insert.

Mr. Finis J. Garrett, of Tennessee, having appealed, the decision of the chair was sustained, yeas 110, nays 76.

2855. While an amendment which has been agreed to may not be modified, a proposition to strike it from the bill with other language of the original text is in order.

April 23, 1928,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (S. 3740) for the control of floods of the Mississippi River and its tributaries.

A committee amendment to section 3 of the bill was agreed to, when Mr. Martin B. Madden, of Illinois, offered an amendment to strike out section 3, including the amendment just adopted.

Mr. Frank R. Reid, of Illinois, made the point of order that an amendment having been inserted in the bill, it was not in order to propose further disposition by amendment.

The Chairman[2] ruled:

The Chair is read to dispose of any point of order. It is quite in order to strike out a section that has been amended and insert new language.

2856. It is not in order to amend an amendment agreed to by the House.

On June 28, 1922,[3] the Committee of the Whole House on the state of the Union reported to the House the bill (S. 3425) to continue certain land offices, with the recommendation that it be agreed to with an amendment closing designated land offices.

The amendment having been agreed to by the House and the bill being read a third time, Mr. Louis C. Cramton, of Michigan, moved to recommit the bill with instructions to report it back forthwith with an amendment restoring the land offices affected by the amendment just agreed to by the House.

Mr. James R. Mann, of Illinois, raised a question of order against the motion.

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[1] First session Seventh Congress, Record, p. 7022.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Second session Sixty-seventh Congress, Record, p. 9640.

The Speaker [1] sustained the point of order and said:

The House has adopted this amendment. It is not the act of the committee, but an act of the House, and after it has been adopted the House can not amend it.

The Chair sustains the point of order.

2857. After a vote to insert a new section in a bill, it is too late to perfect the section by amendment.

On June 6, 1929, [2] the Committee of the Whole House on the state of the Union was considering the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress.

Mr. John Q. Tilson, of Connecticut, offered an amendment proposing a substitute for section 22 of the bill.

The question being taken, on division, there appeared yeas 212, noes 102. So the amendment was agreed to.

Thereupon, Mr. William B. Bankhead, of Alabama, proposed an amendment to the new section just adopted.

Mr. Carl E. Mapes, of Michigan, made the point of order that amendments proposing to perfect the new section came too late after the vote on its adoption.

The Chairman [3] sustained the point of order and said:

The point of order is well taken. The committee has agreed to the amendment offered by the gentleman from Connecticut.

It should have been offered before it was adopted.

The amendment is now out of order on the ground that the proposition to which the amendment is offered has just been agreed to, and has been adopted by the committee as a substitute for section 22 of the bill.

2858. A motion to strike out certain words being disagreed to, it is in order to strike out a portion of those words.

On March 21, 1930, [4] the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways, was being considered in the Committee of the Whole House on the state of the Union.

Mr. George Huddleston, of Alabama, moved to strike out all of section 9 of the bill.

The amendment having been rejected, Mr. Merlin Hull, of Wisconsin, proposed to strike out subsection (b) of section 9.

Mr. Carl E. Mapes, of Michigan, made the point of order that the question of striking out the subsection had been passed on by the Committee in refusing to strike out the section.

The Chairman [5] said:

The Chair overrules the point of order inasmuch as this strikes out a part of the section.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Seventy-first Congress, Record, p. 2454.

[3] Carl R. Chindblom, Chairman.

[4] Second session Seventy-first Congress, Record, p. 5881.

[5] Earl C. Michener, of Michigan, Chairman.

2859. In the Committee of the Whole an amendment once offered may not be modified except by unanimous consent.

On January 31, 1921,[1] during consideration of the river and harbor bill, Mr. John H. Small, of North Carolina, offered an amendment making appropriations for a number of river and harbor projects, including the construction of locks on the Allegheny River, with the proviso that the appropriation for the latter project should not be available until the bridges across this river at Pittsburgh had been raised to permit navigation.

Subsequently, and before debate had begun on the amendment, Mr. Small asked to modify his amendment by striking out the proviso.

Mr. Thomas L. Blanton, of Texas, objected.

Mr. Finis J. Garrett, of Tennessee, as a parliamentary inquiry, asked if the modification might not be made by the proponent before action on the amendment by the committee as a matter of right.

The Chairman[2] said:

It requires unanimous consent to modify an amendment in Committee of the Whole, whether debate has proceeded or not.

2860. A perfecting amendment, has precedence of a motion to strike out and must be first voted on when both are pending, but a member recognized on a motion to strike out may not be deprived of the floor by another member proposing a perfecting amendment.

On April 29, 1918,[3] the bill (H. R. 11259) relative to minerals and metals for war purposes, was being read for amendment in the Committee of the Whole House on the state of the Union.

Mr. Sydney Anderson, of Minnesota, being recognized moved to strike out the section.

Mr. William E. Cox, of Indiana, offered as preferential, a motion to perfect the section proposed to be stricken out, and proceeded in debate.

The Chairman[4] said:

The Chair wishes to make a statement as to a matter which seems to be somewhat misapprehended. The impression seems to prevail that anyone offering an amendment to perfect the text has a preferential right to the floor as against some one else who has been recognized and made a motion to strike out the section. That is a mistake. No one seeking to offer a perfecting amendment, has a right to recognition as against another who has been recognized, and moved to strike out the section or paragraph proposed to be perfected. There is a relation of priority in the matter, but it relates to the order in which the motions shall be submitted. No one who has obtained the floor on a motion to strike out a section, can be taken from its feet by another Member seeking to offer an amendment to perfect the text. The Member offering an amendment to strike out has a right to proceed with his argument to conclusion, and then before the motion is put if some one else wishes to offer a perfecting amendment, he can be recognized to submit, and speak to the same. Two amendments will then be pending, but under the rules, the perfecting amendment must be put before the amendment to strike out. The Chair makes this statement because there seems to be a misapprehension as to the relative rights of Members of the committee in this connection.

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[1] Third session Sixty-sixth Congress, Record, p. 2351.

[2] James W. Husted, of New York, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 5790.

[4] Edward Saunders, of Virginia, Chairman.

2861. An amendment in the nature of a substitute having been proposed, amendments to the original text proposed to be stricken out are in order and are voted on before the question is taken on the substitute.

It is in order to perfect words proposed to be stricken out and a perfecting amendment is admissible after debate on the motion to strike out has begun.

On January 9, 1919,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 13274) for the relief of informal war contracts.

Mr. J. Hampton Moore, of Pennsylvania, offered a motion proposing a substitute for the bill.

Mr. William H. Stafford, of Wisconsin, proposed to offer an amendment to perfect the text proposed to be stricken out and submitted a parliamentary inquiry as to the status of such an amendment.

The Chairman[2] said:

> The Chair would state that the substitute, of course, is nothing but an amendment, and the Chair thinks it is in order at this time to offer an amendment in the nature of a substitute. The Chair, however, believes that if any of the Members have an amendment to perfect the text those amendments should be voted on before the vote is taken on the substitute.

Mr. Stafford then asked if it would be in order to offer an amendment to perfect the text after a substitute had been proposed and debated.

The Chairman replied in the affirmative.

2862. Amendments reported by a committee are acted on before those offered from the floor.

On January 7, 1919,[3] the House was considering, as in the Committee of the Whole, the bill (H. R. 8625) to accept lands for the construction of a military road.

While a number of amendments recommended by the Committee on Public Lands were still pending, Mr. Nicholas J. Sinnott, or Oregon, proposed to offer an amendment from the floor.

The Speaker pro tempore[4] declined recognition for that purpose and said:

> The committee amendments will be first disposed of and then the Chair will recognize the gentleman to offer an amendment. The Clerk will first report the committee amendment.

2863. On September 21, 1917,[5] the bill (S. 2156) to authorize exploration for potassium, was being considered in the House as in the Committee of the Whole.

During the consideration of amendments recommended by the Committee on Public Lands, reporting the bill, Mr. John E. Raker, of California, proposed to offer an amendment from the floor.

The Speaker[6] said:

> The practice is to take up the committee amendments first. The Chair will recognize the gentleman later. The Clerk will report the next committee amendment.

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[1] Third session Sixty-fifth Congress, Record, p. 1207.

[2] Charles R. Crisp, of Georgia, Chairman.

[3] Third session Sixty-fifth Congress, Record, p. 1123.

[4] Charles R. Crisp, of Georgia, Speaker pro tempore.

[5] First session Sixty-fifth Congress, Record, p. 7308.

[6] Champ Clark, of Missouri, Speaker.

2864. Amendments recommended by the committee reporting the bill are read following the first reading of the bill in Committee of the Whole.

On December 3, 1918,[1] the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 12917) for the establishment of a sanitarium for discharged soldiers and sailors.

Mr. Frank Clark, of Florida, asked unanimous consent to dispense with the first reading of the bill.

Objection having been made, the bill was read in full, when the Chairman[2] directed the Clerk to read the proposed committee amendments.

Mr. Clark inquired if the reading of the committee amendments was necessary.

The Chairman held that the reading of the committee amendments in full was essential and directed the Clerk to complete the reading.

2865. Amendments recommended by the committee reporting a bill must be passed upon by the House and portions of the bill recommended to be stricken out remain in the bill until acted upon by the House and must be read with the remainder of the bill at the first reading, even though omitted in the committee print.

A motion in the Committee of the Whole House to take up for consideration a designated bill is not subject to amendment and is not debatable.

The Committee of the Whole House determines the order in which it will consider bills on its calendar.

In the Committee of the Whole House the chairman of the standing committee reporting business in order on the current day is entitled to prior recognition to offer motions relative to the order of business, but such motions being rejected, the right to recognition passes to the leading Member in opposition.

On Friday, February 17, 1911,[3] on motion of Mr. George W. Prince, of Illinois, the House resolved itself into the Committee of the Whole House for the consideration of bill son the Private Calendar.

Mr. Prince offered a motion to take up for consideration the bill (H. R. 26121) for the relief of Edward F. Kearns.

Mr. Thetus W. Sims, of Tennessee, asked recognition to move to take up the bill (S. 7971), the omnibus claims bills.

The Chairman[4] ruled that Mr. Prince, as chairman of the Committee on Claims, the committee reporting bills in order on that day, was entitled to prior recognition to offer a motion relating to the order of business.

The motion proposed by Mr. Prince to take up the bill (H. R. 26121), having been read by the Clerk, Mr. Sims moved to amend by substituting the omnibus claims bill.

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[1] Third session Sixty-fifth Congress, Record, p. 52.

[2] Martin D. Foster, of Illinois, Chairman.

[3] Third session Sixty-first Congress, Record, p. 2803.

[4] Frank D. Currier, of New Hampshire, Chairman.

Mr. James R. Mann, of Illinois, made the point of order that the motion was not subject to amendment.

The Chairman held:

The Chair so understands. A substitute is in the nature of an amendment. The Chair can not see that it will expedite business any to entertain the motion to the gentleman to amend by substituting another bill, since it is just as easy to vote down the motion made by the gentleman from Illinois. The Chair does not think that the motion made by the gentleman from Illinois is either debatable or amendable.

The question being taken on the pending motion, the yeas were 61 and the nays were 82, and the motion was not agreed to.

Mr. Sims submitted that he was entitled to recognition.

The Chairman recognized Mr. Sims who moved to take up for consideration the omnibus claims bill.

Mr. Augustus P. Gardner, of Massachusetts, as a parliamentary inquiry desired to know if the motion was debatable.

The Chairman said:

The motion is not debatable.

The motion was agreed to, and Mr. Mann demanded the reading of the bill in full.

When the section relating to the French spoliation claims was reached, Mr. Sims called attention to the report of the Committee on Claims recommending that this portion of the bill be stricken out, and explained that it had omitted from the committee print of the bill, and submitted that it was not necessary to read it.

The Chairman ruled:

It is a part of the bill and the Clerk will continue the reading.

2866. Bills are read for amendment in Committee of the Whole by sections or paragraphs and amendments are not in order until the reading of the section or paragraph has been completed.

On December 18, 1917,[1] the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (H. J. Res. 195) to levy a war tax on excess profits.

At the close of general debate the Clerk proceeded to read the bill amendment and had read a clause of the first paragraph when Mr. John W. Langley, of Kentucky, interrupted the reading and moved to strike out the last word.

Mr. J. Hampton Moore, of Pennsylvania, made the point of order that the reading of the paragraph had not been concluded and it was not in order to offer amendments until the paragraph had been read in full.

The Chairman[2] sustained the point of order and said:

The gentleman from Pennsylvania has raised a point of order which the Chair thinks is well taken. The Chairman will recognize the gentleman from Kentucky when the first paragraph is really read.

[1] Second session Sixty-fifth Congress, Record, p. 527.

[2] Walter A. Watson, of Virginia, Chairman.

2867. In reading a bill for amendment under the five minute rule a paragraph is passed when an amendment proposing the adoption of a new section is entertained, but if such amendment is ruled out on a point of order, the paragraph last read is still pending.

On March 21, 1908,[1] the fortifications appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Harry L. Maynard, of Virginia, offered an amendment to the pending paragraph to be inserted as a new section, which was ruled out on a point of order.

Mr. David A. DeArmond, of Missouri, then proposed an amendment to the paragraph last read.

Mr. Walter I. Smith, of Iowa, made the point of order that an amendment in the form of a new section having been offered, the paragraph last read had been passed and it was now too late to propose to amend it.

The Chairman[2] held:

The gentleman from Virginia having offered an amendment by a new paragraph if that had been entertained, the motion of the gentleman from Missouri would be too late beyond question; but that not having been entertained, it can scarcely be held that the paragraph is passed, and consequently the Chair overrules the point of order.

2868. An amendment to perfect the pending section takes precedence of an amendment offered as a new paragraph.

On July 19, 1919,[3] the bill (H. R. 6810) the prohibition enforcement bill, was under consideration in the Committee of the Whole house on the state of the Union, under the five-minute rule.

Mr. John F. Miller, of Washington, offered an amendment to be inserted as a new paragraph to follow the pending section.

Mr. Edward W. Saunders, of Virginia, raised a question of order against the amendment on the ground that several Members desired to offer amendments to perfect the pending section.

The Chairman[4] sustained the point of order.

2869. On September 12, 1919,[5] the bill (H. R. 8778) to amend the war risk insurance act, was being considered in the Committee of the Whole House on the state of the Union.

Mr. Roscoe C. McCulloch, of Ohio, proposed an amendment to be inserted as a new section.

Mr. Fred H. Dominick, of South Carolina, requested recognition to offer an amendment to perfect the pending section.

The Chairman[6] held:

The Chair rules that the original section can be amended as long as any gentleman desires to offer an amendment to it.

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[1] First session Sixtieth Congress, Record, p. 3729.

[2] Irving P. Wanger, of Pennsylvania, Chairman.

[3] First session Sixty-sixth Congress, Record, p. 2875.

[4] James W. Good, of Iowa, Chairman.

[5] First session Sixty-sixth Congress, Record, p. 5328.

[6] John Q. Tilson, of Connecticut, Chairman.

An amendment to perfect the text of the section would take precedence over an amendment offered as a new section.

2870. During the reading of a bill for amendment, a paragraph or amendment when once reported may not be read a second time except by order of the committee.

On January 22, 1924,[1] the Committee of the Whole House on the state of the Union was considering the Interior Department appropriation bill.

The Clerk read a paragraph proposing to close certain land offices.

Mr. Louis C. Cramton, of Michigan, offered an amendment providing for continuance of the land offices at Sacramento, California, Great Falls, Montana, and Alliance, Nebraska.

Mr. Frank Clark, of Florida, asked that the paragraph and amendment be read as it would appear if the amendment was adopted.

Mr. Thomas L. Blanton, of Texas, objected.

Mr. Otis Wingo, of Arkansas, made the point of order that it was in order for a Member to demand, as a matter of right, the reading of an amendment upon which he was required to vote.

The Chairman[2] held that a second reading was in order only by unanimous consent, and overruled the point of order.

2871. A motion to suspend the rules and pass a bill with amendments is a proposal to suspend all rules and it is not necessary to read the bill in its original form.

On June 27, 1921,[3] Mr. Thomas B. Dunn, of New York, moved to suspend the rules and pass the bill (S. 1072) providing for rural post roads, with certain amendments proposed by the Committee on the Post Office and Post Roads, reporting the bill.

The Clerk proceeded to read the bill as amended when Mr. Finis J. Garrett, of Tennessee, made the point of order that the Senate bill should first be read in its original form.

The Speaker[4] ruled:

It seems to the Chair that the practical purpose is best effected by simply reading the portion of the bill which it is expected to have enacted, because the motion to suspend the rules does not allow more than one vote. In ordinary cases the Senate bill is reported and then the House amendments. Then the vote comes first on the amendments and then on the bill as amended. Of course, under a suspension there is only one vote, and that is on the passage of whatever has been read. That has been the practice, and the Chair thinks that conforms to the convenience of the House. Only the matter is read which the House is to pass upon. It seems to the Chair to be clearly a waste of time to read the Senate bill and then the amendments. Inasmuch as the practice is in the way the Chair has suggested, the Chair is disposed to rule that all the Clerk ought to report is the title of the Senate bill and then the portion that may have been left by the House committee, and the amendment of the House committee.

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[1] First session Sixty-eighth Congress, Record, p. 1293.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 3081.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

2872. An amendment read for information is not pending and in order to be considered must again be read when the paragraph to which proposed is reached in the bill.

On July 19, 1919,[1] the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 6810, the prohibition enforcement bill.

Mr. Andrew J. Volstead, of Minnesota, asked that amendments which had previously been read for information, be considered as pending.

Mr. Joseph Walsh, of Massachusetts, made the point of order that in order to be considered the amendments would have to be again reported.

The Chairman[2] sustained the point of order.

2873. During the reading of a bill for amendment in Committee of the Whole, it is not in order to interrupt the reading of a paragraph or section with a parliamentary inquiry.

On August 29, 1918,[3] the bill S. 1419, the water power bill, was being read for amendment in the Committee of the Whole House on the state of the Union.

The Clerk was reading the second section of the bill when Mr. John E. Raker, of California, interposed and proposed to submit a parliamentary inquiry.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the reading of a section could not be interrupted by a parliamentary inquiry.

The Chairman[4] sustained the point of order and directed the Clerk to complete the reading of the section.

2874. A pro forma amendment must be voted on unless withdrawn.

On April 18, 1908,[5] the diplomatic and consular appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

Mr. Gustav Kustermann, of Wisconsin, for the purpose of securing the floor in debate, moved to strike out the last word of the pending paragraph.

After debate, the Chairman directed the Clerk to continue the reading of the bill.

Mr. John Sharp Williams, of Mississippi, made the point of order that further reading of the bill was not in order until the pending amendment was voted on.

The Chairman[6] said:

> The Chair will say to the gentleman from Mississippi that the method by which we proceed when a motion is made to strike out the last word has become a custom almost, but the Chair stands corrected by the gentleman from Mississippi, and now announces that the pro forma amendment to strike out the last word will, without objection, be considered as having been withdrawn.

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[1] First session Sixty-sixth Congress, Record, p. 2860.

[2] Cassius C. Dowell, of Iowa, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 9663.

[4] Edwin Y. Webb, of North Carolina, Chairman.

[5] First session Sixtieth Congress, Record, p. 4926.

[6] Adin B. Capron, of Rhode Island, Chairman.

2875. It is in order, by a motion to insert, to effect a transfer of paragraphs from the latter to the first portion of a bill.

On December 8, 1919,[1] during consideration in the Committee of the Whole House on the state of the Union, of the bill (H. R. 8067) to establish standard weights and measures for the District of Columbia, Mr. William B. Bankhead, of Alabama, being recognized, said:

Mr. Chairman, a few moments ago I submitted a parliamentary inquiry to the Chair, who decided that it was not in order to move a transposition of sections 1 and 31. I am now informed that the Chair thinks possibly he was inadvertent in that ruling, and in order to raise that question in its appropriate place, I ask unanimous consent to return to section 1, so that I may offer that motion.

Whereupon, the Chairman[2] announced:

The Chair will announce that when the parliamentary inquiry was made by the gentleman from Alabama the Chair stated that a subsequent section could only be inserted in the portion of the bill under consideration by unanimous consent. The Chair thinks he was in error, if the matter desired to be transposed is proper for consideration at the portion of the bill under discussion. It has been held in the consideration of bills in the House that a subsequent section might be offered in connection with the section then under consideration. The Chair wants to make that statement in connection with the present request of the gentleman from Alabama.

2876. The pagination and marginal numerals are no part of the text of a bill and, after amendment, are altered, changed or transposed by the clerk to conform to the amended text without order.

On September 13, 1917,[3] during consideration of the bill (H. R. 5723) amending the war risk insurance act, Mr. Sam Rayburn, of Texas, offered an amendment to be inserted after a certain word in line 15 of the bill.

Mr. William W. Rucker, of Missouri, called attention to the adoption of an amendment which had moved this word from line 15 and as a parliamentary inquiry, asked if it would be necessary to modify the proposed amendment to conform to this change.

The Chairman[4] said:

The Chair will state to both gentlemen in answer to the parliamentary inquiry, that this is a clerical proposition. The amendment is offered in the correct form and when it comes to the enrollment of the bill, under the rules and practice it will be properly enrolled.

2877. Instance in which the title of a bill was amended on a day subsequent to its passage.

On July 29, 1916,[5] following the reading and approval of the Journal, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, on Thursday last the House passed the bill H. R. 16912, granting the consent of Congress to the county commissioners of Trumbull County, Ohio, to construct a bridge across the Mahoning River in the State of Ohio. The bill was amended but the title was not amended, and I ask unanimous consent that the title be amended by striking out the words "the county, commissioners of."

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[1] Second session Sixty-sixth Congress, Record, p. 301.

[2] Philip P. Campbell, of Kansas, Chairman.

[3] First session Sixty-fifth Congress, Record, p. 7077.

[4] Finis J. Garrett, of Tennessee, Chairman.

[5] First session Sixty-fourth Congress, Record, p. 11807.

The question being submitted to the House, there was no objection and the motion was agreed to.

2878. If a portion of a proposed amendment is out of order, the whole of it must be ruled out.

On February 1, 1909,[1] the House was considering the Army appropriation bill in the Committee of the Whole House on the state of the Union.

The clerk read a paragraph making an appropriation for shooting ranges, including a proviso authorizing the acquisition of additional land for the target range at Fort Leavenworth, and further providing that the appropriation be immediately available.

Mr. John J. Fitzgerald, of New York, raised a question of order against the paragraph.

After debate, the Chairman[2] ruled:

In reference to the point of order that is raised, the Chair is of opinion that a certain portion of the paragraph is subject to a point of order, but only a certain portion. The Chair thinks that the acquisition of 320 acres, under the rules of the House and its procedure, is not subject to a point of order. The Chair will, however, state that the second proviso is subject to the point of order. The Chair refers to that portion of the section which provides that the funds herein provided, or so much thereof as may be necessary, shall be immediately available. Under that provision this appropriation should go on the deficiency appropriation bill; and, therefore, if the point of order is insisted upon against the whole paragraph, it would be necessary to strike it out because the second portion is obnoxious to the rule.

2879. A decision as to what constitutes a substitute.

To qualify as a substitute an amendment must treat in the same manner the same subject matter carried by the text for which proposed.

On June 7, 1921,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6611) to establish a veterans' bureau in the Treasury Department.

The Clerk read:

Such regional offices may exercise such powers for hearing complaints and for examining rating, and awarding compensation claims, granting medical, surgical, dental, and hospital care, convalescent care, and necessary and reasonable after care, making insurance awards, granting vocational training, and all other matters delegated to them by the director as could be performed lawfully under this act by the central office.

Mr. Burton E. Sweet, of Iowa, offered this amendment:

After the word "powers" insert ("as may be delegated to them by the director.")

Mr. John Jacob Rogers, of Massachusetts, proposed, as a substitute for the amendment, the following:

Strike out the sentence and insert in lieu thereof the following: Such regional offices shall, under the control of the director, have the power to hear complaints, to examine, rate, and award compensation claims; to grant medical, surgical, dental, hospital, and convalescent care and necessary and reasonable after care; to make reasonable awards; to grant vocational training; and, if delegated to them by the director, may exercise such other powers as could be performed lawfully under this act by the central office.

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[1] Second session Sixtieth Congress, Record, p. 1700.

[2] James B. Perkins, of New York, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 2220.

Mr. William H. Stafford, of Wisconsin, made the point of order that the proposition purporting to be offered as a substitute treated of a subject different from that under consideration and was not in fact a substitute but an entirely independent proposition.

The Chairman [1] ruled:

The amendment of the gentleman from Iowa perfects the text with respect to two propositions. It strikes out no language in the text, but the amendment of the gentleman from Massachusetts strikes out all of the sentence. It amends the text of the bill in many particulars not touched at all by the amendment of the gentleman from Iowa. The Chair thinks that the amendment offered by the gentleman from Massachusetts is not a substitute and sustains the point of order.

2880. An amendment striking out language other than in the pending amendment is not in order as a substitute for an amendment inserting language.

On May 13, 1926,[2] the bill (H. R. 11603) to establish a Federal Farm Board to aid in orderly marketing and in the control and disposition of surplus agricultural commodities was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Melvin O. McLaughlin, of Nebraska, proposed an amendment inserting a new provision in section 8 of the bill.

Mr. Marvin Jones, of Texas, offered as a substitute for the amendment a proposition to strike out a portion of section 8.

The Chairman [3] declined to entertain the amendment and said:

The Chair does not think the amendment will be in order until the perfecting amendment is disposed of. The amendment of the gentleman from Texas strikes out—

The amendment of the gentleman from Nebraska did not propose to strike out anything, but adds to the language in the bill, and is a perfecting amendment.

2881. On January 10, 1933,[4] in the course of the consideration of the bill H. R. 13991, the farm relief bill, in the Committee of the Whole House on the state of the Union, Mr. D. D. Glover, of Arkansas, offered this amendment:

Page 2, line 17, after the word "wheat", insert a comma and the word "rice."

Subsequently, Mr. Fiorello H. LaGuardia, of New York, proposed a substitute to the amendment offered by Mr. Glover, as follows:

Page 2, line 18, after the letters "ble," strike out "solely with respect to wheat, cotton, tobacco, and hogs" and insert in lieu thereof the following: "to certain commodities hereinafter specified."

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment proposed as a substitute was not in fact a substitute, and was not in order.

The Chairman [5] sustained the point of order and said:

The point of order is made by the gentleman from Wisconsin that this is not a substitute. The Chair does not think that it is a substitute for the pending amendment. The pending amendment seeks to include rice only, while the gentleman's substitute seeks to strike out certain lan-

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] First session Sixty-ninth Congress, Record, p. 9396.

[3] Carl E. Mapes, of Michigan, Chairman.

[4] Second session Seventy-second Congress, Record, p. 1530.

[5] Lindsay C. Warren, of North Carolina, chairman.

guage in the section and insert in lieu thereof other language. The Chair sustains the point of order that it is not a substitute for the pending amendment.

Mr. LaGuardia inquired when it would be in order for him to offer his proposition.

The Chairman said:

As soon as the Glover amendment is disposed of. The question is on the amendment offered by the gentleman from Arkansas.

2882. A proposition to strike out all after the first two words of an amendment and insert a new text in lieu thereof was held to be an amendment and not a substitute.

On April 28, 1924,[1] the bill (H. R. 7962) to regulate rents in the District of Columbia, was being considered in the Committee of the Whole House on the state of the Union.

Mr. Florian Lampert, of Wisconsin, offered an amendment proposing to strike out all after the enacting clause and insert a new text.

Mr. Henry L. Jost, of Missouri, proposed as a substitute to strike out all after the first two words of the pending amendment and insert new language.

A question having been raised as to the order in which the pending amendments should be voted on, the Chairman[2] said:

The Chair finds on close inspection that the Jost amendment is not a substitute. The Chair at first blush thought it was, but on looking at it the Chair observed this peculiarity about the motion: It does not strike out all of the Lampert substitute, but says "after the word 'it' insert the following language." In other words, the amendment does not cut out the first two words of the Lampert substitute, and although that is extremely technical, yet at the same time it makes the Jost amendment a perfecting amendment.

In response to an inquiry by Mr. Charles L. Abernethy, of North Carolina, as to whether it would be necessary to vote on the amendment offered by Mr. Lampert in event the amendment proposed by Mr. Jost was agreed to, the Chairman held:

The passage of the Jost amendment simply amends the original proposition.

It operates as an amendment of it, and then the question will arise on the Lampert amendment as amended.

2883. Under the recent practice of the House the substitute provided for in Rule XIX has been construed as a substitute for the amendment and not a substitute for the text.

A substitute can be entertained only after an amendment is pending.

When an amendment is pending only one substitute for the amendment is in order.

There may be pending simultaneously, the original text, an amendment to the text, an amendment to the amendment, a substitute for the amendment and an amendment to the substitute.

On October 17, 1921,[3] the House was considering the bill (H. R. 7761) to amend the law relative to contested-election cases.

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[1] First session Sixty-eighth Congress, Record, p. 7421.

[2] George S. Graham, of Pennsylvania.

[3] First session Sixty-seventh Congress, Record, p. 6401.

Mr. Frederick W. Dallinger, of Massachusetts, offered an amendment striking out all of section 2 of the bill and inserting other language in lieu thereof.

To this amendment, Mr. Everett Sanders, of Indiana, offered an amendment modifying the language proposed to be inserted.

Mr. John E. Raker, of California, proposed to offer a substitute for the original amendment offered by Mr. Dallinger.

Mr. William H. Stafford, of Wisconsin, made a point of order against the substitute proposed by Mr. Raker.

In debating the question, Mr. Sanders said:

Rule XIX says:

"And it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered."

The Speaker [1] held:

That means a substitute for the amendment.

Mr. Joseph Walsh, of Massachusetts, continuing debate on the pending point of order said:

There is no such thing as an amendment by way of a substitute for the original text. A substitute is always offered in place of an amendment which has been offered and not for the original text.

The original amendment was a motion to strike out and insert. Now, to that amendment one substitute can be offered, and there can be an amendment to that substitute. But gentlemen get confused by calling the amendment of the gentleman from Massachusetts a substitute, which it is not. It is an amendment. A substitute can only be offered when an amendment has been offered.

The word "substitute" as used in the rule, as gentlemen will see by careful reading applies to an amendment that has already been offered. If you read the language read by the gentleman from Indiana, Mr. Sanders, you will see from what he read that when an amendment is offered only one substitute to that amendment can be offered.

I do not see how you can offer a substitute when an amendment has not been offered.

The Speaker approved:

The gentleman from Massachusetts, Mr. Walsh, has stated substantially what the Chair has been attempting to state.

The Chair overrules the point of order.

2884. A substitute for an entire bill should be offered after the reading of the first section or at the conclusion of the reading of the bill, and it is not in order after an intermediate section is read.

On May 3, 1928,[2] the bill (S. 3555) to establish a Federal Farm Board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce was under consideration in the Committee of the Whole House on the state of the Union.

Following the reading of the second section of the bill, Mr. John C. Ketcham, of Michigan, moved to strike out the section and insert a new bill providing for the export-debenture plan.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Seventieth Congress, Record, p. 7731.

Mr. C. William Ramseyer, of Iowa, made the point of order that a substitute for the entire bill should be offered after the reading of the first section or at the conclusion of the reading of the bill for amendment.

The Chairman [1] sustained the point of order.

2885. On August 23, 1922,[2] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 12377) to create a national coal commission.

To the pending committee amendment striking out all after the enacting clause and inserting a new bill, Mr. Oscar E. Bland, of Indiana, offered an amendment striking out all of the proposed amendment and substituting other language.

Mr. William H. Stafford, of Wisconsin, raised a question of order against the amendment proposed by Mr. Bland.

Mr. James R. Mann, of Illinois, in discussing the point of order said:

Rule XIX reads as follows:

"When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon."

Does not that entirely cover the question? Here is an original proposition before the House, the original bill, to which the committee has offered an amendment. An amendment may be offered to that amendment under this rule, and a substitute may be offered to the committee amendment under that rule. An amendment may be offered to the substitute under that rule, but the original text shall be perfected before these substitute amendments are voted on. Does not that absolutely cover the case?

You can have pending an original proposition, an amendment to it, and amendment to the amendment, a substitute, and an amendment to the substitute. That makes five.

The Chairman [3] ruled:

The text is the original proposition. The committee offers an amendment in the nature of a substitute. There may be a substitute for the committee amendment; there may be an amendment to the substitute; there may be an amendment to the committee amendment as the matter now stands. So the Chair thinks that we may proceed in order to the consideration of the substitute offered by the gentleman from Indiana for the committee amendment. And the Chair overrules the point of order.

2886. The original resolution, for which a substitute is recommended by the standing committee reporting the same, must be read before the substitute is read unless such reading is dispensed with by unanimous consent.

On June 6, 1911,[4] Mr. Robert L. Henry, of Texas, from the Committee on Rules, reported the resolution (H. Res. 154) providing for an investigation of methods of tax assessments in the District of Columbia.

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[1] Carl E. Mapes, of Michigan, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 11711.

[3] Philip P. Campbell, of Kansas, Chairman.

[4] First session Sixty-second Congress, Record, p. 1718.

The Clerk having read the title of the resolution, Mr. Henry interrupted and explained that the Committee on Rules had recommended the adoption of a substitute, and submitted a parliamentary inquiry as to whether it was necessary to read the original resolution or merely the substitute resolution proposed by the committee.

The Speaker pro tempore [1] held:

> The original resolution will first have to be read and then the substitute unless dispensed with. The gentleman from Texas asks unanimous consent that the substitute may be read in lieu of the original resolution. Is there objection?

2887. There may be pending with the amendment, and the amendment to it, another amendment in the nature of a substitute and an amendment to the substitute.

On December 4, 1918,[2] the bill (H. R. 12917) to provide a sanitarium for soldiers and sailors was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Cassius C. Dowell, of Iowa, offered an amendment striking from the bill the provision that the proposed sanitarium should be located at Dawson Springs, Kentucky.

Mr. Halvor Steenerson, of Minnesota, offered a substitute for the amendment authorizing the location of the sanitarium on public land in Minnesota.

Mr. Marvin Jones, of Texas, proposed an amendment to the substitute providing for the location of the sanitarium in Amarillo, Potter County, Texas.

Mr. Caleb Powers, of Kentucky, raised a question of order against the proposition to amend the substitute on the ground that it constituted an amendment in the third degree.

The Chairman [3] overruled the point of order and said:

> The rules provide that you can have an amendment and a substitute to the amendment and then there can be an amendment to the original amendment and an amendment to the substitute all pending at one time.

2888. While there may be pending an amendment, an amendment to it, and another amendment in the nature of a substitute, an amendment in the third degree may not be admitted under the guise of a substitute.

On February 26, 1924,[4] the revenue bill was being considered in the Committee of the Whole House on the state of the Union.

Mr. William R. Green, of Iowa, offered an amendment to be inserted as a new section providing rates of taxation on gifts, including the following:

> One per cent of the amount of gifts not in excess of $50,000;
> Two per cent of the amount by which the gifts exceed $50,000 and not to exceed $100,000.

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[1] Charles L. Bartlett, of Georgia, Speaker pro tempore.

[2] Third session, Sixty-fifth Congress, Record, p. 113.

[3] Martin D. Foster, of Illinois, Chairman.

[4] First session, Sixty-eighth Congress, Record, p. 3174.

To this amendment Mr. Ogden L. Mills, of New York, offered an amendment striking out "1 per cent" and inserting "2 per cent."

Mr. Thomas L. Blanton, of Texas, proposed as a substitute for the original amendment that the rate be made "one-half of one per cent."

Mr. Allen T. Treadway, of Massachusetts, made the point of order that the proposal comprised an amendment in the third degree.

The Chairman [1] considered the proposal an amendment to the amendment offered by Mr. Mills and not a substitute for the original amendment, and sustained the point of order.

2889. A substitute for an amendment to an amendment is in the third degree and is not permissible.

On April 12, 1926,[2] the Committee of the Whole House on the state of the Union was considering the bill (S. 41) to encourage and regulate the use of aircraft in commerce.

A committee amendment was pending, to which Mr. George Huddleston, of Alabama, had proposed a perfecting amendment.

Mr. Hoch, of Kansas, offered an amendment in the nature of a substitute for the perfecting amendment.

A question of order being raised by the Chairman, on the ground that the substitute constituted an amendment in the third degree, Mr. Hoch took the position that while an amendment to the perfecting amendment would not be admissible, a substitute for the perfecting amendment was in order.

The Chairman [3] ruled:

The Chair will state that the amendment offered by the gentleman from Alabama is an amendment in the second degree.

The Chair finds the reference he had in his mind, which is in the Manual on page 356, reading as follows:

"An amendment in the third degree is not specified by the rule and is not permissible even when the third degree is in the nature of a substitute for an amendment to a substitute."

2890. On March 12, 1928,[4] the Committee of the Whole House on the state of the Union was considering the bill (S. 2317) continuing for one year the authority of the Federal Radio Commission.

To a committee amendment allocating broadcasting licenses among the States Mr. Wallace H. White, jr., of Maine, offered an amendment adding to the States the District of Columbia.

Pending the vote on the amendment, Mr. Anthony J. Griffen, of New York, proposed a substitute therefor.

Mr. Eugene Black, of Texas, made the point of order that the substitute amounted to an amendment in the third degree.

The Chairman [3] sustained the point of order.

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Sixty-ninth Congress, Record, p. 7328.

[3] Carl R. Chindblom, of Illinois, Chairman.

[4] First session Seventieth Congress, Record, p. 4588.

2891. In considering an amendment to a committee amendment, an amendment in the nature of a substitute for the pending amendment was not admitted, being in the third degree.

On May 26, 1920,[1] the Committee of the Whole House on the state of the Union was considering the bill (S. 3451) for payment of claims to wooden-ship builders.

The pending committee amendment provided in part:

That the United States Shipping Board be, and it is hereby, authorized and directed to investigate, adjust, liquidate, and pay the claims of individuals, firms, or corporations who built or contracted to build wooden ships for the United States Shipping Board, or the United States Shipping Board Emergency Fleet Corporation after April 6, 1917.

Mr. Erwin L. Davis, of Tennessee, offered an amendment to strike out the words "and directed."

Mr. Marvin Jones, of Texas, proposed to offer a substitute for the amendment striking out the words "authorized and directed" and inserting in lieu thereof, the words "directed to investigate and authorized to liquidate."

The Chairman[2] held:

The motion of the gentleman from Texas is not in order at this time.

The Chair will read from the House Manual and Digest.

"An amendment in the third degree is not specified by the rule and is not permissible, even when the third degree is in the nature of a substitute for an amendment to a substitute."

It is a substitute.

The Chair is of the opinion that the motion of the gentleman from Texas is not in order and so holds.

Mr. Jones having appealed, the decision of the chair was sustained.

2892. When the four amendments in order under the rule are pending, the vote is taken first on the amendment to the amendment and then on the amendment to the substitute.

On December 10, 1920,[3] the bill (H. R. 14461) the immigration bill, was being considered in the Committee of the Whole House on the state of the Union.

The Clerk read as follows:

Except as otherwise provided in this act, from 60 days after the passage of this act, and until the expiration of two years next after its passage, the immigration of aliens to the United States is prohibited.

Mr. Isaac Siegel, of New York, offered an amendment changing the period from 60 days to two years.

Mr. Warren Gard, of Ohio, moved to amend the proposed amendment by changing the period to one year.

Mr. Thomas L. Blanton, of Texas, proposed a substitute to strike out "two year" and insert "26 months".

Mr. James R. Mann, of Illinois, offered an amendment to the substitute changing the period to fourteen months.

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[1] Second session Sixty-sixth Congress, Record, p. 7694.

[2] Clifton N. McArthur, of Oregon, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 184.

After debate, the Chairman[1] put the question first on the amendment to the substitute.

Subsequently, the Chairman announced:

A few moments ago an amendment was pending, and an amendment to that amendment, a substitute, and an amendment to the substitute. The Chair started to put those amendments in their usual order, putting the amendment to the amendment first, then the amendment to the substitute, then the substitute, and finally the amendment as amended, whereupon a storm of protest arose, joined in by such veteran parliamentarians as the ex-Speaker of the House, the gentleman from Missouri, Mr. Clark, the gentleman from Illinois, Mr. Mann, and the gentleman from Massachusetts, Mr. Walsh. The parliamentary clerk at that time had had no opportunity to look up the precedents in the matter. Under such pressure the Chair yielded, and put the question upon the amendment to the substitute before putting the amendment to the amendment. In doing this the Chair erred. I wish to make this correction now, so that it will not hereafter be considered as a precedent.

2893. On June 9, 1921,[2] the bill (H. R. 6611) to establish a veterans' Bureau in the Treasury Department was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Samuel E. Winslow, of Massachusetts, moved the debate on the pending section and all amendments thereto be terminated in 30 minutes.

Mr. Oscar E. Bland, of Indiana, offered as a amendment to the motion a proposition to limit debate to 45 minutes.

Mr. Hamilton Fish, Jr., of New York, proposed as a substitute for the motion to close debate in one hour.

Mr. John E. Rankin, of Mississippi, offered an amendment to the substitute, providing for extension of the time to two hours.

The Chairman[3] said:

The Chair holds that all the amendments that are in order have been offered, and the question, therefore, comes on the amendment to the amendment offered by the gentleman from Indiana that the time for debate on this paragraph and all amendments thereto be closed in 45 minutes.

Mr. Bland inquired if the vote should not come first on the proposal last made to limit debate to two hours.

The Chairman said:

No; the first question is on the amendment offered by the gentleman from Indiana that debate on this section and all amendments thereto close at the end of 45 minutes instead of 30, as proposed by the gentleman from Massachusetts.

The Chair thinks the next question in order would be a vote on the 2-hour proposition.

The question is on the amendment of the gentleman from Indiana to the motion of the gentleman from Massachusetts.

2894. An original proposition may be perfected by amendments before the vote is taken on the substitute.

On February 10, 1910,[4] the House was considering the resolution (H. Res. 371) relating to the privileges of the House, to which was pending an amendment offered

[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 2328.

[3] Sydney Anderson, of Minnesota, Chairman.

[4] Second session Sixty-first Congress, Record, p. 1750.

by Mr. R. Wayne Parker, of New Jersey, and a substitute proposed by Mr. Henry D. Clayton, of Alabama.

The question having been raised by Mr. Clayton as to which of the two should first be voted on, the Speaker[1] held that the amendment to perfect the original resolution should be disposed of before voting upon the substitute.

2895. A substitute for an amendment is not voted on until after amendments to the amendment have been disposed of.

On April 7, 1922,[2] the Departments of State and Justice appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, under the five-minute rule.

Mr. Edward E. Denison, of Illinois, offered an amendment prohibiting the expenditure of amounts appropriated by the bill in payment for legal service in proceedings brought to prevent labor organizations from striking.

Mr. Ben Johnson, of Kentucky, proposed a substitute for the amendment prohibiting the expenditure of any money appropriated by the bill in preventing labor organizations from entering into combinations to better conditions of labor, or to prevent farm organizations from cooperating to secure a fair price for agricultural products.

Mr. Meyer London, of New York, offered an amendment modifying the phraseology of the amendment.

After debate, the Chairman was stating the question, when Mr. Johnson submitted that the question came first on the substitute.

The Chairman[3] held:

The amendment of the gentleman from New York, Mr. London, is first in order. The question is on the amendment of the gentleman from New York.

The question having been put, the amendment proposed by Mr. London was rejected, and the Chairman announced:

The question recurs upon the substitute of the gentleman from Kentucky, Mr. Johnson.

2896. An amendment in the nature of a substitute may be proposed before amendments to the original text have been acted on, but may not be voted on until after such amendments have been disposed of.

On June 10, 1921,[4] while the bill (H. R. 6611) to establish a veterans' bureau in the Treasury Department was under consideration in the Committee of the Whole House on the state of the Union, the Clerk read a section providing for payment of compensation for disabilities.

Mr. Walter W. Magee, of New York, offered the following amendment:

If the disabled person is so helpless as to be in constant need of a nurse or attendant, such additional sum shall be paid, not exceeding $50 a month, as the director may deem reasonable.

Mr. Horace M. Towner of Iowa, offered the following amendment to the amendment:

Strike out the figures "$50" and insert in lieu thereof the figures "$100."

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 5203.

[3] Cassius C. Dowell, of Iowa, Chairman.

[4] First session Sixty-seventh Congress, Record, p. 2404.

Mr. Hamilton Fish, Jr., New York, proposed as a substitute for the original amendment the following:

If and while the disability is rated as total and permanent, the rate of compensation shall be $100 per month.

Mr. Towner made the point of order that it was not in order to propose a substitute until the pending amendments had been voted on.

The Chairman [1] held:

It is in order to offer a substitute for the original amendment before a vote is taken upon a perfecting amendment, and when the vote is finally taken the vote will come first upon the perfecting amendment.

2897. On May 24, 1924,[2] the bill H. R. 9033, the farm relief bill, was being considered in the Committee of the Whole House on the state of the Union.

The first section having been read by the Clerk, Mr. James B. Aswell, of Louisiana, moved to strike out the section and insert an amendment in the nature of a substitute for the entire bill, with notice that if the motion prevailed he would move to strike out the remaining sections of the bill as read.

Mr. Thomas L. Blanton, of Texas, requested recognition to offer an amendment to the pending section, and submitted that as the proponent of a perfecting amendment he was entitled to precedence in recognition of a Member proposing to strike out the section.

The Chairman [3] held:

The rule is that a perfecting amendment takes precedence over a substitute amendment, but if the amendment by way of substitute has been offered, the Member obtaining recognition, and then some one else subsequently obtains recognition and says he has a preferential amendment to offer, the preference relates only to the action by the committee upon the amendment and not to the method of offering it. The Chair will later recognize the gentleman from Texas to offer his amendment, but at the present time the amendment of the gentleman from Louisiana may be reported.

2898. When it is proposed to offer a single substitute for several paragraphs of a bill which is being considered by paragraphs, the substitute may be moved to the first paragraph with notice that if agreed to, motions will be made to strike out the remaining paragraphs when read.

In reading a bill for amendment it is not in order to return to a paragraph already acted on.

A point of order having been reserved and withdrawn, the Chairman maintained the right as a member of the committee to renew and rule upon it.

On February 25, 1920,[4] the legislative, executive, and judicial appropriation bill was being read for amendment in the Committee of the whole House on the state of the Union.

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 9435.

[3] Everett Sanders, of Indiana, Chairman.

[4] Second session Sixty-sixth Congress, Record, p. 3469.

Mr. Edmund Platt, of New York, moved to strike out the pending paragraph and with it preceding paragraphs already passed in the reading of the bill, and insert in lieu thereof an amendment in the nature of a substitute.

Mr. Edward W. Saunders, of Virginia, made the point of order that it was too late to propose amendments to paragraphs already acted on.

After discussion, Mr. Saunders withdrew the point of order.

The Chairman,[1] however, proceeded to rule, and said:

The Chair thinks that inasmuch as this amendment strikes out the language already adopted in the bill and paragraphs already passed, it is not in order.

Mr. Thomas L. Blanton, of Texas, submitted that the point of order having been withdrawn it was not within the province of the chair to entertain it.

The Chairman said:

Unquestionably. The Chair is a member of the Committee of the Whole.

It seemed to the Chair under the circumstances, the point of order having been made and reserved, it being so clear to the Chair that this amendment was not in order. The motion should not be entertained.

Continuing, the Chairman cited section 5795 of Hinds' Precedents, and said:

The Chair has that entire ruling before him, and the Chair is not aware of any precedent to the contrary. If any gentleman can cite to the Chair any precedent which will authorize the offering of an amendment to a paragraph that has been acted upon, the Chair will be glad to have the citation.

The gentleman seeks to strike out language before the proviso relating to the organization of the Federal Farm Loan Bureau. The gentleman could have risen when the first paragraph was read and given notice that if that motion were agreed to he would move to strike out the subsequent paragraph.

The Chair thinks it would be a very bad precedent to hold that the committee could go back and amend paragraphs which it has already adopted.

2899. On November 13, 1919,[2] while the bill H. R. 10453, the railway control bill, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Albert Johnson, of Washington, proposed to offer a substitute for Title III of the bill, embracing a number of sections.

The Chairman[3] said:

The gentleman can not offer a substitute for the entire title. It will have to be done as the sections are read. The gentleman might offer the substitute to the first section in Title III.

Mr. J. Stanley Webster, of Washington, moved an amendment, which the Chairman entertained, and stated as follows:

The gentleman from Washington offers a substitute for section 300, just read, giving notice that if the substitute for that section is adopted he will move to strike the other sections from the bill. The Clerk will report the substitute.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 8479.

[3] Joseph Walsh, of Massachusetts, Chairman.

2900. On May 2, 1928,[1] the House was in the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3550) to establish a Federal Farm Board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities.

The Clerk having read the first section of the bill, Mr. James B. Aswell, of Louisiana, offered a substitute for the bill with notice that if the substitute was agreed to he would move to strike out subsequent sections as read.

Mr. Cassius C. Dowell, of Iowa, made the point of order that committee amendments should be first considered, and therefore the proposed substitute was not in order.

The Chairman[2] overruled the point of order and said.

The Chair will state to the gentlemen from Iowa that he has recognized the gentleman from Louisiana.

The gentleman from Louisiana offers an amendment, which the Clerk will report.

2901. When it is proposed to offer an amendment to strike out a section consisting of several paragraphs, of a bill which is being considered by paragraphs, the amendment may be moved to the first paragraph with notice that if it be agreed to, a similar motion will be made to strike out the succeeding paragraphs as they are reached.

On February 20, 1924,[3] the bill (H. R. 7615), the revenue bill, was being read for amendment in the Committee of the Whole House on the state of the Union.

The Clerk read severally the three paragraphs comprising section 209 of the bill. At the conclusion of the reading of the third paragraph Mr. Eugene Black, of Texas, offered an amendment striking out portions of all three paragraphs.

Mr. William R. Green, of Iowa, made the point of order that the first two paragraphs of the section had been read and the amendment came too late.

The Chairman[4] ruled:

The Chair is constrained to rule that under the practice, where a bill is being read by paragraphs and it is desired to strike out the section, the proper thing to do is to move to strike out the section in the first place or to wait until the first paragraph is read and then move to strike it out, with notice that a similar motion will be made to each succeeding paragraph as it is reached. In view of the matter, in which I am confirmed by consultation with the parliamentarian, the Chair is constrained to sustain the point of order.

2902. When it is proposed to offer a single substitute for the entire bill, the substitute may be moved to the first paragraph with notice that if it be agreed to, motions will be made to strike out the remaining paragraphs.

On May 22, 1922,[5] the bill (S. 2919) for the extension of the District of Columbia rents act, was being considered in the Committee of the Whole House on the state of the Union.

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[1] First session Seventieth Congress, Record, p. 7648.

[2] Carl E. Mapes, of Michigan, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 2854.

[4] William J. Graham, of Illinois, Chairman.

[5] Second session Sixty-seventh Congress, Record, p. 7417.

Mr. Stuart F. Reed, of West Virginia, offered an amendment which the Clerk read as follows:

With notice that if adopted he will move to strike out subsequent sections of the bill when read, namely: "Strike out all of section 1 and lieu thereof insert the following:

"That it is hereby declared that the emergency described in Title II of the food control and the District of Columbia rents act still exists and continues in the District of Columbia, and that the present housing and rental conditions therein require the further extension of the provisions of such title."

Mr. Thomas L. Blanton, of Texas, interrupted the reading of the amendment and made the point of order that it was not in order at this time to offer a substitute for the entire bill.

The Chairman [1] overruled the point of order.

2903. When it is proposed to offer a substitute for the entire bill the substitute may be moved to the first paragraph with notice that if adopted motions will be made to strike out subsequent sections as reached, but the motion to strike out all after the enacting clause is not in order until the entire bill has been read.

On November 16, 1921,[2] the bill (H. R. 8928) to provide for the classification of civilian Government positions, was under consideration in the Committee of the Whole House on the state of the Union.

The first section of the bill having been read, Mr. William R. Wood, of Indiana, moved to strike out all after the enacting clause and insert a substitute in lieu thereof.

Mr. Frederick, R. Lehlbach, of New Jersey, made the point of order that the motion was not in order until the remaining sections of the bill had been read and opportunity afforded to offer perfecting amendments.

The Chairman [3] ruled:

The gentleman from Indiana has offered an amendment to strike out all of the bill after the enacting clause and substitute an entirely new bill. The first section of the bill has been read. It is clear under the precedent that the gentleman can not offer a motion to strike out all of the sections, when only the first section has been read.

The Chair sustains the point of order.

Thereupon, Mr. Wood moved to strike out the first section and insert the substitute just proposed with notice that if agreed to he would move to strike out remaining sections of the bill as read.

The Chairman entertained the motion and said:

The gentleman from Indiana offers an amendment to the first section to strike out the section and substitute the entire bill which he has sent to the desk, giving notice that he will subsequent offer motions to strike out the subsequent paragraphs when read. The Clerk is now reading the amendment offered, which would be an entire substitute, with notice given in the event the amendment is carried that he will thereafter offer motions to strike out subsequent paragraphs of the pending bill.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 7818.

[3] Everett Sanders, of Indiana, Chairman.

2904. Substitutes for an entire bill may be offered following the reading of the first paragraph or at the conclusion of the reading of the entire bill.

A substitute offered after the reading of a bill has been concluded is in order regardless of whether it includes language stricken from the bill or inserted in the bill when read for amendment.

On June 28, 1922,[1] the Committee of the Whole House on the state of the Union was considering the bill (S. 3425) to continue certain land offices.

During the reading of the bill for amendment various modifications were agreed to, some striking out language and others inserting provisions as new paragraphs.

The reading of the bill having been concluded, Mr. James R. Mann, of Illinois, offered a substitute for the entire bill which in effect proposed the original bill with modifications changing amendments previously agreed to.

Mr. Louis C. Cramton, of Michigan, made the point of order that the substitute was in contravention of action already taken by the committee.

The Chairman[3] held:

There are two methods by which substitutes for the entire bill may be offered. The first is to offer after the first paragraph has been read, a substitute for the entire bill, with the notice that with regard to the succeeding sections of the bill, as they are read, a motion will be made to strike them out. That method has been used in a good many instances. In that case gentleman will notice that, of course, there is no opportunity for amending any subsequent section of the bill, provided the substitute is agreed to.

The other method is to offer the substitute for the entire bill at the conclusion of the reading of the entire bill as was done in this instance by the gentleman from Illinois. Of course, in that case all of the amendments that have been adopted by the committee, whatever they may be, are stricken out if the substitute is adopted. If the substitute contains in effect or in actual language some of the amendments that are already agreed to, that does not deprive the mover of the substitute of the consideration of his substitute. That applies practically to the case that we have before us, in the opinion of the Chair. No matter what the effect of this substitute may be, it is the right of the committee to vote down or to support the motion of the gentleman from Illinois. The point of order is, therefore, overruled.

2905. A substitute for an entire bill may be offered only after the first paragraph has been read or after the reading of the bill for amendment has been concluded.

It is in order to propose as a substitute for a section an amendment inserting the same section with modifications and omitting amendments to the section previously agreed to by the Committee of the Whole.

On June 6, 1929,[3] The House in Committee of the Whole House on the state of the Union was considering the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress.

At the close of the reading of section 22 of the bill, and after two amendments to the section had been adopted, Mr. John Q. Tilson, of Connecticut, offered as a substitute for section 22 an amendment practically identical with the original section with minor modifications, but omitting the two amendments just agreed to.

[1] Second session Sixty-seventh Congress, Record, p. 9637.

[2] Horace M. Towner, of Iowa, Chairman.

[3] First session Seventy-first Congress, Record, p. 2450.

Mr. John E. Rankin, of Mississippi, made the point of order that the amendment in effect proposed to strike out language already inserted in the bill.

The Chairman [1] ruled:

The Chair has examined the amendment and compared it with the text of section 22 and finds a considerable number of changes in form and to some extent in substance, which, in the opinion of the Chair, would make the amendment in order.

The only question, it seems to the Chair, that might remain to be determined would be whether the fact that this proposed substitute omits some of the amendments already adopted by the committee has any bearing, and upon that question the Chair has a very complete and distinguished precedent and authority which is within the recollection of the present occupant of the chair. It occurred on June 28, 1922. The Committee of the Whole had before it a bill relating to certain land offices and amendments had been adopted eliminating certain such offices and adding others, when the gentleman from Illinois, Mr. Mann—recognized, I think, by all of us as one of the greatest parliamentarians and legislators in the history of this body—offered an amendment in the nature of a substitute which struck out everything after the enacting clause and inserted in lieu thereof the original bill as amended by amendments offered on behalf of the standing committee, but eliminated an amendment offered by the gentleman from Idaho, Mr. French, which had been adopted in the Committee of the Whole, and had materially changed the principal section of the bill. Mr. Mann stated frankly that his purpose was "to give the committee an opportunity to practically pass upon this same question again, but in a parliamentary way and one that is in order." Mr. Mann stated that if the House should adopt the French amendment he was afraid that no opportunity would be afforded for voting on some of the committee amendments. As a matter of fact, the French amendment, which had been adopted by the committee, itself struck out some of the committee amendments which had previously been approved by the Committee of the Whole.

The Chairman then read the decision [2] by Chairman Towner and continued:

While the decision of the Chair in that instance related to a substitute for an entire bill, in the pending case the substitute relates to an entire section and proposes a substitute for that section, and in this particular case, as the Chair has already observed in rulings upon section 1—and this may become important hereafter—this bill is composed of two parts. Sections 1 to 21 relate entirely to the taking of the census. Section 22 relates entirely to the apportionment of the Members of the House among the States. So that, to all intents and purposes, section 22 is a bill all by itself; in fact, it is well known that in the Senate the census bill and the reapportionment bill were consolidated and section 22 is practically the reapportionment bill which this House passed in January of this year.

Therefore the Chair is constrained to the conclusion that the question now before the Chair is practically on all fours with the case decided in 1922, and the Chair overrules the point of order.

2906. Amendments to the title of a bill are in order after its passage.

On January 21, 1930,[3] Mr. Earl C. Michener, of Michigan, by direction of the Committee on Rules, called up the joint resolution (S. J. Res. 7) for the appointment of a joint committee of the Senate and House of Representatives to investigate the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

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[1] Carl R. Chindblom, of Illinois, Chairman.

[2] Sec. 2904 of this work.

[3] Second session Seventy-first Congress, Record, p. 2088.

At the conclusion of the consideration of the joint resolution, Mr. Earl C. Michener, of Michigan, rising to a parliamentary inquiry, asked:

Mr. Speaker, this is a peculiarly drawn resolution. The various services are mentioned only in the title of the joint resolution. As I recall the rules of the House, the title to a joint resolution or bill can be amended only after the joint resolution or bill has been passed. If that is true, then would it not be proper to agree to the joint resolution, and after the joint resolution is agreed to then ask unanimous consent to amend the title?

The Speaker [1] held that it was in order to amend the title after the joint resolution had been passed.

The previous question having been ordered, the joint resolution was read a third time and passed. Whereupon, on motion of Mr. Michener, by unanimous consent, the title was amended to conform to the text of the amended joint resolution.

2907. Amendments to the title of a bill are in order after its passage, and are not debatable.

On December 21, 1932,[2] the bill (H. R. 13742) to provide revenue by the taxing of nonintoxicating liquor was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Grant E. Mouser, jr., of Ohio, offered an amendment to modify the title of the bill.

Mr. Frederick R. Lehlbach, of New Jersey, made the point of order that the title was not before the committee and amendments to the title were not in order prior to the passage of the bill.

The Chairman [3] said:

The gentleman from Ohio has evidently overlooked the provision of the rules of the House that the amending of the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate. Therefore the Chair sustains the point of order.

Consideration of the bill was concluded and it was passed, yeas 230, nays 165. On motion of Mr. Henry T. Rainey, of Illinois, a motion to reconsider the vote by which the bill was passed was laid on the table.

Whereupon, Mr. Olger B. Burtness, of North Dakota, proposed to offer a motion to amend the title and inquired if the motion was in order at this time.

The Speaker [4] said:

That is permissible. The Clerk will report the amendment.

2907a. On June 6, 1932,[5] it being a day when the call of the Consent Calendar was in order, the bill (H. R. 7123) to provide for the manufacture of and sale of industrial beverage alcohol for lawful purposes in Osage County, Okla., was considered and the committee amendments were agreed to.

Mr. Wesley E. Disney, of Oklahoma, asked unanimous consent that the title of the bill be amended.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-third Congress, Record, p. 857.

[3] William B. Bankhead, of Alabama, Chairman.

[4] John N. Garner, of Texas, Speaker.

[5] First session Seventy-second Congress, Record, p. 12097.

Mr. William H. Stafford, of Wisconsin, objected and the Speaker [1] ruled:

That amendment should be offered after the passage of the bill.

The bill was ordered to be engrossed and read a third time, was read a third time and passed, when Mr. Thomas L. Blanton, of Texas, offered the following amendment:

Strike out the title and insert in lieu thereof the following:
"A bill to amend the act of March 2, 1917."

The amendment was agreed to; and on motion of Mr. Disney a motion to reconsider the vote by which the bill passed was laid on the table.

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[1] John N. Garner, of Texas, Speaker.

Chapter CCLVI.[1]

THE HOUSE RULE THAT AMENDMENTS MUST BE GERMANE.

2908. A former rule required that amendments to revenue bills be germane not only to the subject matter in the bill but to the item of the bill to which proposed.

History and form of former Section 3 of Rule XXI.

On April 5, 1911,[2] the rule requiring that amendments be germane was supplemented by a rule requiring germaneness to the specific paragraph under consideration in amendments offered to revenue bills, as follows:

> No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill; nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed.

This rule was adopted to expedite consideration of the several tariff bills passed in the Sixty-second Congress revising the tariff by schedules, and was designed to supersede special orders under which tariffs had previously been revised by general bills including all schedules.

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[1] Supplementary to Chapter CXXVI.

[2] First session Sixty-second Congress, Record, pp. 16, 80.

It was retained in the rules until the Sixty-eighth Congress, when omitted in the adoption of the rules for that Congress on January 19, 1924.[1]

Notable decisions interpreting the rule were made by Speaker Champ Clark, of Missouri, on May 8, 1911,[2] May 8, 1913,[3] July 10, 1916;[4] and February 1, 1917;[5] Chairman Joshua Alexander, of Missouri, May 8, 1911;[6] Chairman Swagar Sherley, of Kentucky, April 21, 1911;[7] Chairman John C. Floyd, of Arkansas, January 27, 1912;[8] Chairman Finis J. Garrett, of Tennessee, April 29, 1913;[9] May 6, 1913;[10] and September 19, 1918;[11] Chairman Martin D. Foster, of Illinois, May 21, 1917,[12] and May 22, 1917;[13] Chairman Edward W. Saunders, of Virginia, May 21, 1917,[14] and September 19, 1918,[15] Chairman Ben Johnson, of Kentucky, September 5, 1917;[16] Chairman Sydney Anderson, of Minnesota, October 7, 1919,[17] and December 22, 1920;[18] Chairman C. Frank Reavis, of Nebraska, May 27, 1920;[19] Chairman Louis C. Cramton, of Michigan, May 27, 1920;[20] Chairman Philip P. Campbell, of Kansas, April 15, 1921;[21] Chairman Martin B. Madden, of Illinois, May 12, 1921;[22] and Chairman Horace M. Towner, of Iowa, October 24, 1921.[23]

2909. 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.

On August 19, 1921,[24] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 8245) to amend the revenue act of 1918, proposing the modification of section 200 of that act.

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[1] First session Sixty-eighth Congress, Record, p. 1143.
[2] First session Sixty-second Congress, Record, p. 1120.
[3] First session Sixty-third Congress, Record, p. 1381.
[4] First session Sixty-fourth Congress, Record, p. 10767.
[5] Second session Sixty-fourth Congress, Record, p. 2439.
[6] First session Sixty-second Congress, Record, pp. 1092, 1110.
[7] First session Sixty-second Congress, Record, p. 556.
[8] Second session Sixty-second Congress, Record, p. 1410.
[9] First session Sixty-third Congress, Record, p. 783.
[10] First session Sixty-third Congress, Record, p. 1234.
[11] Second session Sixty-fifth Congress, Record, p. 10522.
[12] First session Sixty-fifth Congress, Record, p. 2664.
[13] First session Sixty-fifth Congress, Record, p. 2724.
[14] First session Sixty-fifth Congress, Record, p. 2686.
[15] Second session Sixty-fifth Congress, Record, pp. 10510, 10511.
[16] First session Sixty-fifth Congress, Record, pp. 6635, 6638.
[17] First session Sixty-sixth Congress, Record, p. 6526.
[18] Third session Sixty-sixth Congress, Record, pp. 640, 658, 659, 662.
[19] Second session Sixty-sixth Congress, Record, p. 7745.
[20] Second session Sixty-sixth Congress, Record, p. 7765.
[21] First session Sixty-seventh Congress, Record, p. 353.
[22] First session Sixty-seventh Congress, Record, p. 1370.
[23] First session Sixty-seventh Congress, Record, p. 6702.
[24] First session Sixty-seventh Congress, Record, p. 5276.

Mr. Nicholas Longworth, of Ohio, offered an amendment to be inserted as a separate paragraph further modifying section 200 of the original act.

Mr. Otis Wingo, of Arkansas, made the point of order that the amendment was not germane to section 200 of the revenue act of 1918.

After debate the Chairman [1] ruled:

The gentleman from Arkansas makes the point of order to the amendment offered by the gentleman from Ohio on the ground that the proposed amendment is not germane to section 200 of the revenue act of 1918. The Chair will state that the rule of germaneness applies to amendments offered to a bill under consideration, but there is nothing in the rules of the House that requires when a former act is sought to be amended that the amendment under consideration should be germane to the former act sought to be amended either to the paragraph or section. The rule requires that the proposed amendment to the bill shall be germane to the subject matter of the bill under consideration.

The rule of germaneness does not require a measure under consideration, proposing an amendment to a former act, to be germane to any part of the former act or the act itself. An entirely different subject by way of amendment could be added to any particular section of the former act by a bill under consideration. The Chair overrules the point of order.

2910. In passing on the germaneness of an amendment, the Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time at which offered, and not as originally referred to the committee.

An amendment which would have been in order if offered when the bill was first taken up for consideration, was held not germane to the bill as modified after portions of the bill had been stricken out by amendments in the Committee of the Whole.

On May 31, 1932,[2] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 8174), to exempt certain classes from the immigration quota.

The Clerk read in part as follows:

Sec. 2 Section 6 of the immigration act of 1924 is amended to read as follows:

"(1) Fifty per cent of the quota of each nationality for such year shall be made available in such year for the issuance of immigration visas to the following classes of immigrants, without priority of preference as between such classes: (A) Quota immigrants who are the fathers or the mothers not over 60 years of age, or the husbands by marriage occurring after May 31, 1928, of citizens of the United States who are 21 years of age or over; and (B) in the case of any nationality the quota for which is 300 or more, quota immigrants who are skilled in agriculture, and the wives, and the dependent children under the age of 18 years, of such immigrants skilled in agriculture, if accompanying or following to join them."

Mr. Thomas A. Jenkins, of Ohio, proposed an amendment providing visas should be issued to other quota immigrants.

Mr. William H. Stafford, of Wisconsin, raised the question of germaneness.

The Chairman [3] ruled:

The bill as originally offered by the committee undertakes to amend two sections of the immigration law.

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] First session Seventy-second Congress, Record, p. 11691.

[3] William B. Bankhead, of Alabama, Chairman.

If the gentleman from Ohio chosen in the first place to offer is proposed amendment as a substitute for the entire bill, with notice that if the amendment was agreed to he would then move to strike out the remaining section, he would have offered a germane amendment, in the opinion of the Chair; but the gentleman from Ohio chose to offer his amendment as an amendment to section 1 of the bill. The Chair held on the interposition of a point of order that it was not germane. Thereupon the gentleman from Ohio elected to move to strike out section 1 of the bill. That motion prevailed, so that there is now left for the consideration of the committee only section 2 of the bill, and, that section undertakes only to deal with one class of persons, whereas the proposed amendment of the gentleman from Ohio seeks to enlarge the field of operation of the section now in the bill and include other people in the proviso. The Chair is of opinion that it is not germane because it deals with a number of subjects other than that provided in the section of the bill now before the committee, and the Chair sustains the point of order.

2911. 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.

On September 19, 1918,[1] the Committee of the Whole House on the state of the Union was considering the bill H. R. 12863, the revenue bill, when Mr. J. Hampton Moore, of Pennsylvania, proposed the following amendment to be inserted as a new title:

That to cooperate with the President in promoting efficiency and preventing waste and extravagance in the conduct of the war with the Imperial Government of Germany a joint committee shall be appointed, composed of six Members of the Senate, including three Democrats and three Republicans, and seven Members of the House of Representatives, including three Republicans and four Democrats, to be known as the joint committee on war expenditures. The membership of such committee for the Senate shall be designated by the President of the Senate and for the House of Representatives by the Speaker thereof. Such committee shall sit during the sessions or the recesses of Congress, shall confer and advise with the President of the United States and the heads of the various executive departments on any or all matters relating to war expenditures, and shall make report to Congress from time to time, in its own discretion or when requested to do so by either branch of Congress.

Mr. Claude Kitchin, of North Carolina, made the point of order that the amendment was not germane.

After debate the Chairman[2] ruled:

The Chair does not think it is necessary to go into any elaborate statement. Even if it were not for the provision contained in clause 3 of Rule XXI, the Chair does not think that the amendment would be in order.

The present occupant of the chair had the honor of presiding as Chairman of the Committee of the Whole when the amendment was proposed to create a tariff commission as a part of a revenue bill. The point of order was made, and the Chair held generally that the meaning of the expression "germaneness" under the facts that were then presented was that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill.

Subsequently, when the matter reached the House the Speaker of the House, in a more elaborate and better reasoned ruling than the one delivered by the Chairman of the Committee of the Whole, sustained that ruling and held that that amendment was out of order because it was not germane. Under that general principle the Chair would certainly be of the opinion that this would not be in order, and the Chair sustains the point of order.

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[1] Second session, Sixty-fifth Congress, Record, p. 10522.

[2] Finis J. Garrett, of Tennessee, Chairman.

2912. The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered does not render it germane.

One of the functions of the rule requiring germaneness is to preclude consideration of legislation which has not been considered in committee and for this reason the rule should be invoked with particular strictness against amendments proposing substitutes for an entire bill.

To a proposition to effect a purpose by one method a proposal to effect the same purpose by a different and unrelated method is not germane.

To a bill designed to raise the price of agricultural products to a ratio consistent with the price of other commodities by the creation of a corporation authorized to deal in such products an amendment proposing to accomplish the same result through a comprehensive system of cooperative marketing was held not to be germane.

To a bill undertaking to advance the price of agricultural commodities through the operation of a Federal agency with power to control marketing conditions an amendment proposing to secure such advance by granting a bounty to exporters of agricultural commodities was held not to be germane.

To a bill proposing measures to meet a declared emergency and limited in operation to a period of five years an amendment proposing permanent legislation of the same character was held not to be germane.

An amendment being offered, and the reading having begun, a point of order may interrupt the reading and the Chair may rule the amendment out if enough had been read to show that it is out of order.

On May 24, 1924,[1] the Committee of the Whole House on the state of the Union, was considering the bill H. R. 9033, the farm relief bill, declaring an emergency in respect of certain agricultural commodities and providing for the creation of a corporation to continue for a period of five years with authority to buy and sell agricultural products and authorizing an appropriation for that purpose.

The first section of the bill having been read, Mr. James B. Aswell, of Louisiana, moved to strike out the section with notice as to subsequent sections, and insert a new bill proposing to relieve the declared emergency through a comprehensive system of cooperative marketing.

During the reading of the proposed amendment Mr. Clarence Cannon, of Missouri, interrupted the Clerk and submitted that sufficient had been read to show that the amendment was not germane to the pending bill.

The Chairman[2] ruled:

The question of whether the amendment will be read in full is largely in the discretion of the Chair, and the Chair is inclined to think that an important amendment like this should be read in full.

The gentleman's point is right on the proposition that when enough has been read and the Chair is convinced it is out of order the entire amendment does not have to be read. The Chair recognizes the rule as stated, but in this case the Chair, in his discretion, is going to have more read.

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[1] First session Sixty-eighth Congress, Record, pp. 9444, 9456.

[2] Everett Sanders, of Indiana, Chairman.

The reading of the proposed substitute having been concluded Mr. Cannon renewed the point of order.

After debate the Chairman sustained the point of order and said:

The amendment offered by the gentleman from Louisiana by way of a substitute undertakes to deal with the agricultural problem. However, the mere fact that it tackles the same problem does not necessarily make it a germane amendment. The gentleman from Missouri calls attention to some of the details of the bill offered by the gentleman from Louisiana which make it, it seems to the Chair, not germane.

The bill under consideration by the committee creates a Government corporation, and through the agency of that corporation—by the aid of other agencies—undertakes to artificially provide a means of taking care of the surplus exports in such way as to raise the price of agricultural commodities up to the point where the ratio will be the same on agricultural commodities as on other commodities over a fixed period of time, and it carries out that plan. Now, this proposition, while it undertakes to relieve agriculture, undertakes to do it in an entirely different way and in such manner as would not be proper by way of a substitute, because the committee would then have to vote upon the adoption of an entire bill, which would have to be rewritten on the floor and which has never been reported by any committee. The Chair will sustain the point of order.

Subsequently, Mr. Henry T. Rainey, of Illinois, offered an amendment in the nature of a substitute for the pending bill proposing to encourage the exportation of agricultural products and thereby relieve the declared emergency by granting a bounty to exporters of agricultural commodities.

Mr. Cannon made the point of order that the substitute was not germane.

After further debate the Chairman ruled:

The amendment offered by the gentleman from Illinois as a substitute for the entire bill is more nearly germane than the former amendment, but the Chair is of opinion that it does not come within the rule of germaneness. The object sought, of course, is farm relief, but that does not necessarily make the bill germane. The method is so entirely different in the bill offered by the gentleman from Illinois from the method of the bill under consideration that it seems to the Chair that it is not germane. Both bills recognize that the question of price is determined somewhat upon the exportable surplus, but the bill, with the Chair has rather hastily read, offered by the gentleman from Illinois by way of substitute, proposes to deal with this question of exportable surplus by giving a bounty to the exporter, evidently with the view that if the export brings a fair price, a fair price would result in the domestic market; but that is such a departure from the plan of the bill which creates a Government corporation, giving it power and authority to export, that it would not come within the rules of the House to hold it germane. The Chair therefore sustains the point of order.

Thereupon, Mr. Morgan G. Sanders, of Texas, offered an amendment intended to alleviate the declared agricultural situation by a method similar in many respects to that provided by the pending bill but proposed as a permanent legislation.

Mr. Cannon having again raised the question of germaneness, the Chairman said:

The amendment offered by the gentleman from Texas seeks to effect the same general purpose as the bill in question—that is, to relieve the agricultural situation. It is true as suggested that the mere fact that there is to an extent a departure from the bill under consideration does not make it out of order because otherwise there would be no necessity of offering a substitute or amendment of any kind. However, it is not possible to offer a substitute for a bill which undertakes to give the same relief and yet departs entirely from the method of the bill under consideration. The Haugen bill, under consideration, is an emergency measure and merely gives power to investigate and determine when a special emergency exists with reference to any one of the

enumerated agricultural products, and then the corporation having certain definite powers comes into action and by means of control of exportable surplus relieves the situation. This substitute is permanent legislation, giving the Government power to buy and sell farm products. While the ultimate object is to relieve agriculture, it embraces a method that does not come within the rules of the House in reference to germaneness to the bill under consideration, and the point of order is sustained.

2913. To a proposition to appropriate for a general increase in salaries for one year an amendment to extend the increase to another year was held not to be germane.

On December 19, 1916,[1] while the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, Mr. Joseph W. Byrns, of Tennessee, offered the following amendment to be inserted as a new section:

That to provide during the fiscal year 1918, for increased compensation at the rate of 10 per cent per annum to employees who receive salaries at a rate per annum less than $1,200, and for increased compensation at the rate of 5 per cent per annum to employees who receive salaries at a rate not more than $1,800 per annum and not less than $1,200 per annum, so much as may be necessary is appropriated.

To this amendment Mr. Joseph G. Cannon, of Illinois, proposed an amendment reading as follows:

After the word "provide," insert "during the remainder of the fiscal year 1917 and."

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment was not germane.

The chairman[2] ruled:

The Chair thinks that the object of the special rule is to provide for these increases for certain classes of employees for the fiscal year 1918, and that if the proviso in the special rule cited by the gentleman from Illinois, Mr. Mann, namely—

"Resolved, That no amendment shall be in order in the consideration of the foregoing amendment changing existing law beyond the fiscal year 1918, nor shall any amendment be in order relating to the compensation of employees not appropriated for in H. R. 18542"— were not in the special rule, an amendment would not be in order that would have extended it beyond the fiscal year 1918. It would not, in that event, be germane to this section. There is quite a difference, in the opinion of the Chair, between an amendment making an appropriation immediately available and in an amendment that provides for increasing the appropriation during the remainder of the year 1917. The Chair can not agree with the argument of the gentleman from Illinois that there is any deficiency to be taken care of in this amendment. It proposes, on the other hand, to increase an appropriation and change existing law. The amendment, in the opinion of the Chair, is not germane to the provision and sustains the point of order.

Mr. James R. Mann, of Illinois, having appealed, the decision of the Chair was sustained by the committee—yeas 96, nays 79.

2914. To a section proposing legislation for the current year an amendment rendering such legislation permanent was held not to be germane.

[1] Second session Sixty-fourth Congress, Record, p. 559.

[2] Pat Harrison, of Mississippi, Chairman.

On December 19, 1922,[1] the House was considering Senate amendment No. 1 to the Treasury Department appropriation bill then in disagreement between the two Houses and reading as follows:

Undersecretary of the Treasury, to be nominated by the President and appointed by him, by and with the advice and consent of the Senate, who shall receive compensation at the rate of $7,500 per annum and shall perform such duties in the office of the Secretary of the Treasury as may be prescribed by the Secretary or by law, and under the provisions of section 177, Revised Statutes, in case of the death, resignation, absence, or sickness of the Secretary of the Treasury, shall perform the duties of the Secretary until a successor is appointed or such absence or sickness shall cease, $7,500.

Mr. Martin B. Madden, of Illinois, moved that the House recede from its disagreement and concur in the Senate amendment with an amendment as follows:

In line 2 of the matter inserted by said amendment, after the word "Treasury," insert the word "hereafter." In line 4 of the matter inserted by said amendment, after the word "who," insert the word "hereafter."

Mr. Cassius C. Dowell, of Iowa, submitted that the insertion of the word "hereafter," as provided, would render the legislation permanent and made the point of order that the proposed amendment was for that reason not germane.

The Speaker[2] sustained the point of order and said:

It seems to the Chair that either the language is surplusage or it does make it permanent law. In that case it would be subject to a point of order.

2915. To a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill, an amendment proposing to make the provision permanent legislation was held not to be germane.

On February 6, 1925,[3] during consideration of the District of Columbia appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read this paragraph:

Be it enacted, etc., That in order to defray the expenses of the District of Columbia for the fiscal year ending June 30, 1926, any revenue (not including the proportionate share of the United States in any revenue arising as the result of the expenditure of appropriations made for the fiscal year 1924 and prior fiscal years) now required by law to be credited to the District of Columbia and the United States in the same proportion that each contributed to the activity or source from whence such revenue was derived shall be credited wholly to the District of Columbia, and in addition, $9,000,000 is appropriated, out of any money in the Treasury not otherwise appropriated, and all the remainder out of the combined revenues of the District of Columbia and such advances from the Federal Treasury as are authorized in the District of Columbia appropriation act for the fiscal year 1923.

Mr. Louis C. Cramton, of Michigan, offered the following amendment:

Provided, That in order to defay the expenses of the District of Columbia *for each fiscal* year after the fiscal year ending June 30, 1926, any revenue (not including the proportionate share of the United States in any revenue arising as the result of the expenditure of appropriations made for the fiscal year 1924 and prior fiscal years) now required by law to be credited to the District of Columbia and the United States in the same proportion that each contributed to the

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[1] Fourth session Sixty-seventh Congress, Record, p. 698.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-eighth Congress, Record, p. 3166.

activity or source from whence such revenue was derived, shall be credited wholly to the District of Columbia; and, in addition, $9,000,000 shall each such fiscal year be appropriated out of any money in the Treasury not otherwise appropriated, and all the remainder out of the combined revenues of the District of Columbia and such advances from the Federal Treasury as are authorized in the District of Columbia appropriation act for the fiscal year 1923.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the effect of the proposed amendment was to render permanent the proposed legislation carried by the pending paragraph, and the amendment was therefore not germane to the bill.

After debate the Chairman ruled:

The paragraph which this amendment seeks to amend clearly embodies legislation and would have been repugnant to the rule unless taken out by some exception to the rule. Doubtless, it would have been claimed that the Holman rule makes it an order. The present occupant of the chair, not now being called upon to decide it, can say that as the paragraph stood, if a point of order had been made against it, he would have ruled it out of order as not coming under the Holman rule, because of the indefinite, uncertain nature of the refund provision. If the uncertainty had been removed by some provision making it readily demonstrable that the amount appropriated in the paragraph is less than the 40 per cent of the total amount of the bill to be paid jointly from the General Treasury and from District funds, then the Chair would have held it in order, because the existing law authorizes a contribution of 40 per cent from the Treasury.

No point of order was made, however. Now, the gentleman from Michigan offers to amend by inserting a new paragraph, making permanent substantially the same provision carried in the original paragraph as applicable only to the year for which the appropriation is carried in the bill.

The new paragraph would make permanent law, so far as we can make a law permanent, whereas the paragraph in the bill relates only to the year for which the appropriation is made. The gentleman from Michigan claims that because the original paragraph is legislation, therefore, it opens up the paragraph to amendment by anything that is germane. The Chair agrees to this proposition as a general statement of the rule. The amendment, however, must be germane in fact. The paragraph as it stands deals with temporary legislation only, its force and effect being limited to the year for which the bill appropriates. The gentleman's amendment would make it permanent law. It seems to the Chair that this introduces an entirely new element that is in fact "a subject different from that under consideration" and, therefore, repugnant to the rule relating to germane amendments.

The Chair cites one precedent only, and that was by Mr. Speaker Gillett in the Sixty-seventh Congress, fourth session, on December 19, 1922. A bill was returned from the Senate carrying an amendment providing for an Undersecretary of the Treasury, but for the current year only. The gentleman from Illinois, Mr. Madden, moved that the House recede and concur with an amendment adding the word "hereafter," which would have had the effect of making it permanent law. On this the Speaker indicated that the word "hereafter." changing a temporary provision to a permanent one, made the amendment subject to a point of order as not germane to the amendment as it came from the Senate. The Chair sustains the point of order.

2916. To a bill amendatory of a existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

To a bill amending provisions of a law providing for the measurement of vessels to determine the tolls to be paid thereon an amendment repealing provisions of the law establishing such tolls was held not be germane.

In determining the germaneness of amendments offered to a bill the title of the bill is not taken into consideration.

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[1] John Q. Tilson, of Connecticut, Chairman.

On October 1, 1919,[1] the House was in the Committee of the Whole House on the state of the Union considering the bill (H. R. 7015) governing tolls to be paid at the Panama Canal.

Mr. Albert Johnson, of Washington, offered the following amendment:

Provided, That from and after the date of approval of this act no tolls shall be levied upon vessels engaged in the coastwise trade of the United States for the use of the Panama Canal, and all acts or parts of acts inconsistent herewith are hereby repealed.

Mr. Everett Sanders, of Indiana, made the point of order that the proposed amendment was not germane to the bill.

After debate the Chairman[2] ruled:

There have been several arguments advanced in relation to the point of order under consideration, and while the Chair, after consulting precedents, feels that there are several counts on which the point of order can be sustained will consider only one, that of germaneness. The matter of germaneness, of course, is one that is filled at times with some uncertainty. There are frequently twilight zones, but in this case the mater seems clearly defined. There is one point the Chair wants to speak about, however, before considering the main question. It was advanced by the gentleman from Washington, Mr. Johnson, with reference to the title to this bill. In the opinion of the Chair the title was comparatively little to do with the body of the bill in this case. In Hinds' Precedents, volume 5, page 411, that point is very thoroughly brought out. The Chair will read that part of the decision which pertains to the title of a bill. It states that the title itself does not affect the essence of the bill. Regarding the interpretation of the title, Speaker Henderson said:

"The question as to whether these sections are germane can not be determined by the title alone, as had been suggested, because an act amending an act will always describe the title amended, although it may only touch one feature or part of the law; but the whole resolution has to be considered and the amendments to the resolution. If this was not clear, possibly the title would be brought into consideration."

Now, as to germaneness: It seems to the Chair that this is a matter of whether or not this particular amendment is properly related to the bill itself. The bill provides certain rules for the measurement of vessels using the Panama Canal, but it does not provide for the payment of tolls. It merely establishes a standard of measurement for ships going through and does not prescribe the amount of money which shall be paid by the ships themselves. From rule 16, paragraph 7, it is very clear, "That no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." Therefore it seems to the Chair that the two subjects, the subject matter of the bill and the subject matter of the amendment, are not related, and the Chair sustains the point of order.

2917. A proposal to strike out a portion of a text may not be germane to the proposition involved.

A proposal to eliminate portions of a text thereby extending the scope of its provisions to other subjects that those originally presented is in violation of the rule requiring germaneness.

To a proposal to dismiss officers violating the "Federal prohibition laws" an amendment striking out the word "Prohibition" was held not to be germane.

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[1] First session Sixty-sixth Congress, Record, p. 6225.

[2] Frederick C. Hicks, of New York, Chairman.

On February 8, 1930,[1] the Committee of the Whole House on the state of the Union was considering the bill H. R. 8574, the prohibition reorganization bill, when the following committee amendment was read:

Provided, That all officers and employees of the Bureau of Prohibition who the Attorney General finds have heretofore or shall hereafter violate any penal provisions of the Federal prohibition laws shall be dismissed.

Mr. Frederick Lehlbach, of New Jersey, offered an amendment proposing to strike out the word "prohibition" where last occurring.

Mr. William Williamson, of South Dakota, having submitted a point of order that the amendment was not germane, the Chairman [2] said:

The amendment offered by the committee provides:

"That all officers and employees of the Bureau of Prohibition who the Attorney General finds have heretofore or shall hereafter violate any penal provision of the Federal prohibition laws shall be dismissed."

The Chair thought at first that the canceling in the amendment of the word "prohibition" would be germane, but as he looks at it now he believes it would be enlarging, and enlarging very greatly, the scope of this amendment, and that it would be bringing into the amendment and into the purpose of the amendment a vast variety of other acts which are made crimes under the Federal law.

Therefore the Chair is inclined to hold, and does hold, that under the conditions the striking out of the term is not permissible and that the question of germaneness arises in the situation which confronts us, and sustains the point of order against the language of the amendment.

2918. While an amendment proposing to strike out language in a pending bill can not ordinarily be ruled out of order as not germane, yet if the effect of striking out such language so affects the scope and import of the text as to present a different subject from that under consideration it is not germane.

To a bill relating to interstate commerce an amendment pertaining to foreign commerce was held not to be germane.

On January 26, 1916,[3] during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 8234) to prevent interstate commerce in the products of child labor, the Clerk read as follows:

That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce the product of any mine or quarry situated in the United States which has been produced, in whole or in part, by the labor of children under the age of 16 years.

J. Hampton Moore, of Pennsylvania, offered the following amendment:

After the word "States," insert a comma and the words "or any foreign country."

Mr. David J. Lewis, of Maryland, made the point of order that the subject under discussion related exclusively to interstate commerce, and the amendment proposing to add the products of foreign commerce was not germane.

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[1] Second session Seventy-first Congress, Record, p. 3310.

[2] Joseph L. Hooper, of Michigan, Chairman.

[3] First session Sixty-fourth Congress, Record, p. 1598.

The Chairman [1] ruled:

It will be understood that the Chair has nothing to do with the merits of the feasibility of extending this act to foreign commerce. His province is to determine whether or not the amendment offered by the gentleman from Pennsylvania is germane to the bill now pending. The House is familiar with the principle that to one specific subject another specific subject is not in order. This has been held in the House time and again. It seems to the Chair that most of the gentlemen who have argued in favor of this proposition have discussed the power of Congress to regulate both interstate and foreign commerce rather than the question of whether a proposition regulating foreign commerce is germane to a bill regulating interstate commerce. Two subjects are not necessarily germane to each other because they are related. The Chair believes that this is a bill to regulate child labor in interstate commerce, and, therefore, that an amendment proposing to extend it to foreign commerce is a different matter, and is not in order. Therefore the point of order is sustained.

Mr. Moore then proposed this amendment:

After the word "States," insert the words "or imported from any foreign country."

Mr. Lewis interposed the same point of order made against the first amendment.

The Chairman sustained the point of order and said:

The gentleman from Pennsylvania will observe that the committee has limited this bill to child-labor goods produced in the United States. The child-labor goods produced in foreign countries are another matter. If the gentleman will turn to the Record of a year ago, he will find where the Speaker overruled the Committee of the Whole on the same identical proposition. In that case the Speaker held that where the committee had limited the application of the bill to the products of one kind of labor, a proposition to extend it to the products of another kind of labor was not germane. The Chair thinks he ought to follow the ruling of the Speaker where the Speaker was sustained by the House and therefore sustains the point of order.

Mr. Edwin Yates Webb, of North Carolina, then asked, as a parliamentary inquiry, if any amendment striking out words in the pending paragraph would be in order, having reference to the words "in interstate commerce" and "in the United States."

The Chairman replied tentatively in the affirmative.

Mr. Swagar Sherley, of Kentucky, submitted:

Mr. Chairman, I desire to be heard before the Chair makes a ruling along those lines, because the Chair will find a long line of precedents in rulings by Speaker Carlisle and Speaker Reed and several other distinguished Speakers holding that where the effect of striking out words is to change the scope of the bill it is not in order.

The Chairman said:

Upon reflection, the Chair thinks the gentleman from Kentucky is correct. The Chair was in error in making his answer.

2919. An amendment which by striking out words would change a privileged proposition to an unprivileged proposition was held not to be in order.

On December 15, 1908,[2] the House was considering a privileged resolution of inquiry (H. Res. 447) requesting the Secretary of State to inform the House if he had in his possession any information as to whether or not the House of Commons of

[1] John N. Garner, of Texas, Chairman.

[2] Second session Sixtieth Congress, Record, p. 276.

Great Britain had recently adopted a resolution to the effect that a committee be appointed to consider changes in its rules.

Mr. Augustus P. Gardner, of Massachusetts, offered an amendment striking out a portion of the resolution.

Mr. Sereno E. Payne, of New York, made the point of order that the elision of the language proposed to be stricken out would destroy the privilege of the pending resolution.

After debate the Speaker [1] ruled:

The motion to discharge the committee was privileged, and the resolution, from the consideration of which the Committee on Foreign Affairs was discharged, is privileged. The amendment strikes out the following words:

"That the Secretary of State, and he is hereby, respectfully requested, if not incompatible with the public interests, to inform the House of Representatives whether he has in his possession any information as to whether or not the House of Commons of Great Britain has recently adopted a resolution to the effect."

Those words are to be stricken out by the amendment, and the amendment would then leave the words in the original resolution as follows:

"That a committee of eight Members of the House be immediately appointed, five to be selected by the Speaker and three by the leader of the minority, to consider the existing rules of the House and to report not later than February 1, 1909, what changes, if any, it is desirable to make."

Thus the amendment would change the character of the resolution, which was one of inquiry and therefore privileged under the rule, by striking out the matter inquired about and leaving in the resolution matter that is not privileged. If the resolution had stood as the gentleman now proposes by his amendment to have it stand, it would not have been in order, because it would be shorn of all matter of inquiry contained in the resolution. The precedents are quite numerous. I read from the Digest, volume 7:

"A privileged proposition may not be amended by adding thereto matter not privileged or germane to the original question." (Vol. 5, sec. 5890.)

That was a ruling by the present Speaker of the House.

"It is not in order to amend a pending privileged proposition by adding a matter not privileged and not germane to the original proposition." (Vol. 5, sec. 5809.)

That was a ruling by Mr. Speaker Carlisle. Section 5810 contains a similar ruling by Mr. Speaker pro tempore Blackburn:

"The next of a bill containing a nonprivileged matter, privilege may not be created by a committee amendment in the nature of a substitute not containing the nonprivileged matter." (Vol. 4, sec. 4623.)

The precedents are numerous and to the point, and the Chair is perfectly clear that the point of order is well taken, and sustains the same.

An appeal by Mr. Gardner from the decision of the Chair was, on motion of Mr. Payne, laid on the table—yeas 149, nays 136.

2920. An amendment which by striking out a portion of the text changes the purpose and scope of the bill is not germane.

To a bill authorizing suit against a certain class of Government-owned vessels an amendment striking out language designating the class and making the bill applicable to all Government-owned vessels was held not to be germane.

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[1] Joseph G. Cannon, of Illinois, Speaker.

On January 19, 1920,[1] the Committee of the Whole House on the state of the Union was considering the bill (S. 3076) authorizing suits against the United States in admiralty for salvage services; applying exclusively to merchant vessels employed in carrying cargo for hire.

Mr. James W. Husted, of New York, proposed an amendment striking out the language specifying the class of vessels to which the bill related.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the amendment was not germane and said:

Mr. Chairman I make the point of order, that the amendment offered by the gentleman from New York is not germane, in that this bill and the section to which the amendment is offered is confined to a certain class of Government-owned vessels. In line 10 and 11, on page 10 of this bill, the proviso is "that such vessel is employed or intended to be employed in the carriage of cargoes or of passengers for hire."

That certainly restricts the application of the act, if it becomes a law, to a certain class of vessels. I submit that *this amendment* seeks to strike out the language, and then provides for what shall be done and how suit may be brought and proceedings had *against all Government-owned vessels,* and that it is not germane to the purposes and provisions of the bill. It goes far beyond the scope of its provisions. It is a provision which if it were in the bill as originally introduced would probably take the jurisdiction of the bill out of the Committee on the Judiciary. I think it is well recognized that we can not include by way of amendment in a measure restricted to one particular subject or class, other classes. In other words, you can not, by amendment, broaden the scope of a bill when by the terms of that bill it is restricted to one particular class or subject. I submit that this measure as it has been passed by the Senate and as it has been reported by the Committee on the Judiciary to the House, is restricted in its provisions to merchant vessels employed or intended to be employed in the carriage of cargoes or passengers for hire. Under the amendment of the gentleman from New York it strikes out that proviso, and permits suits to be brought because of damage resulting from collisions with naval vessels, or Army transports, or Coast Guard cutters, or Bureau of Fisheries steamers and vessels under the jurisdiction of the Board of Engineers in the War Department, and opens it to all Government-owned vessels, whether they be employed or intended to be employed in the carriage of cargo, and passengers for hire, or whether they be employed or intended to be employed strictly on Government business, in which they are not competing with any privately owned craft or any individual enterprise.

Mr. Husted took the position that an amendment striking out words in a bill is always germane.

In reply Mr. James R. Mann, of Illinois, argued:

Mr. Chairman, I do not know that I shall take part in this discussion. I certainly would not but for the statement of the gentleman from New York that the motion to strike out words is always in order.

Now, I will give an illustration which I am sure the gentleman from New York will say proves that a motion to strike out is not always in order. Take, for instance, the Philippine tariff law. We had the right to fix the rates of duty on goods coming from the Philippines into the United States. We had the right to say that they should come in free from the Philippines. That would be a bill relating wholly to the question of tariff between the United States and the Philippine Islands, a possession of the United States. As I recall—and I do not give the reference—when that bill was up for consideration some one moved to strike out the language that would confine it to the Philippine Islands. If it had said "goods coming from the Philippines, imported into the United States from the Philippines," all that was necessary to do was strike out the words "coming from the Philippines," and that would have made it a universal tariff bill.

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[1] Second session Sixty-sixth Congress, Record, p. 1754.

Now, it is perfectly patent that the striking out of that language was not a germane amendment. It had no relation to the subject matter, because it was intended to change the subject matter wholly from a tariff with the Philippine Islands, to a universal tariff law, and it was held to be out of order.

The same thing was true when the Canadian reciprocity bill was before the House. I can not cite the reference; I do not know whether it is carried in the Record even, because some one who looked it up told me that while the decision was made there was some error in recording, so that it did not appear in the Record. I do not know as to that.

But a motion was made to strike out the language which would confine the provision for reciprocity to Canada. That would have made it universal and would have destroyed wholly the purpose of the bill in the first instance, which was designed to operate with Canada only, and would have made it a universal reciprocity proposition. It was held there that the motion to strike out was out of order. I think it is the general rule that where words of limitation are in a bill, limitating the subject matter of the bill, and it is proposed to strike out those words, so as to change the subject matter of the bill and enlarge its scope, such an amendment is held not germane, because it is not germane to that bill but would be germane to a bill involving the whole subject matter. Now, a Member introducing a bill has the right to introduce it in relation to a particular proposition. There are many adjectives of definition constantly used in public bills and private bills which, if you should strike them out, would make the bills universal in character and entirely change their scope. I hope the Chair will not express the opinion in ruling that it necessarily follows that a motion to strike out is in order because of the general principle that it is within the power of the House to strike out any language in a bill. It is generally true that a parliamentary body can strike out any proposition in a bill, but under the question of germaneness an amendment is not permissible which by striking out language would change the purpose and scope of the bill.

After further debate the Chairman [1] ruled:

The Chair recognizes that this point is somewhat involved and complicated and that it raises some new questions. The Chair has been consulting some of the references, not only those mentioned by gentlemen who have debated the point of order but some he has been able to find independent of the argument. The gentleman from New York in arguing to sustain his amendment bases it, as the Chair understands, largely upon the fact that striking out any words in a bill is in order, irrespective of what that effect will be. The Chair is aware that Mr. Speaker Clark some years ago made a ruling of that kind, that a motion to strike out, "that is always in order—to strike anything out of anything," and that since then, in a general way, we have followed that ruling.

The present occupant of the chair, however, without the slightest desire to take exception to the ruling of the former Speaker, believes that that ruling is at times subject to qualification and modification, and should properly be interpreted in reference to the subject matter affected.

The Chair for the moment will pass that point, however, and will consider the point of order from another angle.

A motion to strike out and insert is indivisible—paragraph 7, Rule XVI—and the amendment of the gentleman from New York not only strikes out certain words in the bill but inserts certain other words. It seems to the Chair that we should analyze those words which the amendment proposes for incorporation in the bill in conjunction with those that are to be stricken out. If we refer to the words to be inserted we find that while they are limitations to a certain extent, they refer directly to a specific class of vessels. The Chair will quote one sentence of the amendment to fortify his position:

"In the case of a vessel not employed as a merchant vessel."

What is that class of vessels? They are the military ships of the United States and vessels engaged in the public service of the United States. The subject matter of the bill, as the Chair understands its provisions, pertains solely to one class of ships, and what is that class? They are

[1] Frederick C. Hicks, of New York, Chairman.

the ships engaged in merchant service, publicly owned though they be. Therefore it seems to the Chair that as the motion to strike out and insert can not be divided we have in the words to be added a subject which is not so related to the subject matter of the bill as to come within the rule for germaneness.

To complete the record on the point of germaneness, the Chair cites paragraph 7, Rule XVI, with which we are all familiar, "that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment," and to cite the same rule further: "One individual proposition may not be amended by another individual proposition, even though the two belong to the same class." There are so many noted precedents that have been established under this rule that the Chair does not think it necessary to refer to them. The Chair feels that the word "proposition" in paragraph 7 may be considered as providing for a situation in which a motion to strike out, while it does not in positive language add a new subject, does in effect widen the scope of the bill beyond that contemplated if we adhere too strictly to the theory "that it is always in order to strike anything out of anything." As a counter proposition to this—and the Chair feels that both are rather general in their application—the Chair refers to Hinds' Precedents, Volume V, section 5834, where, on a motion to recommit, it was held "that it is not in order to do indirectly by a motion what may not be done directly by way of amendment." The gentleman from New York in his able argument in support of his contention refers to Hinds' Precedents, Volume V, section 5805, "where an amendment simply striking out words already in a bill" was held to be germane. The gentleman from New York will note that the Chair in making that ruling was evidently not entirely sure of his ground, for he says "that this question is rather a question for the committee to decide; a question of policy rather than a question for the Chair to decide on a point of order."

This brings us to a consideration of the thought suggested by Mr. Mann, of Illinois, and Mr. Walsh of a single motion to strike out, if by so doing the scope of the bill would thereby be enlarged. The point of striking out certain words was the crux of the argument of the gentleman from New York, and the Chair will now consider the principle involved.

The points made in this feature of the discussion have opened up very broad and in some respects comparatively undetermined questions, which, since they have been brought forward, the Chair feels obliged to pass upon.

The Chair realizes that the presiding officer is not called upon to determine the effect of an amendment upon the law itself or to interpret legislative propositions. In the precedents that have been cited conflict of rulings appear, and the Chair thinks that when those conflicts arise it is the duty of the Chair to apply the rule of reason, and the Chair will endeavor to apply that in the present instance. The Chair desires to cite from a precedent and read the opinion of the presiding officer at the time, which has not been referred to by gentlemen who have spoken to the point of order. It seems to the Chair that his precedent is almost a parallel case to the point of order now being discussed. The Chair reads from Hinds' Precedents, Volume V, paragraph 5864. This was on December 16, 1898. The House was in Committee of the Whole House on the state of the Union, considering the bill to extend the laws relating to customs and internal revenue over the Hawaiian Islands, and the first section of the bill having been read—and here is the point that the Chair especially wants to have emphasized—

"Be it enacted, etc., That the laws of the United States relating to *customs and internal revenue,* including those relating to the punishment of crimes in connection with the enforcement of said laws, are hereby extended to and over the Island of Hawaii and all adjacent islands and waters of the islands."

After that had been read Mr. McRae, of Arkansas, offered an amendment to strike out, after the words "the United States," the following: "relating to customs and internal revenue." Mr. Dingley, of Maine, made the point of order that the amendment was not germane, and after debate upon the subject the Chairman held as follows:

"The Chair thinks that the point of order is well taken. This bill is to extend the laws relating to customs and internal revenue, and the amendment seeks to open up the question of land titles and other laws in the Territories, thus enlarging the scope and bringing in matter not germane to the bill."

The point of order was sustained.

In Hinds' Precedents, Volume IV, section 3596, is another case in point which the Chair will cite. An amendment was offered which contained, among others, these words, "appliances for the automatic control of railway trains." Mr. Crumpacker, of Indiana, moved to strike out the word "automatic," Mr. Mann, of Illinois, made a point of order, and the Chair in ruling upon it said:

"I would like to ask the gentleman from Indiana whether or not his description, by striking out the word "automatic" here, would not let in a great many things? That is, would not the scope of the investigation be much wider and more extended than if the term "automatic" is included?"

The ensuing debate having indicated that the effect of the amendment might be to extend the scope of the investigation, the Chair sustained the point of order, though evidently in some doubt.

The Chair feels that notwithstanding the general proposition that parliamentary questions are usually determined by the form and not the effect of an amendment, that when no rules are applicable the effect should be taken into consideration as a determining factor, when by striking out specific words new and different subjects are thereby introduced, and the scope of the legislation under consideration is broadened beyond that contemplated in the bill.

In line with what the Chair considers the most conclusive precedents in reference to striking out words, following also the precedents pertaining to germaneness, and in conformity with the views just expressed by the Chair on the subject of scope of legislation, the Chair feels that the point of order is well taken, and sustains it.

2921. Under circumstances where the omission of language would sufficiently change the purport of the text to present another subject a motion to strike out has been held not to be germane.

On March 27, 1920,[1] during consideration of the District of Columbia appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Charles R. Davis, of Minnesota, proposed the following as a new paragraph:

The rate of taxation on real estate in the District of Columbia, under the provisions of section 5 of the District of Columbia appropriation act approved July 1, 1902, is hereby increased from 1½ per cent to 2½ per cent, and the rate of taxation on tangible personal property in the District of Columbia, under the provisions of section 6 of the said act, is hereby increased from 1½ per cent to 2½ per cent.

Mr. William F. Stevenson, of South Carolina, moved to strike out the word "tangible."

Mr. James R. Mann, of Illinois, raised a question of order and said:

As a general thing, of course, it is in order to strike out, but it has been held on a good many occasions that where a motion to strike out a word, such as the word "not," for instance so as absolutely to reverse what was intended, it may not be in order. It sometimes is, but it is here held not in order because it accomplishes something by striking out that you could not accomplish by inserting. In this particular case the Chair had already sustained a point of order to an amendment to insert a specific provision with reference to the intangible property. The effect of the amendment offered by the gentleman from South Carolina was to insert it, which amounted to the same thing.

The Chairman[2] sustained the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 4937.

[2] Martin B. Madden, of Illinois, Chairman.

2922. An amendment must be germane to the section or paragraph to which it is offered.

To a section of a revenue bill proposing definitions of terms an amendment levying a tax was held not to be germane although germane to the bill as a whole.

If any part of an amendment is out of order the entire amendment may be ruled out.

On February 18, 1924,[1] the bill H. R. 6715, the revenue bill, was being considered in the Committee of the Whole House on the state of the Union, when the Clerk read the first section devoted exclusively to the definition of terms used in the bill.

Mr. James A. Frear, of Wisconsin, proposed the following amendment to be inserted as a new subdivision under the section:

The term "taxable income from whatever source derived" shall include all incomes received from every source, including Federal, State, and municipal securities, except where specifically exempted by act of Congress, and shall be laid and collected the same as all other taxes.

Mr. William R. Green, of Iowa, made the point of order that the amendment was not germane to the section.

After debate the Chairman[2] ruled:

The rule has always been, ever since 1822, and has been repeatedly held by succeeding Speakers and Chairmen from that time, that amendments to be germane must not only be germane to the subject matter of the bill also to the paragraph where offered. That is the rule now. This particular part of the bill is headed "Definitions," and thus far in the reading certain terms are defined—for instances, "fiduciary," "withholding agent," "paid or incurred," "stock," and "shareholder"—giving a definition of the terms as they are used in the bill. When this amendment was first presented, the Chair on hearing it read was of the opinion that it was a definition and therefore proper and germane at this time. That would be true if it were not for the closing language of the amendment, "and shall be laid and collected the same as all other taxes." Manifestly this goes beyond a definition and imposes a tax, or attempts to impose a tax. If so, and if it is germane to the subject matter of the bill, upon which the Chair will not pass at this time, it ought to be offered to some other section. If the amendment were without this language it would be proper at this time. Having this language in it, the Chair is of the opinion that it is subject to the point of order, and therefore sustains the point of order.

2923. An amendment should be germane not only to the subject matter of the bill but also to the particular section of the bill in which it is proposed to insert the amendment.

An amendment to the second title of a bill was held not germane to the first title of the bill.

On April 24, 1930,[3] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 10381) to amend the World War veterans' act of 1924, as amended.

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[1] First session Sixty-eighth Congress, Record, p. 2719.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Second session Seventy-first Congress, Record, p. 7641.

During the reading of Title I of the bill Mr. Robert A. Green, of Florida, offered an amendment appending a new section of Title II of the bill.

Mr. Royal C. Johnson, of South Dakota, submitted that the amendment was not germane to Title I of the bill.

The Chairman [1] sustained the point and said:

The offer proposes to amend a section of the law under Title II, which comes in at a later point in the bill. The Chair does not think it is germane to this portion of the bill. The Chair sustains the point of order.

2924. It is not sufficient that an amendment proposed to a pending amendment be germane to the bill but it must also be germane to the amendment to which it is offered.

On February 28, 1924,[2] during consideration of the bill H. R. 6715, the revenue bill, in the Committee of the Whole House on the state of the Union, Mr. Fiorello H. LaGuardia, of New York, proposed the following amendment:

No member of the board shall be permitted to practice before said board or any official of the Treasury Department, or be connected, directly or indirectly, with any person or any firm of lawyers, solicitors, accountants, or agents practicing before said board or any official of the Treasury Department on behalf of taxpayers for a period of two years after his term of office terminates of from the time such member resigns or otherwise leaves the service of the Government.

Mr. Thomas L. Blanton, of Texas, moved to amend this amendment as follows:

After the word "board," in the first line of the LaGuardia amendment, insert the words "or any official or Government employee in the Treasury Department."

Mr. William R. Green, of Iowa, made the point of order that the amendment was not germane to the amendment to which offered.

Mr. Blanton submitted that it was germane to the original bill.

The Chairman [3] held:

Heretofore the gentleman from Texas has offered an amendment, which at time was discussed, and which the Chair held would be germane when we arrived at the proper part of the bill, which the Chair thought at that time would be Title X. The gentleman now offers an amendment to an amendment. In order to ascertain whether or not it is germane to the amendment to which it is offered, one must look to the amendment and not to the bill. Now, what is the amendment? The amendment is that no member of the board shall be permitted to practice, and so forth. To that the gentleman from Texas seeks to add "or any official or Government employee of the Treasury Department," thereby interjecting an entirely different class of people from those mentioned in the amendment, namely the board. Therefore it is not germane to the amendment, although it might be germane to the bill if offered as a separate proposition. The point of order is sustained.

2925. An amendment must be germane to the particular paragraph or section to which it is offered.

On June 10, 1921,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6611) to establish in the Treasury Department a veterans' bureau.

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[1] Carl E. Mapes, of Michigan, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 3287.

[3] William J. Graham, of Illinois, Chairman.

[4] First session Sixty-seventh Congress, Record, p. 2397.

Title II of the bill having read, Mr. C. William Ramseyer, of Iowa, offered an amendment proposing a modify a section of existing law dealt with in Title IV of the pending bill.

Mr. Carl E. Mapes, of Michigan, made the point or order that the amendment was not germane to the section to which offered.

After debate the Chairman [1] ruled:

The war risk insurance act, as the Chair has already stated, is divided into four titles. The first of those titles deals with provisions that are more or less general to the entire act, definitions, and general provisions of that sort. The second title relates to allotments. The third title relates to compensation, and the fourth relates to insurance. The general rules applicable to amendments provides that an amendment must be germane not only to the bill but to the section, if it is offered to a section, or, if offered as a new section, it must be germane in the place where it is offered.

The provision under consideration amends but one section of the first title of the war risk insurance act. It amends no other section of that title. The Chair feels that the purpose of the rule requiring that an amendment shall be germane at the place in which it is offered is to preserve the proper order of the legislation, and that to permit the introduction of an amendment to a portion of the bill under Title IV, as an amendment to a section in Title I, for instance, of this bill, would be to destroy the orderly sequence of the legislation. The Chair is not now holding that the amendment proposed by the gentleman from Iowa is not germane to the bill, but under the rules of the House the Chair does not think the amendment proposed by the gentleman from Iowa is germane to the section to which it is offered as an amendment, or as a new section in the place in which it is offered, and therefore sustains the point of order.

2926. On May 1921,[2] during consideration of the army appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read this paragraph:

For construction and repair of quarters for hospital stewards at military posts already established and occupied, $15,000.

Mr. C. B. Hudspeth, of Texas, offered an amendment as follows:

The sum of $10,000 for the erection of a natatorium adjoining the Government base hospital at Fort Bliss, Tex., now in course of construction. The said natatorium to be a part of said plant.

Mr. Daniel R. Anthony, Jr., of Kansas, raised the question of order that the amendment while germane to the bill was not germane to the particular paragraph to which it was proposed.

After debate the Chairman [3] sustained the point of order.

2927. An amendment must be germane to the portion of the bill under consideration.

On February 2, 1909,[4] the Army appropriation bill was being read for amendment in the Committee of the Whole House on the state of the Union.

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[1] Sydney Anderson, of Minnesota, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 1236.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] Second session Sixtieth Congress, Record, p. 1732.

The last paragraph of the bill having been read, Mr. John J. Fitzgerald, of New York offered the following amendment to be inserted as a new section at the end of the bill:

No part of any appropriation made herein shall be expended in the purchase of powder except powder for small arms at a price not in excess of 64 cents per pound.

Mr. John A. T. Hull, of Iowa, made the point of order that the amendment should have been offered when the paragraph relating to the purchase of powder was under consideration, and was not now in order.

The Chairman [1] said:

It seems to the Chair that the rule is well settled that an amendment offered, or a provision made, must be germane to the portion of the bill then under discussion. Specific appropriation has been made for the manufacture and purchase of powder, and that has been passed, and since then specific appropriations have been made for many other subjects. It seems to the Chair, under the procedure of the House, that the point made that this amendment now offered is not in order is well taken, and the Chair must sustain the point of order.

2928. On February 18, 1933,[2] the Committee of the Whole House on the state of the Union was considering the District of Columbia appropriation bill, when that portion of the bill dealing with compensation for personal services under the Board of Public Welfare was reached.

The Clerk read:

For personal services, $105,580.

Mr. Fiorello H. LaGuardia, of New York offered this amendment:

To enable the Board of Public Welfare to provide for the relief of all needy persons not otherwise provided for by appropriations herein made to such board, $625,000, payable wholly from the revenues of the District of Columbia.

Mr. Clarence Cannon, of Missouri, made the point of order that the amendment was not germane to this portion of the bill, and if admissible should be appropriately offered when the section of the bill providing for relief was reached.

The Chairman [3] sustained the point of order.

2929. On May 24, 1910,[4] the sundry civil appropriation bill was being read for amendment under the five-minute rule in the Committee of the Whole House on the state of the Union.

When the section of the bill devoted to items relating to the Executive was reached, Mr. Gilbert M. Hitchcock, of Nebraska, offered the following amendment to be inserted as a new paragraph.

BUREAU OF LABOR

To enable the Commissioner of Labor to ascertain at as early a date as possible the cost of producing articles at the time dutiable in the United States in leading countries where such articles are produced by fully specified units of production and under a classification showing the different elements of cost, or approximate cost, of such articles of production, including the wages paid in

[1] James B. Perkins, of New York, Chairman.

[2] Second session Seventy-second Congress, Record, p. 4433.

[3] Anning S. Prall, of New York, Chairman.

[4] Second session Sixty-first Congress, Record, p. 6819.

such industries per day, week, month, or year, or by the piece; and hours employed per day; and the profits of the manufacturers and producers of such articles; and the comparative cost of living, and the kind of living. * * * what articles are controlled by trusts or other combinations of capital, business operations, or labor, and what effect said trusts, or other combinations of capital, business operations, or labor have on production and prices, $100,000, to be immediately available.

Mr. James A. Tawney, of Minnesota, made the point of order that the proposed new section pertained to the Department of Commerce and Labor, provision for which was made later in the bill, and that the amendment was not germane to the pending section.

The Chairman [1] sustained the point of order and said:

In making up any appropriation bill it is essential, in the interests of those who watch the proceedings of the House and in the committee, that there be some order observed in an appropriation bill. Hence, under the rules, any amendment that is offered must not only be germane, but germane to that portion of the bill. In the sundry civil appropriation bill for many years it has been the custom—and it seems to the Chair a very proper one—to arrange items, as far as practicable, under the head of the different departments of the Government, commencing after some item for the Executive with the Treasury Department, and running down according to the date of the creation and priority of the department, and in that way the Department of Commerce and Labor is reached in the bill.

It seems to the Chair that it would be not only inappropriate, but out of order, to offer an amendment relating to some provision in the bill under the head of Department of Commerce and Labor at some other place in the bill. That seems too clear for argument, and it seems to the Chair than an item not relating to any matter of the bill, but germane to the bill and also germane to the Department of Commerce and Labor, should be offered at that part of the bill.

The Chair therefore sustains the point of order.

2930. An amendment inserting an additional section should be germane to the portion of the bill to which offered.

The motion to return to a portion of a bill passed in reading for amendment is not privileged and a paragraph or section so passed may be again taken up by unanimous consent only.

On January 19, 1909,[2] the urgent deficiency appropriation bill was being considered in the Committee of the Whole House on the state of Union.

After the Clerk in reading the bill for amendment had passed the section of the bill making appropriation for the Department of Agriculture Mr. J. Thomas Heflin, of Alabama, asked unanimous consent to return to that section for the purpose of considering an amendment which he proposed to offer as follows:

To supply deficiency in the quota of vegetable and other valuable seed authorized to be furnished each Senator and Representative, the sum of $30,000, which the Secretary of Agriculture is required to purchase.

Objection having been made to the request, Mr. Heflin moved to return to the section for the purpose of permitting amendment.

Mr. James A. Tawney, of Minnesota, made the point of order that the motion was not privileged.

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[1] James R. Mann, of Illinois, Chairman.

[2] Second session Sixtieth Congress, Record, p. 1121.

The Chairman [1] sustained the point of order and said:

The Chair sustains the point of order, because it is contrary to the practice of the House. The practice of the House is that to return to a section or paragraph can only be done by unanimous consent. Unanimous consent was asked by the gentleman from Alabama and objection was made. Then the gentleman from Alabama moved that the committee return to that paragraph, whereupon the gentleman from Minnesota raised the point of order, which was sustained by the Chair.

Mr. Champ Clark, of Missouri, called attention to an instance in which a motion by Mr. Theodore E. Burton, of Ohio, to return to a paragraph in the reading of a bill had been entertained and agreed to.

The Chairman differentiated:

The Chair will say to the gentleman from Missouri, in response to the inquiry, that that was under different conditions. These conditions were that the reading of the bill had been completed; and the gentleman having the bill in charge moved that the committee rise and report; this was voted down. Under those circumstances, the Chair held that a motion to return to a paragraph was out of order, but the committee reversed this decision on appeal from the Chair.

Mr. Heflin then proposed to offer the amendment as a new section.

Mr. Tawney raised a question of order against the amendment.

The Chairman ruled:

For a long period of years it has been the ruling of the Chair that an amendment to be in order must be made in connection with the portions or the paragraph of the bill to which it is germane. This amendment would have been germane in connection with the paragraph under the head of the Department of Agriculture. It was not offered until the end of the bill.

The Chair sustains the point of order.

2931. An amendment should be germane to that portion of the bill to which offered.

To a portion of a bill dealing with one class of Indian schools an amendment relating to an Indian school of another class was ruled not germane.

On December 10, 1929,[2] during the consideration of the Interior Department appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Jed Johnson, of Oklahoma, offered this amendment:

Concho, Okla.: For the construction of a shop building, $12,000; employees' cottages, $4,500: barn and implement shed, $3,000.

Mr. Louis C. Cramton, of Michigan, made the point of order that the amendment was not germane to the portion of the bill to which offered and said:

Mr. Chairman, I make the point of order that the amendment is not germane at this place in the bill. the Concho School, as I understand, is cared for in the item on page 38, the maintenance; the school buildings are provided for on page 40.

The committee has taken a great deal of care to properly classify items. I know of no way the committee could classify more carefully. We first proceed with the general education items for day schools on the reservations. First there is the maintenance; next care of school buildings; and then we proceed for a number of pages to take care of boarding schools that are not on the reservations. Then over at the last are brought in those items that could not be taken care of in the preceding items, the item, for instance, of the Osage children. That is not out of the Treasury

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[1] David J. Foster, of Vermont, Chairman.

[2] Second session Seventy-first Congress, Record, p. 416.

of the United States; it is out of the Osage funds. The item immediately before us, while it is out of the Treasury of the United States—and I want to emphasize this to the Chair—is not for the maintenance of schools by the Federal Government, but is its contribution to the maintenance of schools that are conducted by the State of Utah or subdivisions thereof. The bill is very carefully arranged, but it amendments like this can prevail, and we can have on page 40 an item for boarding schools on Indian reservations and for their building and repair and expansion of plants, and then 10 pages later one particular reservation boarding school have its plant provided for, Members of this House will not know where to look to find the things they are interested in.

That is the reason for the parliamentary rule, and that is the reason why it ought not to be in order for this amendment to be inserted over here in connection with items for the payment of tuition or appropriations from tribal funds or appropriations to carry on State and county schools where Indians attend. There is a place for it. That is on page 40, relating to reservation Indian boarding schools provided for out of the Treasury of the United States, where their physical needs are set forth.

The Chairman [1] ruled:

The Chair is very greatly impressed with the earnest argument of the gentleman from Michigan as to the necessity of order and procedure in the consideration of a bill, and, of course, has no purpose to consider lightly the determination of an important point of order.

Since the debate began the Chair has considered all the various paragraphs and finds that they are not as indiscriminate as they appear to be. It is true, as the gentleman from Michigan states, that the paragraph beginning on line 16 on page 40 was doubtless intended to be exclusive in the matter of constructing and repairing buildings at certain schools and like institutions, including the purchase of land and the installation of apparatus and equipment. It would be exclusive as to schools of a certain class, reservation, day or boarding school maintained out of the Federal funds.

What kind of school is this? It is a reservation boarding school maintained but of Federal funds.

On that statement the Chair feels constrained to sustain the point of order. In addition, the amendment is clearly not germane to the paragraph immediately preceding it, even though it relates to the general subject matter of the education of Indians.

2932. While an amendment offered as a separate paragraph must be germane to that portion of the bill to which proposed, it is sufficient if offered to that portion of the bill relating to the department of government under which it properly belongs and the fact that it is not intimately related to the paragraphs immediately preceding or immediately following does not render it subject to a point of order.

An amendment making appropriation for the bureau of mines is not germane to provisions for the public land service of the United States Geological Survey carried in the bill to which proposed, but the three are under the Department of the Interior and as the last two were not intimately related the first was held in order for insertion between the other two and to be germane to that portion of the bill.

On May 31, 1910,[2] the sundry civil appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

After the section of the bill providing for Public Land Service had been read and before the following section relating to the Geological Survey of the United States had been taken up, Mr. Albert Douglas, of Ohio, offered as a new section to

[1] Carl R. Chindblom, of Illinois, Chairman.

[2] Second session Sixty-first Congress, Record, p. 7164.

be inserted between the two an amendment making provision for the Bureau of Mines.

Mr. James A. Tawney, of Minnesota, made the point of order that the amendment was not germane to that part of the bill.

After debate, the Chairman [1] ruled:

The gentleman from Ohio offers an amendment, which has been reported, to come in immediately preceding the heading "United States Geological Survey," and the amendment offered by the gentleman from Ohio is headed "Bureau of Mines."

The point of order is first made that the amendment is not in order, being offered at this place in the bill, on the ground that it is not germane to the provisions of the bill at this point.

The bill is divided into different parts, relating to a certain extent, at least, to the different departments of the Government. Beginning on page 92 of the bill, under the heading in large capital letters, reading "Under the Department of the Interior," is a subheading "Public buildings," in capital letters. On page 94 is another subheading in capital letters, "Public lands service." On page 99 is another heading in capital letters, "Surveying the public lands," and on page 101 is a heading in capital letters, "United States Geological Survey."

All of these branches of the service are under the heading "Department of the Interior," and are all under the Department of the Interior. The gentleman from Minnesota has insisted that the items under "Public lands service" and those under "United States Geological Survey" relate to surveying the public domain, but it seems to the Chair that, even if the Chair were captious about it, that these two branches of the service are under different bureaus or divisions of the Department of the Interior which are in no way closely related, except as other bureaus may be related, and it seems to the Chair wholly for the Committee of the Whole to determine whether it prefers the provision in one place or in another part of the bill, the amendment being germane to these provisions of the bill under consideration. This item is offered an as amendment under the head of "Bureau of Mines," to come in between the items "Public lands service" and "United States Geological Survey," all three being in the same department. That part of the point of order the Chair overrules.

In the opinion of the Chair the amendment is in order at this place in the bill.

2933. Amendments proposing new paragraphs should conform in germaneness to the section of the bill to which proposed.—On March 21, 1930,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways.

When that portion of the bill relating to mergers of interstate carriers was reached, Mr. Fiorello H. LaGuardia, of New York, proposed an amendment inserting provisions of the United States Code relating to hours of labor.

Mr. James S. Parker of New York, made the point of order that the amendment was not in order at this place in the bill.

The Chairman [3] sustained the point of order and said:

The Chair is of the opinion that the gentleman's amendment would have been germane to subdivision 2 of section 2, but the Chair is of the opinion that the amendment is not germane at the place offered and, therefore, sustains the point of order.

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[1] James R. Mann, of Illinois, Chairman.

[2] Second session Seventy-first Congress, Record, p. 5878.

[3] Earl C. Michener, of Michigan, Chairman.

2934. An amendment must be germane to the portion of the bill to which offered but when proposed as a separate paragraph is not required to be germane to the paragraph immediately preceding it.

On January 28, 1921,[1] while the diplomatic and consular appropriation bill was being considered in the Committee of the Whole House on the state of the Union, the Clerk read the section of the bill providing for salaries of ambassadors and ministers.

Mr. John Jacob Rogers, of Massachusetts, offered the following amendment to be inserted as a new paragraph:

For ambassador extraordinary and plenipotentiary to Turkey, $10,000.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was not germane to the paragraph just read which it was proposed to immediately follow:

After debate the Chairman[2] held:

The point of order made by the gentleman from Texas as he states it himself regards the amendment as an amendment to the paragraph. The gentleman from Massachusetts offers his amendment in a separate paragraph.

The only question is as to whether or not it is properly with this branch of the bill. Is it within this title of "Salaries of ambassadors and ministers"? Of course, it is. The ambassador paragraph already passed was not necessarily exclusive. It was perfectly proper that an amendment should have been offered to that, or its proper to offer it as a separate paragraph, because of the fact that in the prior paragraph the salary is fixed at $17,500 for all of the countries therein enumerated. In this case provision is made for an ambassador, but the salary is limited to $10,000. Therefore, the point of order made by the gentleman from Texas is not sustained.

In response to an inquiry from Mr. Blanton the Chairman added:

A separate paragraph is certainly not a part of the paragraph that precedes it.

2935. The rule on germaneness does not necessarily require that an amendment offered as a separate section be germane to the preceding section of the bill or to any other particular section of the bill, but it is sufficient that it is germane to the subject matter of the bill as a whole.

On September 29, 1919,[3] while the bill (H. R. 9521) to regulate the preservation and distribution of cold storage foodstuffs was under consideration in the Committee of the Whole House on the state of the Union, the Clerk read this paragraph:

No person shall receive in commerce any article of food for cold storage or transport any article of food in commerce in any refrigerator vehicle, if such person has refused inspection, when requested under this act, of such warehouse or refrigerator vehicle; nor shall any person ship in commerce any article of food if he has refused inspection of such article of food when requested under this act.

To this paragraph Mr. Niels Juul, of Illinois, offered the following amendment:

Nor shall any person ship in commerce any poultry or game if the entrails of such game were not removed prior to the time of being received for cold storage.

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[1] Third session Sixty-sixth Congress, Record, p. 2173.

[2] Horace M. Towner, of Iowa, Chairman.

[3] First session Sixty-sixth Congress, Record, p. 6112.

Mr. Fred S. Purnell, of Indiana, raised the question of order as to the germaneness of the proposed amendment.

After debate the Chairman[1] held:

Members of the committee will recognize that the point of order does not involve the merits of an amendment. The rules as to germaneness require that an amendment must not only be germane to the bill but to the section to which it applies. This provision that is sought to be amended refers to inspection, while the amendment refers to the conditions of shipment. Therefore the amendment is not germane to the provision, and the point of order is sustained.

Whereupon, Mr. Juul proposed that the same amendment be inserted as a new section.

Mr. Sydney Anderson, of Minnesota, made the point of order that the amendment was not germane to the section of the bill which it was proposed to follow.

After extended discussion the Chairman ruled:

The Chair stated in the preceding ruling that the rule governing germaneness of amendments required that amendments be not only germane to the bill but to the section under consideration. This amendment is offered as a new section and stands not in the same relationship as if it were an amendment to the section itself. The ruling referred to some time ago referred to the question of whether when debate had been closed on a section and all amendments thereto it would cover a new section that was added or sought to be added, and the ruling of the Chair was to the effect that it would. However, the Chair does not think that that is on a parity with this. The amendment offered by the gentleman from Illinois is germane to the bill if added as a new section. It is not a part of the preceding section and does not need to be germane to it, and therefore the Chair overrules that point of order.

2936. An amendment to a Senate amendment must be germane not only to the bill but to the Senate amendment to which offered.

On August 16, 1921,[2] the Committee of the Whole House on the state of the Union was considering Senate amendment No. 32 to the bill (H. R. 7294) supplemental to the national prohibition act, when Mr. Andrew J. Volstead, of Minnesota, moved to strike out the amendment and insert in lieu thereof the following substitute:

SEC. 6. That no officer, agent, or employee of the United States, while engaged in the enforcement of this act, the national prohibition act, or any law in reference to the manufacture or taxation of, or traffic in, intoxicating liquor, shall search any private dwelling without a warrant directing such search, and no such warrant shall issue unless there is reason to believe such dwelling is used as a place in which liquor is manufactured for sale or sold. The term "private dwelling" shall be construed to include the room or rooms occupied not transiently but solely as a residence in an apartment house, hotel, or boarding house. Any violation of any provision of this paragraph shall be punished by a fine of not to exceed $1,000 or imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

Mr. Hallett S. Ward, of North Carolina, proposed to add the following to the substitute:

No execution or other process shall be levied on the property of any person for collection of penalties or forfeitures alleged to have been incurred by violation of this act or the national prohibition act until such person shall be duly convicted or shall plead guilty to the charge for which penalty or forfeiture shall arise.

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[1] Simeon D. Fess, of Ohio, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 5080.

Mr. Volstead having made the point of order that the amendment was not germane to the substitute, Mr. Ward took the position that it was sufficient if the amendment was germane to the original bill.

After further debate the Chairman[1] held:

The committee is considering the Senate amendments and particularly this amendment which relates to search and seizure and limits the powers of Government officials in relation to search and seizures. It appears to the Chair that any amendment offered which is not germane to the subject covered by this amendment, even though it might be legitimate to the bill as a whole, is not in order, and the Chair sustains the point of order made.

2937. To a bill amendatory of existing law in one particular a proposition to amend the law in another particular is not germane.

To a bill amending a section of a law designating and defining the constituent ingredients of oleomargarine an amendment proposing a tax on oleomargarine was held not to be germane.

On February 6, 1930,[2] the bill (H. R. 6) to amend the definition of oleomargarine contained in the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended, was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read:

Be it enacted, etc., That section 2 of the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended, is amended to read as follows:

"SEC. 2 That for the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as 'oleomargarine,' namely: All substances heretofore known as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; and all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, and suine, and neutral."

Mr. Jeremiah E. O'Connell, of Rhode Island, offered an amendment proposing a new paragraph imposing a tax of 2 cents per pound on oleomargarine.

Mr. Bertrand H. Snell, of New York, raised the point of order that the amendment was not germane and said:

There is a specific decision bearing exactly on this point, but I have not been able to find it at the moment; but when the House had before it a proposition for measuring boats in the Panama Canal Zone and an amendment was offered intended to repeal the charging of all tolls, that amendment was immediately ruled out of order on the ground that it tended to change the general provisions of the act and was not germane to the provision before the House at that time.

I think that is certainly on all fours with the proposition of the gentleman from Rhode Island. The proposition of the gentleman from Rhode Island is not germane to the proposition pending before the House at this time and is subject to a point of order.

The Chairman[3] sustained the point of order and added:

On October 1, 1919—Sixty-sixth Congress, first session, Record, page 6225; Cannon's Precedents, section 9781—Mr. Frederick C. Hicks, of New York, then Chairman of the Committee of

[1] Nicholas Longworth, of Ohio, Chairman.

[2] Second session Seventy-first Congress, Record, p. 3189.

[3] Willis C. Hawley, of Oregon, Chairman.

the Whole House on the state of the Union, made the decision to which the gentleman from new York has referred. In that case the Committee of the Whole was considering a bill amending the provisions of a law providing for the measurement of vessels to determine the tolls to be paid thereon. An amendment was proposed amending the existing law to the extent of repealing the provision dealing with tolls. The Chairman, in ruling on the point of order raised against the amendment, said:

"The bill provides certain rules for the measurement of vessels using the Panama Canal, but it does not provide for the payment of tolls. It merely establishes a standard of measurement for ships going through, and does not prescribe he amount of money which shall be paid by the ships themselves. * * * Therefore, it seems to the Chair that the two subjects, the subject matter of the bill and the subject matter of the amendment are not related, and the Chair sustains the point of order."

The Chair sees a very great similarity between the proposition ruled on by Chairman Hicks and the one presented to the Chair at this time.

The amendment offered by the gentleman from Rhode Island in effect amends the act of August 2, 1886, but in a different section from that under consideration in this bill. The bill before us amends section 2 of the act of August 2, 1886, which pertains merely to definitions. The amendment offered by the gentleman from Rhode Island seeks to impose a tax. The Chair does not think the amendment germane and sustains the point of order.

2938. Where a bill proposes to amend an existing law in several particulars, no arbitrary rule can be laid down either admitting or excluding further amendments to the law not proposed in the pending bill, but the question of the germaneness of such additional amendments must be determined in each instance on the merits of the case presented.

On June 10, 1921,[1] the bill (H. R. 6611) for the establishment of a veterans' bureau in the Treasury Department was under consideration in the Committee of the Whole House on the state of the Union.

This bill proposed to amend severally a number of sections of the war risk insurance law.

Mr. John Jacob Rogers, of Massachusetts, proposed to amend the law in a manner not provided for by the pending bill by inserting the following as a new section:

SEC. 21½. Section 401 of the war risk insurance act, as amended, is hereby further amended by adding at the end of said section the following language:

"Provided further, That any person in the active service who while in such service subsequent to the 6th day of April, 1917, and prior to the 6th day of October, 1917, because totally and permanently disabled without having applied for insurance shall be deemed to have been granted insurance in the sum of $10,000, payments thereafter to be made in accordance with existing laws and regulations."

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was not in order because not germane to the bill.

In support of the point of order, Mr. William H. Stafford, of Wisconsin, said:

Mr. Chairman, I should like to submit to the Chair an argument against the propriety of considering amendments to other sections of the war risk insurance act than those that are not included in the bill under consideration. I question very seriously whether under the rules of the House it is in order on a bill such as this, even though it presents amendments to various sections of the war risk insurance act, to present amendments like the one now proposed to this bill when such sections are not under consideration in the bill as reported. This is a large question that I do not

[1] First session Sixty-seventh Congress, Record, p. 2415.

believe has been passed upon except once, to my recollection in the House. The question is, when a bill is presented like this one, amending, say, two, three, or four specific sections of a certain measure which contains perhaps a dozen sections, whether it is in order for any Member to offer an amendment to a section that has not been included for change. I take it that the reason for the rule of the House based on the relation of germaneness to the subject matter under consideration by the House is that it is founded on the idea that it is intended to dispatch the legislation under consideration, and for the further reason of protecting the House in the consideration of the proposed legislation by having the proposed legislation given consideration first by a committee as to whether it should be considered by the House at all. Otherwise there would be no logic in the rule which has been followed that when a Senate bill is presented to the House and referred to a committee for consideration, even that committee has no power to report any amendment except one that is germane to the bill, even though it may have authority to report legislation of a different character.

I call the attention of the chairman to a specific ruling by Speaker Clark when this very question was up for consideration, in which the Speaker upheld the contention of those protesting against the innovation attempted here. The point was contested by Messrs. Sherley, Fitzgerald, and myself, and also on the other side in support by Mr. Crisp. The bill under consideration then was a Post Office appropriation bill in which the Committee on the Post Office and Post Roads had brought into the House substantive legislation amending three sections of the criminal code. When the bill came back into the House the gentleman from California, Mr. Randall, offered a motion to recommit that had relation to other sections of the criminal code but did not have any direct relation to the provision on which he sought to hang his amendment.

The section of the criminal code that was amended and a part of the bill under consideration was section 215. That related exclusively to preventing the use of the mails for fraud. Mr. Randall offered an amendment to forbid the use of the mail by the sending of literature relating to liquor of any kind or any kind of advertisement relating to the sale of liquor. Although that amendment would have been in order to another section of the criminal code, but which, however, was not attempted to be reviewed and was not under consideration by the House in the amendments reported by the Committee on the Post Office and Post Roads, after elaborate argument by Messrs. Fitzgerald, Sherley, Crisp, and myself, the Speaker held that it was not germane to the subject matter under consideration.

Mr. Chairman, if we are going to indulge in this practice that when the committee brings in a bill amending say, two sections of a law that comprises 20 or 30 sections, that because there is an amendment of two sections it opens up for consideration every section in the original law, amendments to other sections which have no relation to the section attempted to be amended by the bill presented by the committee, then we put behind us that safeguard and protection which is necessary in legislation—that before legislation is considered in the Committee of the Whole House on the state of the Union it must first be considered by a committee of the House.

After further debate the Chairman [1] said:

It is always difficult to lay down a general rule with respect to admissibility of amendment which can be applied in every instance without question of doubt or without exception. The Chair is of opinion that, generally, it has been held that an amendment offered as a new section must be germane to the preceding section, but the Chair thinks that the rule is better stated by saying that the new section must be germane to the bill at the place at which it is offered. The Chair thinks that if the amendment of the gentleman from Massachusetts is in order at all, it is in order at the place at which he offered it.

The next question that arises is whetter or not any amendment to section 401 of the war risk insurance act, which is not amended by the bill, as reported by the committee, is in order. The Chair confesses to having a considerable degree of difficulty with that question. The Chair does not think that the general rule can be laid down that where several portions of a law are amended by a bill reported by a committee, it is not in any case in order to amend another section of the bill not included in the bill reported by the committee, nor does the Chair think that the

[1] Sydney Anderson, of Minnesota, Chairman.

opposite rule can be laid down and rigidly applied in every instance. The Chair thinks that a question of this kind must be determined in every instance in the light of the facts which are presented in the case.

In the particular case under consideration it appears that the committee has reported a bill which amends several sections of Title IV of the bill in various particulars. The Chair does not feel that he can hold that no amendment to a section not dealt with by the committee is in order. The question, therefore, comes down to whether or not the particular amendment proposed by the gentleman from Massachusetts is germane to section 401, if any amendment to that section is permitted.

The Chair thinks that the amendment proposed is clearly germane to that section, and the Chair thinks that the general character of the amendments proposed by the committee to various sections of Title IV is such that it is in order to amend section 401 in a germane way, even though that particular section is not dealt with by the committee or by the bill. The Chair, therefore, overrules the point of order.

2939. A proposed amendment to existing law so comprehensive in its effect upon the law as to practically repeal it was held to admit as germane amendments providing an entirely different method for performing the functions of the original law.

A Senate amendment under consideration in the House is treated for purposes of amendment as an original bill.

On May 3, 1922,[1] the House resumed consideration of Senate amendments to the District of Columbia appropriation bill with a point of order pending against an amendment offered on the preceding day to Senate amendment No. 1.

The Senate amendment proposed to substitute for the current method of taxation in the District of Columbia, known as the "half and half" plan, under which half of the expenses of the District was paid by the District and half by the Federal government, a new system under which all expenses of the District would be paid from the Treasury.

The pending amendment proposed by Mr. Charles R. Davis, of Minnesota, by way of a motion to recede and concur and against which a point of order had been lodged by Mr. R. Watson Moore, of Virginia, established a new fiscal system for the District and provided a new ratio in the propositions to be paid by the District and the Federal government.

After further debate on the amendment the Speaker[2] ruled:

This question has occasioned the Chair considerable difficulty in coming to a decision, for there are very strong arguments on both sides, as has been illustrated to the Members who have listened to the debate.

The Chair appreciates what has just been said, that if the Senate puts on a legislative provision it may prevent the legislative committee of the House from considering the proposition, and therefore is not the proper way to have it brought up. But, after all, that can not be prevented. That is still in the control of the House. If the House does not like that method of legislating, it may simply refuse to agree to the Senate amendment. But, after all, the Senate has a right to put on a legislative amendment if it desires, just as the House has that right, and when such a legislative amendment comes over to the House from the Senate the House is obliged to consider it, and it is just as properly before the House as if it had been reported from the House legislative committee.

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[1] Second session Sixty-seventh Congress, Record, p. 6274.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

It seems to the Chair that some of the arguments which have been presented as to the amendment offered by the gentleman from Minnesota to the Senate amendment have been a little confused, because it has been referred to as action by the conferees. It is not action by the conferees. It is a motion made by the gentleman from Minnesota, Mr. Davis, as a Member of the House. Any other Member of the House might offer the amendment. Of course, the gentleman from Minnesota, being the chairman of the subcommittee, would have the first right to recognition; but the Senate amendment, being before the House, is subject to amendment by any Member of the House. There were two grounds stated for this point of order, first, that it was legislation, and, second, that it was not germane. The first point has not been insisted upon, and, of course, could not be, for there is no question that the whole Senate amendment is legislation. It is practically nothing but legislation. In fact, curiously enough, the Senate seems to have been so absorbed by the fact that it was legislation that it forgot to put on the appropriating clause. So that the Senate amendment is clearly legislation, and legislation of a very broad and sweeping character. It entirely changes the system under which taxation and appropriations in the District of Columbia have been made. It has always been on a proportional basis—half and half or some other ratio. This Senate amendment simply says at the outset that all expenses shall be paid out of the Treasury of the United States, and then it goes on to provide the details. That is a radical change, and, of course, it is legislation. Now, the Senate amendment comes before the House as an amendment to the first section of the House appropriation bill and it strikes out all of the House provision, and therefore, is a substitute. It seems to the Chair that this being a substitute and the matter being in the stage of disagreement any amendment can be offered which is germane either to this substitute or to the original House proposition, because it would be natural that a substitute should be offered which would bring the two House together, which would harmonize the two, which might contain part that was in one and part that was in the other, and yet the part that was in the original House bill might not be at all germane to the Senate amendment. But it seems to the Chair that it could hardly be argued that such an amendment was not germane, because the most natural amendment would be one tending to harmonize the provisions of the House and the provisions of the Senate and containing part of one and part of the other. Therefore, it seems to the Chair that, this being a substitute, anything is germane, and therefore in order, which is germane to either the original House section or to the Senate amendment.

The question remains, Is this amendment offered by the gentleman from Minnesota a germane amendment? The Chair having considered it overnight confesses that the has had considerable difficulty. There are provisions in this amendment offered by the gentleman from Minnesota which do not directly touch anything detailed in the Senate amendment. But the Chair has come to the conclusion that the Senate amendment is a complete and sweeping revision of existing law. It covers the whole field of relationship between the District and the Government in the affairs of taxation and expenditures. It practically repeals the existing law and establishes a new basis and a new system. In doing that the question arises whether only amendments can be offered which are directly applicable to the specific provisions which are detailed in the Senate amendment, or is the whole field so open that amendments can be offered which, although not specifically mentioned in the Senate amendment, apply to the changes made by the Senate amendment and are incidental to its whole subject and purpose. It seems to the Chair that the amendment of the gentleman from Minnesota contains such provisions only; that they are fairly incidental to the expressed purpose of the Senate amendment, and that the House has a right by amendment to adopt such incidental changes. The Chair therefore rules that the amendment offered by the gentleman from Minnesota is germane and in order.

2940. To a bill reenacting in modified form an existing law, an amendment proposing further modification of the law proposing to be reenacted was held to be germane.

On June 10, 1921,[1] the House was in the Committee of the Whole House on the state of the Union considering the bill (H. R. 6611) to establish a veterans' bureau.

The Clerk read a section of the bill proposing to reenact with amendments section 210 of the war risk insurance act.

Mr. Eugene Black, of Texas, offered an amendment proposing additional modification of section 210 of the war risk insurance act proposed to be reenacted.

Mr. Richard Wayne Parker, of New Jersey, made the point of order that additional modification of the section of existing law was not germane to the pending bill.

After debate the Chairman[2] held:

The Chair is quite willing to confess that he has had a good deal of difficulty in arriving at a general conclusion with respect to which the proposed bill opens up the war risk insurance act for amendment offered from the floor. The section under consideration amends section 210 of the war risk act, which section deals with the administration of family allowances. The Chair thinks it would be rather an arbitrary ruling to hold that where the committee has reported an amendment to a section in a law no amendment can be considered to that section except an amendment to the amendment proposed by the committee. The Chair is of the opinion that where the committee proposes an amendment to a section of the law in the nature of a substitute an amendment which is germane to that section of the law and the amendment of the committee is in order. The chair thinks that the amendment offered by the gentleman from Texas is germane to the section of the law under consideration and the amendment proposed by the committee, and the Chair therefore overrules the point of order.

2941. An act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act.[3]

The committee, overruling the decision of the Chair, held that an amendment germane to an existing law is germane to a bill proposing its reenactment.

On March 12, 1928,[4] the Committee of the Whole House on the state of the Union was considering the bill (S. 2317) continuing for one year the power and authority of the Federal Radio Commission under the radio act of 1927, when a committee amendment was read proposing modification of the provisions of the law sought to be continued.

Mr. Frederik R. Lehlbach, of New Jersey, made the point of order that the amendment was not germane to the bill because it referred to the provisions of the law proposed for reenactment rather than to the terms of the bill before the committee.

Mr. Wallace H. White, jr., of Maine, opposed the point of order and explained:

The first section of this bill provides that all the powers and all the authority vested in the Federal Radio Commission by the act of 1927 shall be vested in and exercised by the commission until March 16, 1929. It proposes in that language to extend for the period of another year each and every one of the powers vested by the 1927 law in the Radio Commission, and it does that by

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[1] First session Sixty-seventh Congress, Record, p. 2398.

[2] Sydney Anderson, of Minnesota, Chairman.

[3] Overruling sec. 5806 of Hinds' Precedents.

[4] First session, Seventieth Congress, Record, p. 4585.

the general language as fully and effectually as though the portion of the 1927 law were set out seriatim.

Now, paragraph 2 of section 9 of the 1927 law, one of the powers which, if it were not for this amendment, would be extended by that general language, is that the commission shall make such distribution of wave lengths, licenses, power, and periods of time for operation among the States and among the communities thereof as shall work out equitable service to those States and to those communities.

That proposition is before us by the general language with which this act starts. It is as fully and completely before us as though recited word for word and letter for letter. This amendment to which the point of order is directed seeks to amend that specific section and that specific paragraph. It seems to me it is clearly germane, clearly within the authority of the House and the committee to deal with that specific power when we undertake to deal with all the powers.

Mr. Lehlbach argued:

Is it germane? Fortunately, the Senate bill is short and we can examine it with a good deal of particularity. The radio act of 1927 covered the field of radio and laid down permanent substantive law in accordance with which radio activities were to be governed and regulated, and it provided for an authority to carry out that permanent and substantive law. Certain of the functions of the commission created by that act to carry out some of these functions and to put into operation this permanent substantive law by limitation would expire on the 15th of March next. The Senate passed this legislation for what purpose? In section 1 it provides that the power and authority vested in the Federal Radio Commission should continue until March 16, 1929, and that is all that section 1 does. It does not in the slightest particle alter the substantive permanent law that is written into the radio act of 1927. Section 2 provides that these commissioners shall continue to receive a salary at the rate of $10,000 a year while they continue to exercise these functions. It does not in the slightest particular touch the permanent substantive law written in the act of 1927. Section 3 provides that this commission during its functioning and for a few months thereafter, until January 1, 1930, shall not issue licenses under the act for more than six months and one year. It does not in any way alter the permanent substantive law with respect to the length of time for which licenses should be issued but merely restricts the functioning for a short period of time and leaves the law unchanged. That is all there is here. How an amendment that radically and vitally changes the substantive law on the subject of radio can be germane to such a proposition is more than I can see.

Mr. Lehlbach then cited section 5806 of Hinds' Precedents in support of his position.

Mr. Finis J. Garrett, of Tennessee, answered:

When I was informed that there would be a point of order interposed to the committee amendment, I made an examination of the precedents, and, of course, I found there, as one of the first, the case which the gentleman from New Jersey has cited, section 5806 of Hinds' Precedent. I will say very frankly that when I came in to analyze that decision and to analyze this situation more carefully than was done in a casual reading it occurred to me that it was a precedent that might be decisive of the question. But upon the examination of the Congressional Record itself and a reading of the precise thing that was in the resolution reported by the gentleman from Wisconsin I came to the conclusion that the case at bar can be clearly differentiated from the one which existed there. I have before me the Congressional Record of April 24, 1900, and I should like to read the resolution which had passed the Senate, and which was reported by the Committee on Insular Affairs and presented by the gentleman from Wisconsin. I read:

"That until the officer to fill any office provided for by the act of April 12, 1900, entitled 'An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes,' shall have been appointed and qualified, the officer or officers now performing the civil duties pertaining to such office may continue to perform the same under the authority of said act; and no officer of the Army shall lose his commission by reason thereof: *Provided,* That nothing herein

contained shall be held to extend the time for appointment and qualification of any such officers beyond the 1st day of August, 1900."

Now, to that the House committee adopted certain amendments, which fell before the point of order, or rather would have fallen before the point of order but for the fact that later on the Speaker held that the point of order came too late.

Those amendments that were proposed by the committee I shall not read, but there were two of them, and they went into section 32 of the act apparently passed in that session of Congress, and undertook to amend that section 32 by a very elaborate provision touching the question of franchise to be granted in Porto Rico.

Now, Mr. Chairman, I have before me the radio act of 1927 and I desire to read section 9 thereof, which is very brief and which it is proposed to amend here. I read:

"SEC. 9. the licensing authority, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this act, shall grant to any applicant therefor a station license provided for by this act.

"In considering applications for licenses and renewals of licenses when and in so far as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency of wave lengths, periods of time for operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each of the same.

"No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term not to exceed three years in the case of broadcasting licenses and not to exceed five years in the case of other licenses.

"No renewal of an existing station shall be granted more than 30 days prior to the expiration of the original license."

That is all of section 9.

Now, Mr. Chairman, Senate bill 2317, the bill before the Committee of the Whole, is not merely an extension of the time of the Radio Commission. It contains positive, substantive matters of law changing the existing law which I have just read to the Chair. In the first place, as was pointed out by the gentleman from Maine, in the very first section of the act there is the general extension of all powers and authority vested in the Federal Radio Commission, including its authority to issue licenses. But go to section 3 of the Senate bill. There you find your modification and there you find legislation entirely new in character changing the third paragraph of section 9 of the law. This proposal changes the time which was there fixed and makes what the gentleman from new Jersey is pleased to designate as substantive, positive law.

Now, section 9 is being amended to a material respect, a very material respect. The committee comes with a proposal to further amend section 9, but not bringing in some new law, as was proposed to be done by the Committee on Insular Affairs back in 1900, when they attached extraneous matter to a simple resolution extending the time for the appointment of certain officers in Porto Rico.

We have in section 3 of the Senate bill a change of existing law—law asserted in section 9 of the original radio act. The committee simply proposes to go further and by an amendment amend another clause of the very same section brought before the House by the Senate bill both of them embraced in the authority and the power of the Radio Commission, which by the terms of the first section of the act is being extended in this measure.

Now, it seems to me, Mr. Chairman, that unquestionably when we come to examine the language of the law, the language of the proposed act, we can differentiate from both the cases that are laid down in the precedents, one of which has been cited by the gentleman from New Jersey and the other of which was quoted in that same decision rendered by Mr. Speaker Henderson in 1900.

Therefore, Mr. Chairman, I respectfully submit that the committee amendment is germane and is in order.

Mr. Charles R. Crisp, of Georgia, also dissented from the rule laid down in the Precedents:

Mr. Chairman, I am familiar with the decision in which it was held by Speaker Henderson that you could make a point of order against an amendment added to a Senate bill by a House committee.

I think the Chair could render the House a service by overruling this decision, for I do not believe the decision is well founded. What is the object in parliamentary law of requiring that proposed amendments be germane? It is to keep the House from being taken by surprise in voting upon an amendment that has not been considered or digested or reported by a committee of the House. The natural presumption is that the committees of this House, whose members are intelligent men and good legislators, would not report an amendment to a bill which they were considering that did not relate, that was not relevant, that was not germane to the matter they were considering.

Now, what does this Senate bill do, Mr. Chairman? This Senate bill reenacts the radio control bill; and the body of the bill itself expressly says that all powers conferred on the Radio Commission by the original act are continued, with certain changes and limitations, and the Senate limits it and changes section 9, dealing with the issuing of licenses. The Senate bill itself, in section 3, in dealing with the issuing of licenses for radio and the permits which were issued under the original act, reduces and cuts down the time from three years and five years to one year and six months. This is a substantive change. The House committee proposed an amendment still further reducing the time for which licenses may be granted.

Under the facts in this case this amendment, dealing with a bill extending all the powers and all the provisions of the radio act is the same as if every one of those sections was enumerated in the bill. The amendment is unquestionably germane to the bill, and in my opinion there is no merit in the point or order.

The Chairman [1] decided:

The Chair was advised that this point of order would be made, and therefore gave considerable study to it prior to the consideration this afternoon. The Chair realizes the importance of the issue, so far as the merits of the question before the committee are concerned, and has attempted to divest himself of any interest in that question in the determination of the point of order.

The bill, S. 2317, as it came from the Senate, read as follows:

"An act continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes.

"*Be it enacted, etc.,* That all the powers and authority vested in the Federal Radio commission by the radio act of 1927, approved February 23, 1927, shall continue to be vested in and exercised by the commission until March 16, 1929; and wherever any reference is made in such act to the period of one year after the first meeting of the commission, such reference shall be held to mean the period of two years after the first meeting of the commission.

"SEC. 2. The period during which the members of the commission shall receive compensation at the rate of $10,000 per annum is hereby extended until March 16, 1929.

"SEC. 3. Prior to January 1, 1930, the licensing authority shall grant no license or renewal of license under the radio act of 1927 for a broadcasting station for a period to exceed six months and no license or renewal of license for any other class of station for a period to exceed one year.

"SEC. 4. The term of office of each member of the commission shall expire on February 23, 1929, and thereafter commissioners shall be appointed for terms of 2, 3, 4, 5, and 6 years, respectively, as provided in the radio act 1927."

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[1] Carl R. Chindblom, of Illinois, Chairman.

The committee amendment, as to which a point of order has been made, reads as follows:

"SEC. 4. The second paragraph of section 9 of the radio act of 1927 is amended to read as follows:

"'The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States therefor in proportion to population and area.'"

The Senate bill amended in certain particulars the radio act of 1927, which the Chair has before him. The Chair believes it in point to consider the structure and contents of that law. It is a large enactment, covering 15 pages of the usual public law print, and contains over 10,000 words. It relates to a large number of subjects in connection with "the regulation of radio communications." The first section states the general purposes of the act. The second section creates the five zones into which the country is divided for the purposes of the act. The third section establishes the Federal Radio Commission. The fourth section states the authority of that commission. The fifth section provides for the transfer after the expiration of one year of a large part of the authority granted to the commission to the Secretary of Commerce. The law then contains numerous provisions regarding radio stations owned by the United States and provides for the use of private radio stations and facilities by the Government in time of emergency. Then follow a number of sections relating to the granting of licenses, beginning with section 9 and running through sections 10, 11, 12, 13, and 14, all of them relating to the matter of granting licenses, not only to broadcasting stations but to other stations. Section 15 relates to the matter of violations of law as to unlawful restraints and monopolies. Section 16 relates to appeals to the courts by persons dissatisfied with the action of the commission or of the Secretary of Commerce. Thus, throughout the bill a large number of subjects are treated, all relating to the general subject of radio communication and the control of radio operations and facilities by the Federal Government, including prosecutions and penalties for violations of the act. It will be seen, therefore, that the pending bill affects only a very small portion of the radio act of 1927 and can not be said to be a general revision of that act.

There are two main questions involved here, one of which has been raised only incidentally by the suggestion of the gentleman from Georgia, that in his opinion it would be well if there would be a reversal of the decisions heretofore made with reference to the rules applicable to committee amendments, as affecting perhaps particularly amendments to Senate bills. Of course, the present occupant of the chair would not feel warranted in overruling a rather long line of decisions by very distinguished Chairmen and Speakers. The Chair thinks that it is clear that a committee amendment is subject to the same rules with respect to germaneness and all other limitations as are amendments proposed on the floor.

The gentleman from Tennessee made reference to the precedent in Hinds' Precedents, volume 5, paragraph 5806, page 411, where the introductory paragraphs read as follows:

"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 those of the bill was held not to be germane.

"The rule that amendments shall be germane applies to amendments reported by committees."

It was the case in which the gentleman from Wisconsin, Mr. Cooper, offered amendments on behalf of the Committee on Insular Affairs to the law relating to the government of Porto Rico. As the Chair understood it, the gentleman from Tennessee said that at first he was quite impressed with the force of this precedent as applicable to the instant case. The Chair is quite impressed with the force of this precedent, and wishes to call attention to the very close similarity of the case now before the committee and that which then arose. It was on April 24, 1900, and the Chair now refers to the Congressional Record, volume 33, part 1, Fifty-sixth Congress, first session, page 4613. The gentleman from Wisconsin obtained consent for the consideration of Senate Joint Resolution 116, entitled:

"Joint resolution to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of the civil officers provided for in the act approved April 12, 1900,

entitled 'Act act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes.'"

The act itself provided as follows:

"That until the officer to fill any office provided for by the act of April 12, 1900, entitled 'An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes,' shall have been appointed and qualified, the officer or officers now performing the civil duties pertaining to such office may continue to perform the same under the authority of said act; and no officer of the Army shall lose his commission by reason thereof: *Provided,* That nothing herein contained shall be held to extend the time for appointment and qualification of any such officers beyond the 1st day of August, 1900."

It will be noted that here was a provision for the continuation of a system of government in Porto Rico, with a limitation as to when that system of government should expire, just as in the pending bill there is a provision for a continuation of the work and authority of the Radio Commission within the limit of the period of one year. Neither the Porto Rican act nor the present bill, as passed by the Senate, changed the permanent provisions of the laws whose operations were thus temporarily extended.

The gentleman from Wisconsin, on behalf of the Committee on Insular Affairs, offered two amendments relative to certain "franchises, privileges, and concessions," as to the granting and effect of which various preliminary requirements and restrictions were proposed, and subsequently the question arose as to the germaneness of those amendments.

The question raised here in debate was as to whether the original law which was then being extended in time of operation contained anything with reference to the very franchises, and so forth, to which the amendments referred. On that question the Chair will say that the amendments were specifically directed to section 32 of the act, which was then in question, and which read as follows:

"SEC. 32. That the legislative authority herein provided shall extend to all matters of a legislative character, not locally inapplicable, including power to create, consolidate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Porto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof: *Provided, however,* That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same."

So that in the act, which was amended by the Senate bill providing for the temporary continuance in office of certain officers, there was actually contained a provision with reference to the franchises, privileges, and concessions to which the amendments offered by the gentleman from Wisconsin, on behalf of the Insular Affairs Committee, related, and still the Speaker held that the amendments were not germane.

The case referred to, in this decision, is discussed on page 412 of Hinds' Precedents, Volume V, section 5807, where a Senate bill (S. 4814) was before the House, which was entitled "An act to amend an act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes." To this bill Mr. Thomas H. Carter, of Montana, moved an amendment providing for a method of classification to determine the mineral or nonmineral character of lands selected by railroads. The Speaker (Mr. Thomas B. Reed, of Maine) sustained the point of order in the following language, which shows the similarity of that case to the one now pending:

"The Chair can only consider, in determining the question, whether the amendment be germane to the bill before the House and the proposition therein contained. The pending bill relates solely to the time when a period named in the original act shall begin to run. The amendment proposed relates to a reclassification of lands, a subject so remote from that of the bill that it can be justified only by a claim that any amendment germane to this act proposed to be altered would be germane to this bill. But the very claim is its own answer. The test must be the bill before the House, for that is the bill which is to be amended."

On March 9, 1898, the House was in Committee of the Whole House on the state of the Union considering Senate amendments to an Indian appropriation bill. One of those amendments read as follows:

"That the time fixed for the Indian appropriation act approved June 7, 1897, for opening for location and entry, under all land laws of the United States, the lands of the Uncompahgre Indian Reservation in Utah, under the limitations and exceptions as therein provided, is hereby extended six months from the 1st day of April, 1898."

To this amendment Mr. James S. Sherman, of New York, offered an amendment, which provided, in substance, that the Secretary of the Interior should be authorized to lease the said reserved lands containing minerals upon such terms and conditions as to royalties, length of leases, assignments of the leases, and other "regulations and limitations," as the Secretary of the Interior might determine. Mr. King, of Utah, interposed a point of order, claiming, among other objections, that the Sherman amendment was not germane to the Senate amendment then under consideration.

The Chairman, Mr. Hepburn, of Iowa, sustained the point of order that the Sherman amendment was not germane.

Reference has been made, in debate, to the decision of Mr. Speaker Cannon on February 11, 1905, when the Committee on Naval Affairs, under a special order of the House permitting the consideration, on that day, of certain private bills, by a substitute for a bill not in the privileged classes, under the order, sought to bring the bill within the special order. Mr. Speaker Cannon then said (Hinds' Precedents, Vol. VI, sec. 4623, p. 954):

"The substitute is a mere proposition of no higher grade than an amendment that might be offered by any Member. * * * The amendment can have no status and if it gets consideration at all it gets consideration by virtue of the bill which was referred to the Committee on Naval Affairs and reported back."

Thus, in the case now before the committee, the amendments recommended to the Senate bill by the Committee on the Merchant Marine and Fisheries have no advantageous position on the question of germaneness, notwithstanding that committee has jurisdiction of the subject matter and the Senate bill was refereed to it. The amendments must survive the same test as would amendments offered on the floor of the Committee of the Whole or of the House. What, then, is that test?

The rule was never better stated than by the distinguished gentleman from Tennessee, Mr. Garrett, when he said on September 19, 1918, as reported in the advance sheets of Cannon's Precedents, in section 2911, that—"the meaning of the expression 'germaneness'"—

(In the case then before him) was—"that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill."

The latest decision on a question of this sort was made in an admirable opinion by the gentleman from New Jersey, Mr. Lehlbach, on the 8th of this month, which occurs on pages 4486–4488 of the current Congressional Record.[1] That decision was sustained by the Committee of the Whole by the vote of 207 ayes to 33 noes.

That decision is almost on all fours with the pending question. What is the fundamental purpose of this Senate bill 2317? Who will say that it has any other purpose than to extend for another year the operation and the work of the Radio Commission which, under the radio act of 1927, was limited to one year?

Section 1 does it in about the same language as is employed in the other bills which have been heretofore quoted. Section 2 continues the salaries of the commissioners for this same work for another year. Section 3 makes an incidental provision with reference to limiting licenses during this enlargement of the activities of the Radio Commission, and section 4, which the House committee struck out but which must be considered in this connection was also a part of the general scheme for continuing the life of the commission for more year along the same lines and with the same powers and for the same purposes as were contained in the original radio act of 1927, when the commission was granted certain powers for one year only. Nowhere in the original

[1] Sec. 2995 of this work.

Senate bill is there any permanent fundamental change in the wide range of the substantive provisions of the radio act of 1927, to which the Senate bill is an amendment.

The amendment proposed by the House committee, which is now designated as section 4, relates to an entirely different subject. It provides for the permanent territorial distribution and allocation of broadcasting licenses, in respect of wave lengths and of station power, among the five zones created by the radio act of 1927, and to the distribution and allocation of such broadcasting licenses, not all licenses, but broadcasting licenses only, among the different States in proportion to population and area.

It seems clear to the Chair that the fundamental purpose, in fact, the sole object of the Senate bill is the temporary extension of the jurisdiction of the commission and that the other matters which are inserted by the Senate bill are merely incidental thereto. If that is so, then section 4 is not germane, because it relates to an entirely different subject matter.

The Chair therefore sustains the point of order that the committee amendment, designated as section 4, is not germane to the Senate bill.

Mr. Crisp, appealing from the decision of the Chair, submitted:

The fundamental purpose of this bill is not to continue the life of the commission but it is to continue this Radio Commission with all of its powers, including the power for 12 months of continue to issue licenses. The Senate bill not only extended all the powers for 12 months but it extended them with certain limitations. The Senate bill amended section 9 of the original radio act by saying that this commission, with its life extended, could only grant licenses for one year and six months, instead of five and three years, and the House committee still further amended it by striking out the one and three years and putting in three months and six months.

Mr. Lehlbach submitted in rebuttal:

The gentleman stated correctly that the Senate bill was for the purpose of extending the powers and authority of the Radio Commission for 12 months with certain limitations. If section 4 were a limitation upon the powers and authority of the Radio Commission during the period for which their powers and authority are extended, it would be in order, but it does not refer to the functioning of the Radio Commission for the next 12 months. If changes, until amended, for all time the basic law with respect to radio, no matter who exercises the function. Consequently, it is in no sense germane.

The question being put on the appeal and the committee having divided, tellers reported yeas 140, nays 168, and the decision of the Chair was not sustained as the judgment of the committee.

2942. To a bill amending a law in several particulars an amendment proposing modification in another particular was held to be germane.

On September 10, 1919,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 9065) proposing modification of several sections of the Federal far loan act.

Mr. Melvin O. McLaughlin, of Nebraska, offered an amendment proposing modification of a section of the law unprovided for in the pending bill.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was not germane to the bill.

Mr. Otis Wingo, of Arkansas, said:

Mr. Chairman, while I am opposed to this amendment, there is no question that the proposed amendment is in order. It proposes to change the figures of the original act. This bill proposes amendments to several sections of the act.

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[1] First session Sixty-sixth Congress, Record, p. 5204.

The Chairman [1] affirmed:

It is clear to the Chair that the gentleman from Arkansas has stated the effect of this amendment; and, if that be correct, the amendment is certainly in order, and the Chair overrules the point of order. The gentleman from Nebraska.

On September 12,[2] when the same bill was again under consideration in the Committee of the Whole House on the state of the Union, Mr. Daniel A. Reed, of New York, proposed a further amendment of the original act not provided for in the pending bill.

Mr. Burton E. Sweet, of Iowa, raised the question of order that the proposed amendment was not germane to the bill.

The Chairman ruled:

It is well established by precedents that where it is proposed in a bill to amend an act in a number of its sections, an amendment to amend another section of the act is in order. A number of cases have occurred in the consideration of this bill where amendments have been offered which were not germane to any section included in the present bill but were clearly germane to sections in the original law. It seems clear to the Chair that this amendment is germane to a section of the original law, which under the precedents may be repealed or amended in this bill. The Chair therefore overrules the point of order.

2943. To a bill to modify a section of an existing law an amendment proposing to repeal a portion of the section sought to be modified was held to be germane.

On February 1, 1928,[3] the House ordered to a third reading the bill (H. R. 6491) to amend section 8 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," approved October 15, 1914, as amended.

Thereupon Mr. T. Alan Goldsborough, of Maryland, moved to recommit the bill to the Committee on Banking and Currency with instructions to report it back forthwith with the following amendment:

Strike out all of the language after the enacting clause and insert in lieu of the matter striken out the following language: "That the last proviso of the second paragraph of section 8 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, as amended is hereby repealed."

Mr. Louis T. McFadden, of Pennsylvania, made the point of order that the amendment proposed in the motion to recommit was not germane.

The Speaker,[4] after ascertaining that the amendment proposed to repeal only the provisions of the law which the pending bill sought to amend, overruled the point of order and put the question on the motion to recommit.

2944. Although a bill amending a general law in several particulars is presumed to admit as germane an amendment providing for the repeal of the whole law, in an instance wherein the modifications proposed by the

[1] John Q. Tilson, of Connecticut, Chairman.

[2] Record, p. 5311.

[3] First session Seventieth Congress, Record, p. 2339.

[4] Nicholas Longworth, of Ohio, Speaker.

pending bill did not vitally affect the entire law, an amendment providing for repeal was held not to be germane.

On June 17, 1919,[1] Mr. James W. Good, of Iowa, called upon the conference report on the third deficiency appropriation bill, reporting agreement on all votes in disagreement except on Senate amendment No. 21, directing the Secretary of the Treasury to acquire and complete a hospital in Cook County, Illinois.

The conference report was agreed to, and the Senate amendment remaining in disagreement was reported, when Mr. Good moved to recede from disagreement and concur in the Senate amendment with an amendment repealing the entire law authorizing the Secretary of the Treasury to build such hospitals of which the Senate amendment was amendatory.

Mr. Alben W. Barkley, of Kentucky, raised the question of order that the amendment proposing the repeal of the law was not germane.

Debate on the point of order having occupied the remainder of the day, the Speaker[2] took the question of order under advisement and the House adjourned.

On the next day[3] on which the business was again in order, consideration of the Senate amendment having been resumed, the Speaker said:

The point of order made by the gentleman from Kentucky is that the amendment offered by the gentleman from Iowa is not germane to the Senate amendment. The rule on germaneness is very simple—

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

While the rule seems simple, of course the difficulty always lies in deciding what is strictly the subject under consideration. In this instance the original bill gave the Secretary of the Treasury power to establish hospitals in several different places, and also other powers in respect to hospitals. The Senate amendment compelled him to build one of these hospitals, where before he simply was given authority to build it. The gentleman from Iowa moves an amendment to the Senate amendment to repeal the whole law which gave the Secretary the discretion to build these hospitals. It seems very clear to the Chair that if the only clause in the Senate amendment was to compel building the Chicago hospital, then an amendment which repealed the whole law giving the Secretary authority to build all these hospitals would not be in order. Indeed, it would be questionable, under the precedents, whether an amendment which forbade the Secretary to build the Chicago hospital alone would be in order. That, at least, would be open to debate, for although that in one sense is "the subject under consideration," yet it has been held, for instance, that a bill authorizing the Court of Claims to adjudicate a claim can not be amended to provide for payment of that same claim. The subject under consideration was not simply the claim but the action to be taken concerning the claim. And so it might be argued that to forbid the Secretary of the Treasury to build one hospital is not germane to an amendment which compelled him to build it. But the question here is broader than that. The question here is, When an amendment orders the Secretary to build the hospital, is it germane to repeal the whole law under which the Secretary previously had power to build that hospital and others? The Chair thinks it clearly would not be germane if that was the only subject in the Senate amendment.

But in the Senate amendment there is another proposition which applies to a different pay of the law to be amended. There is a clause in the original law setting aside a special fund of $1,500,000 to purchase land and buildings. That clause is amended by the Senate amendment to authorize the Secretary not only to purchase buildings but also to erect buildings. That, of

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[1] First session Sixty-sixth Congress, Record, p.1231.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Record, p. 1393.

course, is a minor paragraph in the original law and this is a rather insignificant amendment. Yet it is argued, and argued plausibly and forcibly, that when more than one clause or section of a law is amended that fact brings the whole law before the House, and an amendment would then be in order to repeal the law. There is one notable precedent for that, but the Chair thinks it is clearly distinguished from this. In the case to which the Chair refers the amendments were numerous and went to the heart of the bill, and changed the bill in a vital way. In that case it was held that a motion to repeal the whole law was in order, but it seems to the Chair that in the case before us the two sections referred to by the Senate amendment are easily segregated from the rest of the law, and that they do not affect the whole law, and that a motion to repeal the whole law is not fairly germane to an amendment which simply changes those two paragraphs. The Chair, therefore, sustains the point of order.

2945. To a bill modifying existing law in a number of particulars an amendment referring to the entire law is not necessarily germane.

On June 10, 1921,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6611) to establish a veterans' bureau.

This bill proposed the reenactment in modified form of a number of sections of the war risk insurance act, but containing no reference to the act as a whole.

Mr. Clay Stone Briggs, of Texas, offered the following amendment:

The provisions of this act, as well as those of the war risk insurance act as amended, shall be liberally construed in favor of the claimant within the class of beneficiaries entitled to relief under the provisions of this act.

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was not germane.

After debate the Chairman[2] ruled:

The amendment of the gentleman from Texas provides that the provisions of this act, as well as the war risk insurance act as amended, shall be liberally construed in favor of the claimant, and so forth. The provision offered by the gentleman from Texas undertakes to interpret not only the sections of the war risk insurance act as amended but many sections of the war risk insurance act which are not before the House now for amendment. The Chair thinks it is not in order on this bill to amend sections or interpret sections of the war risk act which are not before the House for amendment or interpretation. Therefore the Chair sustains the point of order.

2946. To a bill amending the Federal Reserve Act in a number of particulars an amendment relating to the Federal Reserve Act but to no portion provided for in the pending bill was held not to be germane.

On January 14, 1925,[3] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 8887) to amend the Federal reserve act and the national bank act.

Mr. W. A. Ayers, of Kansas, offered an amendment proposing modification of a portion of the Federal reserve act not referred to in the pending bill.

Mr. Carroll L. Beedy, of Maine, made the point of order that the amendment was not germane to the bill.

The Chairman[4] held that the amendment was not germane to any particular section of the pending bill and sustained the point of order.

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[1] First session Sixty-seventh Congress, Record, p. 2424.

[2] Sydney Anderson, of Minnesota, Chairman.

[3] Second session Sixty-eighth Congress, Record, p. 1833.

[4] Frederick R. Lehlbach, of New Jersey, Chairman.

2947. To a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill was held not to be germane.

On May 14, 1924,[1] the House was considering the bill (H. R. 2169) proposing to amend several sections of the national defense act, when Mr. John J. McSwain, of South Carolina, offered an amendment proposing to modify a section of the national defense act not referred to in the pending bill.

Mr. Thomas L. Blanton, of Texas, submitted that the amendment was not germane either to the bill or to the pending section.

After a brief debate the Speaker[2] ruled:

It does not seem to the Chair that this bill brings the whole national defense act before the House. It only brings before the House a very limited portion of it and not the portion affected by the amendment offered by the gentleman from South Carolina. The Chair is disposed to sustain the point of order. The point of order is sustained.

2948. To a bill amendatory of one section of an existing law an amendment proposing further modification of the law was held not be germane.

On December 20, 1919,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11224) to amend section 1 of the act approved October 16, 1918, providing for deportation of alien anarchists.

Mr. Benjamin F. Welty, of Ohio, offered an amendment proposing to add to the existing law a new section to be known as section 4.

Mr. Albert Johnson, of Washington, made the point of order that the amendment while germane to the existing law was not germane to the pending bill.

After debate the Chairman[4] sustained the point of order.

2949. To a bill amending a law in one particular an amendment repealing the law is not germane.

To a bill amending a single feature of the war prohibition act an amendment repealing the act was held not to be germane.

On July 14, 1919,[5] during consideration in the Committee of the Whole House on the state of the Union of the bill (H. R. 6810) the prohibition enforcement bill, the Clerk read as follows:

That the term "war prohibition act" used in this act shall mean the provisions of any act or acts prohibiting the sale and manufacture of intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States. The words "beer, wine, or other intoxicating malt or vinous liquors" in the war prohibition act shall be construed to mean any liquors which contain one-half of 1 per cent or more of alcohol by volume.

To this paragraph Mr. William L. Igoe, of Missouri, proposed the following amendment:

After the word "States," strike out the remainder of the section and insert the words "and the same is hereby repealed."

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[1] First session Sixty-eighth Congress, Record, p. 8554.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-sixth Congress, Record, p. 1000.

[4] James W. Good, of Iowa, Chairman.

[5] First session Sixty-sixth Congress, Record, p. 2555.

Mr. Andrew J. Volstead, of Minnesota, raised the question of order that the amendment was not germane to the bill.

After debate the Chairman [1] ruled:

The section reads as follows:

"That the term 'war prohibition act' used in this act shall mean the provisions of any act or acts prohibiting the sale and manufacture of intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States. The words 'beer, wine, or other intoxicating malt or vinous liquors' in the war prohibition act shall be construed to mean any liquors which contain one-half of 1 per cent or more of alcohol by volume."

Under that section the gentleman from Missouri has offered the following amendment:

"Page 2, line 1, after the word 'States,' strike out the remainder of the section and insert the words 'and the same is hereby repealed.'"

The part stricken out, according to this amendment, reads as follows:

"The words 'beer, wine, or other intoxicating malt or vinous liquors' in the war prohibition act shall be construed to mean any liquors which contain one-half of 1 per cent or more of alcohol by volume."

The gentleman from Minnesota makes the point of order that this amendment is not germane to the paragraph. It has been decided a number of times by the House that to a bill amendatory of any existing law as to one specific particular amendment relating to the terms of the law rather than those of the bill are held not to be germane. I think that is the well-decided opinion of the House and to that opinion I understand the gentleman from Missouri does not object, but claims that his amendment falls within the provision of the decision of this House which was first made in 1902. I read from Hinds' Precedents, volume 5, page 420, section 5824:

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

It is the contention of the gentleman from Missouri that the bill involves the war prohibition act in more than one particular, and therefore is in order. The Chair has very carefully gone through this bill, and is of the opinion that the language which reads: "That the term 'war prohibition act' used in this act shall mean the provisions of any act or acts prohibiting the sale and manufacture of intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States" does not amend the war prohibition act. The Chair is of the opinion that the bill amends the war prohibition act in only one particular, and that is puts in an amendment commencing with the words in line 1, page 2, reading as follows:

"The words 'beer, wine, or other intoxicating or vinous liquors' in the war prohibition act shall be construed to mean any liquors which contain one-half of 1 per cent or more of alcohol by volume."

That is the only amendment to the war prohibition act that the Chair has been able to find which can be dignified by the term of an amendment to the act, and the Chair therefore sustains the point of order.

2950. To a proposition to extend for two years the operation of a temporary act and declaring that conditions prompting its original enactment still existed, an amendment germane to the existing act sought to be extended was held to be germane.

On April 28, 1924,[2] the bill (H. R. 7962) to regulate rents in the District of Columbia was under consideration in the Committee of the Whole House on the

[1] James W. Good, of Iowa, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 7418.

state of the Union, when Mr. Florian Lampert, of Wisconsin, moved to strike out all after the enacting clause and insert the following:

That it is hereby declared that the emergency described in Title II of the food control and the District rents act still exists and continues in the District of Columbia and that the present housing and rental conditions therein require the further extension of the provisions of such title.

Sec. 2. That Title II of the food control and the District of Colombia rents act, as amended, is reenacted, extended, and continued, as hereinafter amended, until the 22d day of May, 1926, notwithstanding the provisions of section 2 of the act entitled "An act to extend for the period of two years the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, as amended, approved May 22, 1922, etc.

Mr. Henry L. Jost, of Missouri, proposed the following as a substitute for the pending amendment:

It shall be unlawful for any corporation, firm, or individual owning, managing, or controlling premises devoted to dwelling purposes and offered for rental or rented to others for such purpose within the District of Columbia after the passage of this act to charge or exact therefor, either directly or indirectly, by any means, method, or device whatsoever, for and during the period for which the same is proposed to be or is rented, a rental in excess of an amount which, calculated on the basis of 12 consecutive months, will produce and yield the owner 12 per cent annually on the assessed value of said property for the purpose of taxation, etc.

Mr. James T. Begg, of Ohio, made the point of order that the amendment was not germane.

After debate the Chairman [1] held:

Let the Chair make a suggestion to the gentleman from Ohio that may bring the matter to a little closer issue, and that is that where it is proposed to reenact a specific law and a resolution is introduced for the purpose of extending the provisions of that act, is it in order then as an amendment to such as act to make provisions that amend the original act?

Now, the only proposition is whether the amendment as offered is a proper amendment to the pending substitute. Chairman Burton, in Committee of the Whole House on October 18, 1921, held that:

"To a bill extending the operation of a certain act, an amendment excepting a certain portion of the act to be extended is germane."

In other words, that on a proposition which has to do with the reenactment or the prolongation of a pending act an amendment can be offered which amends the language of the original act. This amendment is germane to provisions of the present rent act. Aside from that, the Lampert substitute does more than to merely extend the provisions of the present law. It declares the continued existence of an emergency in the District of Columbia. There might be some doubt on the subject if this amendment did nothing but extend a certain act, but it does more than that. That being true, the Chair thinks the gentleman's amendment germane and the Chair overrules the point of order.

2951. An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class.

To a bill providing insurance for crews of vessels an amendment providing insurance for soldiers transported on such vessles was held not to be germane.

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[1] William J. Graham, of Illinois, Chairman.

On June 2, 1917,[1] the Committee of the Whole House on the state of the Union resumed consideration of the bill (S. 2133) amending the war risk insurance act, with the following paragraph pending:

The Bureau of War Risk Insurance, subject to the general direction of the Secretary of the Treasury, shall, as soon as practicable, make provisions for the insurance by the United States, as further provided in section 3a, of masters, officers, and crews of American merchant vessels against loss of life or personal injury by the risks of war, and for compensation during detention following capture by enemies of the United States whenever it shall appear to the Secretary that in any trade the need for such insurance exists.

Mr. J. Willard Ragsdale, of South Carolina, offered this amendment:

After the word "capture," insert: "That the commanding officer of each company of soldiers in the service of the United States Government while being transported on the sea shall insure his officers and soldiers on the same terms and in like amount as the officers and crews of vessels."

Mr. William C. Adamson, of Georgia, raised the question of order that the proposed amendment was not germane.

The Chairman[2] held:

The gentleman from Georgia makes a point of order against the amendment. The bill among other things authorizes insurance against loss of life and personal injury on account of war risks and so forth on American merchant vessels. The amendment offered by the gentleman from South Carolina proposes to include insurance for officers and soldiers of the Army in like amount as the officers and crews of merchant vessels. The chair thinks it is clear that the amendment offered by the gentleman from South Carolina is not germane to the provision now under consideration. This is an individual proposition to insure the lives of certain persons upon merchant vessels. It has been held a number of times and there are a number of precedents to the effect that it is not in order to amend one individual proposition by another individual proposition, even though the two may belong to the same class. The Chair, therefore, sustains the point of order.

2952. It is not in order to propose to amend one individual proposition by another individual proposition even though they be of the same class.

To a proposition that the Secretary of War issue medals to personnel of the Army an amendment proposing that Secretaries of other departments issue similar medals to personnel of the Navy and Coast Guard is not germane.

On March 19, 1928,[3] the House was considering the bill (H. R. 5789) to authorize the award and supply of service medals to individual soldiers as prescribed by Army Regulations for the rendition of certain services, authorizing the Secretary of War to issue such medals.

Mr. J. Charles Linthicum, of Maryland, proposed an amendment to authorize the Secretary of the Navy and the Secretary of the Treasury to issue similar medals to the personnel of the Navy and the Coast Guard, respectively.

Mr. Louis C. Cramton, of Michigan, made the point of order that the amendment was not germane.

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[1] First session Sixty-fifth Congress, Record, p. 3252.

[2] Joseph W. Byrns, of Tennessee, Chairman.

[3] First session Seventieth Congress, Record, p. 5006; Journal, p. 1015.

The Speaker pro tempore [1] sustained the point of order and said:

We have before us a proposition authorizing the Secretary of War to do certain things. The gentleman from Maryland seeks to amend this proposition by authorizing the Secretary of the Navy and the Secretary of the Treasury to do the same thing; in other words, the gentleman is offering to amend an individual proposition by a general provision so as to include several departments.

There is a long list of precedents which state that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class, such as admitting a Territory, an amendment providing for the admission of another Territory is not in order; to a bill providing pensions for veterans of the Indian wars, an amendment providing for pensions for veterans of the Mexican War is not in order. Also, in section 9809 there is a precedent exactly similar to the one pending, where to a bill for the relief of dependents of men in the Regular Army, an amendment proposing to extend the benefits of the act to dependents of men in the National Guard and the Reserve Corps was held not to be germane. This decision was afterwards upheld by Speaker Gillett.

The Chair therefore sustains the point of order.

2953. To a proposition providing for a class, a proposition providing for another related class is not germane.

To a bill for the relief of dependents of men in the Regular Army an amendment proposing to extend the benefits of the act to dependents of men in the National Guards and the Reserve Corps was held not to be germane.

On December 3, 1919,[2] the Committee of the Whole House on the state of the Union had under consideration the bill (S. 2497) to provide six months pay for dependents of men in the Regular Army dying of disabilities incurred in the service.

Mr. Tom Connally, of Texas, proposed the following amendment:

After the word "duty," insert "or of the death from wounds or disease not the result of his own misconduct, of any officer or enlisted man in the National Guard or the Reserve Corps when in the active Federal military service of the United States."

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not germane to the bill.

After debate the Chairman sustained the point of order and said:

The bill under consideration is one to provide for the payment of certain pay to the widow, children, or designated dependent relatives of any officer or enlisted man of the Regular Army whose death resulted from wounds or disease and not from his own misconduct. The amendment offered by the gentleman from Texas would extend this same payment to the widows and children and designated relatives of officers and enlisted men of the National Guard or the Reserve Corps. Clearly the amendment is subject to the point of order and is not germane to the section, and the Chair sustains the point of order.

The bill having been reported to the House with favorable recommendation and having been ordered to be engrossed and being read the third time, Mr. Thomas L. Blanton, of Texas, offered a motion to recommit the bill to the Committee on Military Affairs with instructions to report the same back forthwith with the amendment previously proposed by Mr. Connally.

Mr. Mann again raised the question of order against the amendment carried in the proposed motion to recommit.

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[1] Bertrand H. Snell, of New York, Speaker pro tempore.

[2] Second session Sixty-sixth Congress, Record, p. 94.

The Speaker [1] sustained the point of order.

2954. To a provision authorizing distribution through the Red Cross an amendment providing for distribution through the Salvation Army was held not germane.

On March 3, 1932,[2] the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (S. J. Res. 110), authorizing the distribution of Government wheat by the American Red Cross for the relief of distress.

The Clerk read in part:

Resolved, etc., That the Federal Farm Board is authorized and directed to take such action as may be necessary to make available, from time to time, to the American National Red Cross, or any other organization designated by the American National Red Cross, wheat of the Grain Stabilization Corporation, for use in providing food for the needy and distressed people of the United States and Territories.

Mr. Louis Ludlow, of Indiana, offered this amendment:

After the word "Cross," insert "the Salvation Army."

Mr. Marvin Jones, of Texas, having raised the question of germaneness, the Chairman [3] sustained the point of order.

2955. To a bill providing for the erection of a statue of General Von Steuben an amendment substituting a proposition for the erection of a statue of George Washington was held not to be germane.

On February 9, 1910,[4] the House was considering the bill (H. R. 16222) providing for the erection of a statue of General Von Steuben to be presented to the German Nation in return for the statue of Frederick the Great presented by the German Emperor to the people of the United States.

Mr. William Sulzer, of New York, proposed an amendment as follows:

Strike out the words "Von Steuben" and insert "George Washington."

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment was not germane.

The Speaker [5] held:

The Chair sustains the point of order, as under the precedents it is clearly not germane. The object of the bill is for the erection of a replica of a statue of General Von Steuben. It is not a general bill to erect a monument, but it is confined to a monument or a replica of General Von Steuben.

2956. To a resolution providing a special order for the consideration of one bill an amendment substituting another bill, even though relating to the same subject, was held not to be germane.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Seventy-second Congress, Record, p. 6216.

[3] Schuyler Otis Bland, of Virginia, Chairman.

[4] Second session Sixty-first Congress, Record, p. 1655.

[5] Champ Clark, of Missouri, Speaker.

On February 17, 1923,[1] Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported the resolution (H. Res. 536) providing for the consideration of the bill (H. R. 14041) to amend the Federal farm loan act.

During debate it was explained that through inadvertence the resolution designated H. R. 14041 although the intention had been to provide for the consideration of H. R. 14270, which was a redraft of H. R. 14041, and introduced under identical title.

Mr. Campbell, therefore, proposed to amend the resolution by striking out "H. R. 14041" and inserting "H. R. 14270."

Mr. Marvin Jones, of Texas, raised a question of order against the substitution.

The Speaker[2] ruled:

The Chair thinks that it is not in order to amend a resolution naming one bill by naming another bill. The Chair thinks the same result would be accomplished by striking out the number entirely. Then it would be designated by title.

2957. To a bill regulating the sale of friar lands in the Philippine Islands an amendment including the Crown lands of the Philippine Islands was held not to be germane.

On May 15, 1912,[3] the House was considering the bill (H. R. 17756) to amend an act providing for the civil government on the Philippine Islands and having particular reference to the disposition of the friar lands of the islands.

Mr. John A. Martin, of Colorado, offered an amendment restricting the amount of land which might be acquired by any one corporation or individual.

Mr. Marlin E. Olmsted, of Pennsylvania, made the point of order that under the terms of the amendment the proposed legislation would apply not only to the friar lands but to all lands in the Islands owned by the Government.

The Speaker[4] sustained the point of order and said:

The Chair will take judicial notice of the fact that from the beginning of our occupancy of the Philippine Islands the Crown lands have been considered as one thing and the friar lands as another; and the rules and regulations touching the Crown lands are different from the rules and regulations touching the friar lands. This bill, which has been discussed for three days, has reference entirely to the friar lands. The substitute offered by the gentleman from Colorado not only affects the friar lands but it affects the Crown lands; it also provides for an elaborate system of escheat, a subject that this bill has nothing in the world to do with. It also makes certain acts crimes, and provides penalties for the same. Therefore the substitute of the gentleman from Colorado is ruled out and the point of order made by the gentleman from Pennsylvania is sustained.

2958. To a bill providing for vocational rehabilitation in the United States an amendment extending the provisions of the bill to Hawaii was held not to be germane.

On October 16, 1919,[5] the bill (H. R. 4438) to provide industrial vocational rehabilitation in the United States (not including the Territories or the District of

[1] Fourth session Sixty-seventh Congress, Record, p. 3869.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-second Congress, Record, p. 6522.

[4] Champ Clark, of Missouri, Speaker.

[5] First session Sixty-sixth Congress, Record, p. 7026.

Columbia) was being considered in the Committee of the Whole House on the state of the Union.

Mr. J. Kuhio Kalanianaole, of Hawaii, offered an amendment to extend the benefits of the proposed legislation to the Territory of Hawaii.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was not germane to the bill.

After debate, the Chairman[1] held:

The gentleman will observe that in line 10, page 2, the Territories, outlying possessions, and the District of Columbia are specifically excluded from the population ratio. Under those circumstances, the Chair is inclined to think that the point of order is well taken, and the Chair sustains the point of order of the gentleman from Texas.

2959. To a bill for the relief of women and children in Germany an amendment providing similar relief for Porto Rico was held not to be germane.

To a proposition to extend Federal aid to starving women and children an amendment providing that such aid should not become effective prior to a certain date was admitted.

On March 24, 1924,[2] the Committee of the Whole House on the state of the Union was considering the joint resolution (H. J. Res. 180) for the relief of the distressed and starving women and children of Germany, providing for the purchase in the United States of grains, fats, milk, and other foodstuffs and its distribution in Germany and authorizing an appropriation of $10,000,000 for that purpose.

Mr. John E. Rankin, of Mississippi, offered an amendment providing for extension of the benefits of the proposed legislation to Porto Rico.

Mr. James T. Begg, of Ohio, made the point of order that the amendment was not germane.

The Chairman[3] sustained the point of order.

Mr. Tom Connally, of Texas, proposed this amendment:

At the end of the paragraph, insert: *"Provided,* That this act shall not become effective until January 1, 1925."

Mr. Rankin made the point of order that the amendment was not germane.

The Chairman overruled the point of order.

2960. To a bill pensioning veterans of the Indian wars an amendment pensioning veterans of the Texas rangers engaged in opposing "Mexican marauders and Indian depredations" was held not to be germane.

On February 16, 1916,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 655) to pension veterans of the Indian wars.

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[1] Nicholas Longworth, of Ohio, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 4858.

[3] William J. Graham, of Illinois, Chairman.

[4] First session Sixty-fourth Congress, Record, p. 2668.

Mr. William H. Murray, of Oklahoma, offered this amendment:

To the surviving officers and enlisted men of the Texas volunteers who served in defense of the frontier of that State against Mexican marauders an dIndian depredatiosn from January 1, 1859, to January 1, 1861, inclusive, and from the year 1866 to the year 1876, inclusive, and

Mr. Edward Keating, of Colorado, made the point of order that the amendment was not germane to the bill.

The Chairman[1] overruled the point of order.

Thereupon Mr. Robert Y. Thomas, jr., of Kentucky, proposed an amendment to pension certain Kentucky troops engaged in the Civil War "or in Indian depredations."

Mr. Keating having raised a question of order against the amendment, Mr. Thomas cited the decision just made holding Mr. Murray's amendment in order.

The Chairman reversed the ruling on the previous point of order and said:

The Chair will state to the gentleman and to the committee that at the time of that ruling his attention was not called to the fact that the amendment carried with it a provision concerning Mexican marauders, but was under the impression it applied only to Indian depredations. The Chair is therefore now of the opinion that his ruling at that time, so far as Mexican marauders was concerned, was a wrong ruling, but a wrong ruling in that instance would not now justify or cause the Chair to make a similar ruling. The Chair therefore sustains the point of order.

2961. To a proposition to pay employees of the House and Senate extra compensation an amendment proposing to include clerks of Members was held not to be germane.

On July 31, 1911,[2] the House was considering the amendments of the Senate to the joint resolution (H. J. Res. 130) making appropriation for certain expenses of the House and Senate incident to the first session of the Sixty-second Congress, when the Clerk read Senate amendment No. 3 as follows:

To enable the Secretary of the Senate and the Clerk of the House of Representatives to pay to the officers and employees of the Senate and House borne on the annual and session rolls on the 1st day of July, 1911, including the Capitol police, the official reporters of the Senate and House and W. A. Smith, Congressional Record clerk, for extra services during the first session of the Sixty-second Congress, a sum equal to one month's pay at the compensation then paid them by law, the same to be immediately available.

Mr. John A. Thayer, of Massachusetts, moved to concur in the Senate amendment with the following amendment:

After the words "Sixty-second Congress," insert "And to enable the Secretary of the Treasury to pay to each Senator and Congressman for extra services of his secretary."

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment was not germane to the Senate amendment to which offered.

The Speaker[3] sustained the point of order.

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[1] Pat Harrison, of Mississippi, Chairman.

[2] First session Sixty-second Congress, Record, p. 3399.

[3] Champ Clark, of Missouri, Speaker.

2962. To an item relating to carriers in the postal service an amendment adding clerks in the same service was held not be germane.

On January 21, 1911,[1] the post office appropriation bill was being read for amendment in the Committee of the Whole House on the state of the Union, when Mr. William Hughes, of New Jersey, offered this amendment.

Provided, That no part of this appropriation shall be used to pay carriers who are required or permitted to work for more than 48 hours in the six working-days of a week.

Mr. Martin B. Madden, of Illinois, proposed the following amendment to the pending amendment.

After the word "carriers" in the amendment insert "and postal clerks."

Mr. John W. Weeks, of Massachusetts, raised a question of order.

The Chairman[2] ruled:

The Chair is ready to rule. The paragraph in the bill now before the committee provides for the pay of carriers. There are other paragraphs in the bill which provide for the pay of clerks. The limitation which is provided in this amendment concerns the pay of carriers, and there has been no objection raised to it or point of order made against it. The provision limiting the time of service of clerks would necessarily concern other items in the bill, and therefore is not germane to the amendment before the committee, and the Chair sustains the point of order.

2963. One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

To a bill prohibiting the importation of products of convict labor, pauper labor, and detained labor an amendment placing a like restriction on the importation of products of child labor was held not germane on the ground that the labor affected by the bill constituted a single class of labor.

On March 18, 1914,[3] the bill (H. R. 14330) to prohibit the importation of certain goods, wares, and merchandise, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Patrick H. Kelley, of Michigan, proposed an amendment to extend the restrictions imposed by the bill to products of labor:

By children under the age of 14 years.

Mr. Charles L. Bartlett, of Georgia, made the point of order that the amendment was not germane.

In debating the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Chairman, the rule, as the Chair is aware, is well settled. Where a bill relates to one particular thing you can not amend it by adding another particular thing, or you can not amend it by adding a general class.

The gentleman from Georgia, I think, cited a case of that sort, where a bill related to the admission of one Territory and an amendment was offered to add another Territory. But the gentleman did not refer to the fact that where a bill proposes to admit two Territories you could add a third. The rule is just as well settled one way as the other.

Now here is a bill that is not confined to one class but to several classes, and there is a good deal closer connection between pauper labor and child labor than there is between prison labor and pauper labor.

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[1] Third session Sixty-first Congress, Record, p. 1239.

[2] Frederick C. Stevens, of Minnesota, Chairman.

[3] Second session Sixty-third Congress, Record, p. 5481.

I remember the decision of Speaker Clark on that subject very well, and he said if the bill covered two items you could add something more if you wanted to; and Speaker Clark, in making the ruling that you could not add grain to a bill relating to cotton futures said that to a bill relating to wheat and corn you could add other articles specifically.

That is the case here. This bill does not relate to one class. It relates to several classes, and under the rule it is always construed that where you have a bill realting to several classes you can add an additional class. If this bill were confined solely to convict-made goods, the amendment would not bin order to add pauper-made goods.

But the bill itself, covering both convict-made goods and pauper-made goods, is open to the addition of another class. There is no great distinction between the class that is sought to be added and one of the classes that is in this bill. If the Chair holds that pauper-made goods are entirely distinct and separate from child-labor goods made by children under 14 years of age, the Chair will make a very strained construction of the facts, in my opinion.

The Chairman [1] approved that position taken by Mr. Mann, and said:

The Chair thinks that in this bill the committee enumerated the class of persons whose labor was to be restricted from entry into the United States, and under the rule which has been cited we have in this bill already convict and pauper labor, making two classes, and the Chair thinks it is germane to add another, and therefore overrules the point of order.

The question was taken on agreeing to the amendment, and being decided in the negative, the amendment was rejected.

The reading of the bill for amendment having been completed, the Committee reported it back to the House and it was ordered to be engrossed and was read the third time, when Mr. Mann moved to recommit it to the Committee on Labor with instructions to report it back forthwith with the following amendment:

Add at the end of section 1, as a part of said section, the following:

"That no goods, wares, articles, and merchandise, except immediate products of agriculture, forests, and fisheries, manufactured wholly or in part in any foreign country principally by children under 14 years of age, in countries where they have no laws regulating child labor, shall be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited. Any shipment consigned for entry at any of the ports of the United States of goods, wares, articles, and merchandise, except immediate products of agriculture, forests, and fisheries, manufactured in any foreign country, province, or dependency, where the industrial employment of children not regulated by law shall be accompanied by an affidavit of the shipper of such merchandise or his legal agent, to the effect that the merchandise covered by the invoice has not been manufactured principally by children under 14 years of age, the form of the affidavit to be prescribed by the Secretary of the Treasury, who is also authorized and directed to issue such further regulations and to collect all information pertinent thereto through cooperation with the Consular Service of the United States as may be necessary for the enforcement of the provision."

Mr. Bartlett made the point of order that the amendment proposed in the motion to recommit was not germane.

After exhaustive debate, the Speaker [2] ruled:

The title of this bill is "A bill to prohibit the importation and entry of goods, wares, and merchandise 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."

The first section of the bill is—

"That all goods, wares, and merchandise produced in whole or in part by convict, pauper, or prison labor, or in the production of which convict, pauper, or prison labor has been employed,

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[1] Martin D. Foster, of Illinois, Chairman.

[2] Champ Clark, of Missouri, Speaker.

either directly or indirectly, in any manner and for any purpose, * * * shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

Section 9, defining paupers. provides—

"That the term 'pauper,' as used in this act, shall be limited to those persons who are held or confined in eleemosynsary institutions at the public expense in whole or in part."

Now there is no dispute—the matter having been settled long ago and having been ruled one way so often that there can not be any mistake about it—that where one subject matter is mentioned—one class, and only one—you can not add others, but if more than one are mentioned, then you can add others. The only case of this kind that the Chair remembers having ruled on himself was the cotton-futures case.

The only difficulty about the rule is in applying it. If it were not for section 9 of this act, defining a pauper, the Chair would hold that this motion of the gentleman from Illinois to recommit with instructions is in order. But when you read the whole bill and listen to the arguments pro and con it is clear to the mind of the Chair that the one thing that this bill seeks to do is to shut out what might be called State-expedited manufactured articles; that is, where the State pays part of the cost.

The contention of the labor people has always been, as I understand it, that their objection is not to convict-made goods per se. That is not what they object to. They object to convict-made goods because the convict-made goods may be made so much more cheaply by the aid of the State, or county, or whatever it happens to be, than they could be made by free labor; and, therefore, free labor can not compete with convict labor. That is the whole of the contention, and the intent of this bill goes to that, and to that alone.

The Chair thoroughly agrees with the gentleman from Illinois on the proposition that no sane man would undertake to put convicts and paupers on the same moral plane. It is a misfortune to be poor, and the poorer you are the greater the misfortune. But the intent of this bill is clearly to prohibit the importation into this country of goods, wares, and merchandise or anything of the sort that is made by laborers who do not receive the wages of free labor, but who are in some way assisted by the State.

In addition to that, while it has nothing to do with the parliamentary point, the popular acceptation of "pauper labor" in this country has been that class of labor in foreign countries which receives less wages than the American laborers get. There have been all sorts of tales told about what the wages of workmen in foreign countries are—some of them true and some of them not true—for political effect. But this bill defines what "a pauper" is for the purposes of this act.

I may be permitted to say that I am as much opposed to "child labor," as we use that term, as any living man.

There is no other remark that might be pertinent and that is if this Mann amendment were adopted it would practically put an end to commerce. So the Chair rules it out of order.

Mr. Mann then offered this motion:

I move to recommit the bill H. R. 14330 to the Committee on Labor, with instructions to that committee to report said bill back forthwith, with the following amendment:

Insert, "by children under the age of 14 years or."

Mr. David J. Lewis, of Maryland, having raised a question of order, Mr. Mann cited the decision rendered by the Chairman of the Committee of the Whole on the same amendment.

The Speaker said:

The Chair has a very high opinion of the gentleman from Illinois, Mr. Foster, and this is simply a difference of opinion as to whether the bill relates to two different classes or one class of labor. The Chair remembers a certain occasion when, on the free-list bill, a distinguished Missourian, who was chairman of the Committee of the Whole, ruled one way, and ruled correctly, as far as that was concerned. When we got back into the House the gentleman from Illinois, Mr. Mann, moved to recommit, and stated that the Chairman of the Committee of the Whole had ruled one way, but that he would rather have the ruling of the Speaker. The Chair dislikes very much

to disagree with the Chairman of the Committee of the Whole House on the state of the Union, Mr. Foster, but under the ruling which the Chair made about 15 minutes ago he is compelled, unless he has changed his mind in the meantime, which he has not, to rule this motion to recommit out of order.

On appeal the decision of the Speaker was sustained.

2964. To a subject dealing with one class an amendment relating to another class is not in order.

To a bill relating to interstate commerce a proposition relating to intrastate commerce is not germane.

The Committee of the Whole having under consideration a measure providing for issuance of certificates of convenience and necessity in interstate traffic, an amendment dealing with issuance of such certificates in intrastate traffic was not admitted.

On March 21, 1930,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways.

The Clark read as follows:

Sec. 4. (a) No corporation or person shall operate as a common carrier by motor vehicle in interstate or foreign commerce on any public highway unless there is in force with respect to such carrier a certificate of public convenience and necessity authorizing such operation.

Mr. Marvin Jones, of Texas, proposed as an amendment the following proviso:

Provided, That it shall not be necessary to procure such a certificate in order to operate a common carrier by motor vehicle wholly within any State, nor to operate an extension of any line where such extension is wholly within any State, if a certificate or permit for such purpose has been issued by the State commission or other duly constituted regulatory authority of the State affected.

A point of order having been made that the amendment was not germane, the Chairman[2] rules:

The Chair is of the opinion that section 4 contemplates dealing with interstate and foreign commerce only. In the opinion of the Chair, the question of germaneness is involved here. The amendment offered by the gentleman from Texas seeks to bring within this section the subject of intrastate commerce. The Chair does not think that where you have one subject dealing specifically with one class that you may add another specified class. It occurs to the Chair that interstate commerce is quite different from intrastate commerce, and, in the opinion of the Chair, the amendment is not germane. The Chair sustains the point of order.

2965. One individual proposition is not properly subject to amendment by including another individual proposition of the same class.

To a bill providing penalties for violation of Federal law an amendment providing penalties for violation of State law was deemed not germane.

On February 8, 1930,[3] during the consideration of the bill H. R. 8574, the prohibition reorganization bill, in the Committee of the Whole House on the state of the Union, a committee amendment was read authorizing the dismissal of prohibition employees violating any provision of the Federal prohibition law.

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[1] Second session Seventy-first Congress, Record, p. 5861.

[2] Earl C. Michener, of Michigan, Chairman.

[3] Second session Seventy-first Congress, Record, p. 3308.

Mr. Vincent L. Palmisano, of Maryland, offered an amendment extending the provisions of the committee amendment to violation of State laws.

A point of order having been raised by Mr. William Williamson, of South Dakota, the Chairman [1] ruled:

The point of order arises on the committee amendment, which reads as follows:

"Provided, That all officers and employees of the Bureau of Prohibition who the Attorney General finds have heretofore or shall hereafter violate any penal provisions of the Federal prohibition laws shall be dismissed."

The gentleman from Maryland offers an amendment to the amendment, which reads as follows:

"Strike out down to and including the word 'dismissed,' and insert in lieu thereof the following:

"Have heretofore or shall hereafter violate any penal provision of the Federal or State laws shall be dismissed.'"

The point of order which is made against the amendment to the amendment is that it is not germane to the amendment, and the discussion on the matter has been an interesting one. The Chair is well aware of the fact that questions of germaneness frequently are very embarrassing and that it is frequently difficult to try to draw the exact line between that which is germane and that which is not germane.

In Cannon's Procedure in the House of Representatives, page 124, it is stated:

"One individual proposition may not be amended by another individual proposition even though the two may belong to the same class."

It is hardly necessary to say that under this particular rule there have been many decisions in regard to germaneness. However, each question naturally arises on its own base, under its own given set of circumstances.

Germaneness means relevancy, relationship.

The question here is whether the amendment offered by the gentleman from Maryland has such relationship, such relevancy to the committee amendment as to permit it to stand in making it subject to a point of order.

Now, to be brief about it, the Chair believes that where there is introduced into the proviso which he has just read an additional subject matter, such as it seems apparent to the Chair has been introduced by bringing in State laws together with Federal laws, it seems to the Chair that the rule as to relevancy and relationship has been violated. It is not only an amplification as suggested here of the subject matter of the amendment offered by the committee, but it seems to the Chair that not only does it amplify but it brings in a new body of matter, a new situation, that certainly is not relevant and not germane, and the Chair sustains the point of order.

2966. A specific proposition of a class is not germane to another specific proposition of the same class.

To a bill proposing farm relief through the agency of a Federal Farm Board authorized to establish orderly marketing an amendment proposing farm relief through the agency of a Federal Beverage Board authorized to license the manufacture of alcoholic beverages was held not germane.

On April 24, 1929,[2] while the bill (H. R. 1) to establish a Farm Board to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Loring M. Black, Jr., of New York, offered in lieu of the first section of

[1] Joseph L. Hooper, of Michigan, Chairman.

[2] First session Seventy-first Congress, Record, p. 466.

the bill, providing for the establishment of a Federal Farm Board for the orderly marketing of farm products, the following:

There is hereby established a Federal Farm Beverage Board in the Department of Agriculture to consist of three members, to be appointed by the Secretary of Agriculture.

The board may grant licenses, to expire at the end of one year from the date of issuance, to farm organizations and cooperative marketing associations for the processing and selling beer and wine containing alcohol for beverage purposes, providing such are not intoxicating in fact.

The revenue derived from licenses under this act shall be devoted to agricultural relief generally in a manner directed by the Secretary of Agriculture.

A point of order being raised by Mr. Fred S. Purnell, of Indiana, the Chairman [1] held that the amendment was not germane to the bill and sustained the point of order.

2967. To a bill proposing to rise the price of agricultural products to a basis of comparative equality with the price of other commodities through the establishment of a Federal Farm Board authorized to promote effective marketing an amendment proposing to raise agricultural prices through the authorization of export debentures on agricultural products was held not to be germane.

On April 25, 1929,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 1) to establish a Federal Farm Board to promote effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries, when Mr. Marvin Jones, of Texas, offered an amendment reading in part as follows:

Whenever the board finds it advisable, in order to carry out the policy declared in section 1 with respect to any agricultural commodity, to issue export debentures with respect to such commodity, the board shall give notice of such finding to the Secretary of the Treasury. Upon the receipt of such notice it shall be the duty of the Secretary of the Treasury, commencing and terminating at such time as the board shall prescribe, to issue export debentures to any farmer, cooperative association, stabilization corporation, or other person with respect to such quantity of the commodity or any manufactured food product thereof as such person may from time to time export from the United States to any foreign country.

Mr. Bertand H. Snell, of New York, interposed a point of order and said:

We have before us at this time presented by the Agricultural Committee a bill which has for its express purpose improving agricultural conditions by a special and distinct method of promoting and making more efficient the cooperative marketing associations of the country. While there is a general purpose stated in the first section of the bill, as there is in most all bills, the real heart of the bill goes to the separate and distinct plan by which the Agricultural Committee intends to accomplish these results. To that bill the gentleman from Texas has offered an amendment rather in the form of a substitute, which intends and provides for improving the conditions in agriculture by providing for the issuance of export debentures upon the exportation of such commodities. The two ways proposed to accomplish the result are entirely distinct and start out in opposite directions. For instance, individually, I think that you could improve agricultural conditions by improving the internal waterways of the country, and especially by improvement of the St. Lawrence River. I could introduce a bill and make some general statement in the first section and provide to accomplish that by improvement of the St. Lawrence River, but no man in this House would have the temerity to stand up and state that it would be germane to the proposition under consideration. Another man may consider that the best way to accomplish this result

[1] Carl E. Mapes, of Michigan, Chairman.

[2] First session Seventy-first Congress, Record, p. 566.

would be by a revision of the tariff, and if the gentleman's amendment were in order—and you can add new methods to the one contained in the bill—it would be in order to present here an entire revision of the tariff schedules for the purpose of accomplishing that result.

Of course, no one would ever content that that would be possible. There is an elementary principle in parliamentary procedure that merely because amendments seek to accomplish the same result as the bill under consideration, they are not necessarily germane to the bill. The question of the germaneness has to be considered very carefully, for the simple reason that it is necessary to keep out propositions that have not been carefully considered before by the committee, and not allow the House to pass snap judgment on entirely new matter.

Mr. Jones replied:

In the declared purposes of the bill it is provided:
"to protect, control, and stabilize the current of interstate and foreign commerce in the marketing of agricultural commodities and their food products"—
which is also applicable. In another place in the declared policy of the bill we find the language:
"to prevent such surpluses from unduly depressing prices for the commodity."

It seems to me that the debenture plan comes within the all-covering provisions of all three of those statements. I could not write a better title for my amendment.

The Chair is familiar with the line of decisions that if a measure may not be in line with any particular paragraph, it may be offered as a separate paragraph where it is most nearly germane to the various propositions. I have offered this debenture plan as an additional power of the board following several other main powers. The line of decisions is practically universal that you can not add one specific power to another specific power, but that if you have two or more powers, in other words, if you have general powers, you may add an additional specific or general power.

Mr. Chairman, here are some seven or eight powers which this board has been given in the bill. It has been stated, it has been repeated, that it is the purpose of this measure to clothe the board with broad powers, that the board may have power to handle the commodity so as to relieve the situation presented by the farm problem which has been puzzling those who have had to deal with it for several years. The general purpose is farm relief. The general intention of this bill is to provide for a relief of this situation. In order to reach that end they establish a farm board. That board is given a number of enumerated powers. I simply seek to give that board additional power and in line with the general purposes of the bill and altogether in line with the declaration of policy in the bill set out in the first paragraph.

The purpose of the rules of the House are to enable it to do business, to enable it in an orderly way to do what it wants to, not to keep it from doing so. This amendment is strictly in line with the declared purposes of the bill.

The Chairman [1] held:

The practice and the rule as to germaneness, so far as this farm legislation is concerned, are pretty well fixed by the rulings that have been made during the consideration of the legislation at different times during the last few years. The gentleman from Texas says that the general purpose of his amendment is the same as the general purpose of the bill before the committee; that is, farm relief. But the Chair thinks that that is not enough to make the amendment germane. It is not enough to make the amendment germane to show that it seeks to accomplish the same purpose as the legislation pending before the committee if the method employed to accomplish that purpose is entirely different. The rule has been often stated to be that if an amendment proposes such modification of the bill that it could not reasonably have been anticipated or can not be said to be a logical sequence of the matter contained in the bill, or is not such a modification as would naturally suggest itself to the legislative body considering the bill, then it is not germane.

The Chair has read, in substance, from a decision rendered by a former chairman of the committee, Mr. Fitzgerald, of New York, who was one of the best parliamentarians in the House. I do not think that anyone would seriously contend that the amendment offered by the gentleman from Texas comes within the rule as stated in that decision by Mr. Fitzgerald.

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[1] Carl E. Mapes, of Michigan, Chairman.

As has been said, the pioneer in this legislation was the gentleman from Indiana, Mr. Sanders, who was chairman of the Committee of the Whole during the consideration of the original or first McNary-Haugen bill. He announced several principles during the consideration of that first bill, which have served as guides during the consideration of the other bills.

The parliamentarian in his notes has made a digest of some of the rulings made at that time which I would like to read:

"Simply because an amendment seeks to solve the same problem as that sought to be solved by the pending bill does not make the amendment germane.

"The purpose of the rule of germaneness is to prevent the consideration of legislation which has not been considered in committee, and therefore the rule may be applied more strictly to a long amendment by way of a substitute for the entire bill under consideration.

"To a bill undertaking to raise the price of agricultural products to a ratio consistent with the price of other commodities, an amendment seeking to relieve agriculture by a different plan—that is, by a comprehensive system of cooperative marketing—was held not germane, although one of the incidental features of the pending bill dealt with cooperative marketing."

The substance of what I have read has been incorporated in Cannon's Precedents, section 2912.

In addition to announcing the general principles which I have read, this precise question was passed upon by Chairman Sanders in an amendment offered by the gentleman from Illinois, Mr. Henry T. Rainey, to the bill then under consideration. As the gentleman from Texas has said, the legislation differed somewhat in form, but the Chair thinks it did not differ in substance.

The question came up again one year ago, and the Chairman at that time, following the precedent of 1924, sustained the point of order and declared the debenture plan not germane to that bill.

The gentleman from Texas says that the fund to be administered by the Federal Farm Board in the pending bill comes out of the Treasury and that the money to be paid to the exporters under the debenture plan also comes out of the Treasury, which is quite true, but the benefit which the farmer will receive under the pending bill is an indirect benefit. The debenture plan provides for a direct payment out of the Treasury to exporters, and is in effect if not in fact a direct subsidy to the exporters.

The debenture plan would only benefit those who export surpluses, and it has been repeatedly stated by different members of the committee during the consideration of this bill under general debate that this bill does not attempt to deal with the surplus; some say not at all, but certainly it deals with it only incidentally.

There are a great many legislative proposals to relieve or aid the agricultural situation which are not germane to the pending bill. The Chair thinks that this debenture plan is one of them.

The Chair appreciates the earnestness with which the gentleman from Texas advocates the debenture plan, but he feels that both on principle and under the precedents the amendment is not germane to the legislation under consideration, and therefore sustains the point of order.

2968. On February 27, 1932,[1] the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 9642), authorizing supplemental appropriations for highway construction.

The Clerk read:

Be it enacted, etc., That there is hereby authorized to be appropriated the sum of $120,000,000, to be immediately available for expenditure in emergency construction on the Federal-aid highway system, with a view to increasing employment. such sum shall be apportioned by the Secretary of Agriculture to the several states by the method provided in section 21 of the Federal highway act.[2]

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[1] First session Seventy-second Congress, Record, p. 4879.

[2] U.S. Code, Supp. V, title 13.

Mr. John C. Ketcham, of Michigan, offered an amendment as follows:

except that such apportionment shall be upon the basis of population instead of area, population, and mileage.

Mr. Lindsay C. Warren, of North Carolina, made the point of order that the amendment was not germane to the bill.

The Chairman [1] sustained the point of order and said:

The bill provides a specific method of distribution, to wit, that contained in the highway act. The method of distribution in the highway act is a specific method. It has been held many times that, where a bill provides a specific method, an amendment providing a different method is not germane. The Chair has before him a decision made by the gentleman from Michigan, Mr. Mapes, directly on the point. That decision was made April 24, 1929. The Chair will quote the syllabus:

"To a bill seeking to afford agricultural relief by one specified method, an amendment seeking to afford the same relief by a different method was held to be not germane."

The Chair will follow that decision and sustain the point of order.

2969. To a bill proposing farm relief through the refinancing of farm-mortgage loans, an amendment providing for farm relief through expansion of the currency was held not germane.

On April 13, 1933,[2] the bill (H. R. 4795), to provide emergency relief with respect to agricultural indebtedness, to refinance farm mortgages at lower rates of interest and to amend and supplement the Federal farm loan act, by the granting of credit through the Federal Land Bank system, was read a third time.

Mr. Gerald J. Boileau, of Wisconsin, moved to recommit the bill to the Committee on Agriculture with instructions to report it back forthwith with an amendment striking out all after the enacting clause and substituting a bill providing for the liquidation and refinancing of agricultural indebtedness by the expansion of the currency through issuance of bonds redeemable in Federal Reserve notes.

Mr. Marvin Jones, of Texas, made the point of order that the amendment was not germane.

The Speaker [3] held:

The question presented has been passed upon two or three times and presents nothing new. The bill under consideration provides a method of farm relief, essentially by the issuance of bonds, to be marketed in the ordinary way. The Frazier bill, which is the subject of the motion to recommit, provides also for farm relief, also for bond issues, and, in addition to that, provides a method of meeting the bond issues by currency printed and issued, clearly inflation, which may amount to as much as 3½ billion dollars. The two methods are as wide apart as the poles.

The present Speaker of the House argued a like question back in 1924 when the very first farm relief bill was under consideration, the first of the McNary-Haugen bills. That bill provided a method of farm relief, fixing farm prices with reference to related products, and the present Speaker of the House proposed an amendment to the bill which provided an entirely different method, and the present Speaker agrees with the gentleman from Texas when he said that his method was much better than the method provided in that bill; but that did not make any difference. A point of order was made against the amendment proposed by the present Speaker, by Mr. Cannon of Missouri, the author of Cannon's Precedents, and the gentleman from Missouri

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[1] Thomas L. Blanton, of Texas, Chairman.

[2] First session Seventy-third Congress, Record, p. 1679.

[3] Henry T. Rainey, of Illinois, Speaker.

argued the point of order and convinced the Chairman of the Committee of the Whole, Mr. Sanders, although he did not convince me then, that my amendment was not germane. The object of my amendment then and the object of the bill under consideration at that time were to provide methods of farm relief, but they were widely different, although not as widely different as is proposed in the so-called "Frazier bill" and in the bill under consideration.

Again, on April 24, 1929, the same question came up.

The Chairman of the Committee of the Whole at that time was Mr. Mapes. He rendered a decision based upon the decision rendered by Mr. Sanders in 1924. The opinion by Mr. Chairman Mapes was a well-considered opinion covering the entire subject.

The Chair feels he cannot ignore the precedents that he has cited, and he might add that he could call attention to a number of others. The Chair, therefore, feels constrained to and does sustain the point of order.

2970. The fact that two subjects are related does not necessarily render them germane.

To a bill authorizing an investigation of the supply and demand for foodstuffs, an amendment prohibiting waste, monopolies and hoarding of foodstuffs was held not to be germane.

If any portion of an amendment is out of order the entire amendment is subject to a point of order.

On May 24, 1917,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 4188) for the distribution of agricultural products.

Mr. Gilbert N. Haugen, of Iowa, offered this amendment to be inserted as a new section:

That it is hereby made unlawful for any person to commit or permit preventable waste or deterioration of any necessaries; to hoard, or to hold, or enter into any contract or arrangement for any necessaries in excess of an amount reasonably needed to supply his individual or business requirements for a reasonable time; to monopolize or attempt to monopolize, either locally or generally, any such necessities; to engage in any discriminatory and unfair or any deceptive practice or device in handling or dealing in or with such necessaries; to enter into any contract arrangement, or conspiracy to restrict the supply, or, except as permitted by law, for preventing gluts and for effecting equitable apportionment of perishable products among markets, to restrict distribution, or to enhance the prices of any such necessaries; to exact excessive prices for any such necessaries; or to aid or abet the doing of any act made unlawful by this section. Any person who violates any provision of this section shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be punished by a fine not exceeding $5,000 or by imprisonment for not more than two years, or both.

Mr. Asbury F. Lever, of South Carolina, made the point of order that the amendment was not germane to the bill.

In debating the point of order. Mr. Sydney Anderson, of Minnesota, said:

The rule provides that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Under that rule the philosophy relating to germaness has been developed. Now, we do not look to the title of this bill to determine what the proposition under consideration is. We look to the contents of the bill itself. The chairman of the Committee on Agriculture has already gone over the bill section by section, with a view of stating exactly what is involved in each proposition.

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[1] First session Sixty-fifth Congress, Record, p. 2838.

Now, what does the amendment of the gentleman from Iowa do? It does not facilitate, as section 3 does, the obtaining of certain information relative to the food supply. It proposes 8 or 9 or 10 or a dozen new crimes. It is purely a criminal statute. It proposes to create new crimes which are in no way directly or indirectly connected with the subject matter of this bill. For instance, the amendment proposed by the gentleman from Iowa proposes to make it a crime to monopolize food. There is not a single word in this bill about monopoly.

The amendment of the gentleman from Iowa makes it a crime to enhance the price of food. There is not a word in this bill about regulating the price of food. The amendment of the gentleman from Iowa, as I recall it, makes it a crime to engage in any unfair or discriminatory practices. Not a word in this bill about discriminatory or unfair practices. It makes it a crime to enter into a contract, arrangement, or conspiracy to restrict the supply of food. Not a word in this bill relative to the restricting of the supply of food. There may be propositions in the amendment of the gentleman from Iowa which are germane to the bill, but there are also contained in his amendment propositions which are not germane to the bill, and which do not relate to the subject matter thereof.

It seems to me that the amendment is clearly out of order.

The Chairman [1] ruled:

The Chair understands the gentleman from Iowa does not offer his amendment to any particular section of the bill, but as a new section, and puts it on the ground that it is germane to the subject matter of the bill.

A hasty examination of the amendment leads the Chair to conclude it deals with waste, hoarding, monopolizing, unfair and deceptive practices, restricting of supplies, and restricting of distribution. The bill itself, as it appears, deals with the question of authorizing the Secretary of Agriculture to investigate and ascertain the demand for and supply, and so forth, of foodstuffs, and for the purchase and sale of seeds, cooperation with local officials, the appointment of additional secretaries, and that the President is authorized to ask any agency or organization of the Government to cooperate with the Secretary of Agriculture in carrying out these purposes, and for the purposes of this act the following sums are hereby appropriated, and so forth.

Now, it seems to the Chair that while this amendment is somewhat in line with the purposes of this bill, and related to them, but I find in the rules these propositions laid down:

"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; to a bill relating to commerce between the States, an amendment relating to commerce within the several States; 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."

And yet they did relate to each other.

There is another proposition I would call the gentleman's attention to. If any portion of the amendment is not germane, of course the whole amendment must go out.

There is a portion of this amendment that does relate to food distribution and waste, but there are incorporated in the amendment certain matters that certainly are not referred to in the bill nor germane thereto. The Chair thinks, therefore, that it is not in order on this bill, and sustains the point of order.

2971. Two subjects are not necessarily germane because they are related.

To a proposition to increase salaries of Government employees, an amendment proposing the establishment of a minimum wage for such employees was held not to be germane.

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[1] Courtney W. Hamlin, of Missouri, Chairman.

On December 19, 1916,[1] the legislative, executive, and judicial appropriation bill was under consideration in the Committee of the Whole on the state of the Union.

Mr. Joseph W. Byrns, of Tennessee, proposed the following to be inserted as a new section:

That to provide, during the fiscal year 1918, for increased compensation at the rate of 10 per cent per annum to employees who receive salaries at a rate per annum less than $1,200, and for increased compensation at the rate of 5 per cent per annum to employees who receive salaries at a rate not more than $1,800 per annum and not less than $1,200 per annum, so much as may be necessary is appropriated.

Mr. John I. Nolan, of California, offered this amendment:

Provided, That during the fiscal year 1918 the minimum compensation for any person provided for in this bill shall be not less than $3 per day, or, if employed by the hour, not less than 37½ cents an hour, and if employed by the month, $90 a month; or, if employed by the year, $1,080 per annum.

Mr. Thomas U. Sisson, of Mississippi, made a point of order against the amendment.

The Chairman[2] held:

In the opinion of the Chair, the Byrns amendment simply proposed a lump appropriation to increase the compensation of employees of the Government provided for in this bill of a certain class, namely, those receiving less than $1,800 per annum. The Nolan amendment proposes new affirmative legislation, namely, to adopt a policy by the Government that none of its employees appropriated for by this bill shall receive less than $3 per day. The Chair can not see how the new affirmative legislation is germane to the intent or spirit of the Byrns amendment. Therefore, the Chair is constrained to sustain the point of order.

2972. To a proposal to reduce allowances a proposal to increase allowances is not germane.

On April 28, 1932,[3] the legislative appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when a paragraph providing for the reduction of travel allowances was read as follows:

The traveling allowances provided for in the act approved February 28, 1925, shall not exceed $2 per day.

Mr. Tom D. McKeown, of Oklahoma, proposed this amendment.

After the word "exceed," strike out "$2" and insert in lieu thereof "$4."

Mr. Lewis W. Douglas, of Arizona, made the point of order that the proposed amendment was not germane to the paragraph.

The Chairman[4] sustained the point of order.

2973. Two propositions dealing with the same subject matter are not necessarily germane.

To a proposition to use proceeds from the sale of battleships for the construction of another battleship, a proposition to utilize such proceeds in the construction of roads was held not to be germane.

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[1] Second session Sixty-fourth Congress, Record, p. 571.

[2] Pat Harrison, of Mississippi, Chairman.

[3] Lindsay C. Warren, of North Carolina, Chairman.

[4] First session Seventy-second Congress, Record, p. 9184.

On June 23, 1914,[1] the House was considering the following Senate amendment to the naval appropriation bill, remaining in disagreement after the conference report on other disagreeing votes had been agreed to:

The President may, in his discretion, direct the sale, in such manner, at such price, and upon such terms as he shall deem proper, of the battleships *Idaho and Mississippi.* All moneys received from the sale of said vessels shall, after payment therefrom of the expenses of such sale, be deposited by the Secretary of the Navy in the Treasury, and shall, until expended, be available for the construction of such other vessel or vessels, at least equal for purposes of offense and defense to the most modern vessels of the same class now projected here or abroad, as the President may in his discretion authorize.

Mr. Lemuel P. Padgett, of Tennessee, moved that the House recede from its disagreement to the Senate amendment and concur therein with the following amendment.

Strike out the Senate amendment and in lieu thereof insert:

"The President may, in his discretion, direct the sale in such manner, at such price, and upon such terms as he shall deem proper, of the battleships *Idaho and Mississippi.* All moneys received from the sale of said vessels shall be deposited by the Secretary of the Navy in the Treasury after said sale. In addition to the two battleships hereinbefore authorized, the President is hereby authorized to have constructed a first-class battleship carrying as heavy armor and as powerful armament as any vessel of its class, to have the highest practicable speed and greatest desirable radius of action, and to cost, exclusive of armor and armament, not to exceed $7,800,000. Out of the money when so deposited in the Treasury there is hereby appropriated toward the construction of said battleship on account of increase of the Navy, construction and machinery, $2,000,000; armor and armament, $2,535,000; and equipment, $100,000.

Mr. John L. Burnett, of Alabama, offered the following as a substitute for the amendment proposed by Mr. Padgett.

That the House recede and concur with an amendment providing for the appropriation of the money, the proceeds of the sale of said battleships, to the construction and maintenance of the public roads of the country traversed by rural and star-route mail carriers of the United States.

Mr. Padgett made the point of order that the proposed substitute was not germane.

The Speaker[2] ruled:

There are three propositions pending here. All of them would have been out of order originally in the House. Part of them are in order by reason of this Senate amendment. They all agree to sell these battleships. When we get through selling them, then there is a dispute about what we are going to do with the money.

There are three propositions. The gentleman from Tennessee, Mr. Padgett, wants to build a new battleship. The proposition of the gentleman from Illinois, Mr. Mann, is really to strike out. That is always in order—to strike anything out of anything. Now comes the gentleman from Alabama, Mr. Burnett, and wants to build wagon roads with this money. It does not make any difference whether building roads by the Government is a good thing or not. It might be a very meritorious proposition, but it has nothing on earth to do with a naval appropriation bill.

Now, let us see where we are on the road question. The pressure for an appropriation from the Federal Government to build wagon roads became so strong that the House created a Roads Committee. The House created a special committee to take charge of this public wagon-road business, and under the lead of that committee the House authorized an appropriation of $25,000,000 at the beginning of this session.

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[1] Second session Sixty-third Congress, Record, p. 10962.

[2] Champ Clark, of Missouri, Speaker.

Now, if you can build roads on the naval appropriation bill, you can take charge of the entire business of the government under the naval appropriation bill. The point of order is sustained against the substitute of the gentleman from Alabama, and the question is on the motion of the gentleman from Illinois to strike out.

2974. To an amendment relating to "pineapples in barrels and other packages" a proposed substitute relating to "pineapples in bulk" was held not to be germane.

On April 8, 1909,[1] the House was considering the bill H. R. 1438, the tariff bill, when Mr. Sereno E. Payne, of New York, offered the following amendment:

275. Pineapples in barrels and other packages, 8 cents per cubic foot of the capacity of barrels or packages.

Mr. Swagar Sherley, of Kentucky, proposed the following as a substitute for the pending amendment:

275. Pineapples in barrels and other packages, 6 cents per cubic foot of the capacity of the barrels or packages; in bulk, $6 per thousand.

Mr. Payne made the point of order that the proposed substitute was not germane to the amendment to which offered.

The Chairman [2] ruled:

The gentleman from New York offers an amendment relating to pineapples in barrels and other packages. The gentleman from Maryland offers an amendment to that amendment, changing simply the rate of duty.

Now, the gentleman from Kentucky offers as a substitute for the amendment offered by the gentleman from Maryland an amendment which relates not only to pineapples in barrels and other packages, and which in that regard is the identical amendment offered by the gentleman from Maryland, but the amendment offered by the gentleman from Kentucky goes further and applies to a different item or subject-matter of duty, to wit, pineapples in bulk. The Chair thinks that without any reference to the special order or rule of the House under which we are now proceeding that would not be properly a substitute and could not be entertained as a substitute either for the amendment offered by the gentleman from New York or the amendment to the amendment offered by the gentleman from Maryland.

2975. To a proposition to punish for violation of a law a proposition to award for action tending to achieve the purpose of the law is not germane.

To a bill providing penalties for failure to comply with the draft law an amendment to award with citizenship those volunteering for service was held not to be germane.

On February 13, 1918,[3] the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 5667, the alien slacker bill, providing for the deportation of aliens failing to comply with the draft law.

Mr. Henry I. Emerson, of Ohio, offered the following amendment to be inserted as a new paragraph:

That any alien who enlists or is drafted into the military or naval service of the United States and waives his exemptions, serves his time of enlistment, and is honorably discharged, and is at least 21 years of age at the time of his discharge, shall, because of such service, become a citizen

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[1] First session Sixty-first Congress, Record, p. 1211.

[2] Marlin E. Olmsted, of Pennsylvania, Chairman.

[3] Second session Sixty-fifth Congress, Record, p. 2075.

of the United States without complying with any of the naturalization laws, and may vote on his discharge papers.

Mr. John L. Burnett, of Alabama, raised the point of order that the amendment was not germane.

The Chairman,[1] after debate, held:

The point of order is made against this amendment, and after some investigation by the Chair he finds that the section provides for denying citizenship and for deportation, while this amendment provides for creating citizens and giving them the right to vote, exactly at cross-purposes with the section that it seeks to amend. The Chair thinks the point of order should be sustained. The amendment is out of order.

2976. To a bill providing for enforcement of a law an amendment proposing modification of the law was held not to be germane.

On July 19, 1919,[2] during the consideration in Committee of the Whole House on the state of the Union, of the bill (H. R. 6810) the prohibition enforcement bill, Mr. John F. Fitzgerald, of Massachusetts, proposed the following to be inserted as a proviso:

Provided, That nothing in this act or in any title thereof shall prohibit or make unlawful the making or possessing by any person at this own home wine, beer, or cider for his personal use or for use of his immediate family.

Mr. Andrew J. Volstead, of Minnesota, raised a question of order against the amendment.

The Chairman[3] held:

The gentleman from Minnesota makes a point of order to the amendment offered by the gentleman from Massachusetts that it changes the law in regard to war-time prohibition. This bill simply provides machinery for enforcing that law. The point of order is sustained.

2977. To a section providing a penalty an amendment authorizing trial to determine the imposition of such penalty was held not to be germane.

On July 19, 1919,[4] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 6810) the prohibition enforcement bill, when the Clerk read this section:

That any person violating the terms of the injunction as provided for in this title shall be punished for contempt by a fine of not more than $1,000, and by imprisonment of not less than 30 days nor more than one year; and the court shall have the power to enforce such injunction by such measures and means as in the judgment of the court may be necessary.

Mr. Warren Gard, of Ohio, proposed the following amendment:

May try the accused, or upon demand of the accused, the trial may be by jury, in which latter event the court may impanel a jury from the jurors then in attendance on the court, or a judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor, and such trial shall conform as near as may be to the practice in criminal cases prosecuted by indictment or upon information.

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[1] Joseph J. Russell, of Missouri, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 2864.

[3] James W. Good, of Iowa, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 2898.

Mr. Andrew J. Volstead, of Minnesota, submitted that the proposed amendment was not germane to the section.

After debate the Chairman [1] said:

Section 25 of the bill provides for a penalty. The amendment offered by the gentleman from Ohio provides for a method of trial. It has been repeatedly held that where a provision in the bill provides for a penalty, it is not in order to offer an amendment simply providing for a method by which that penalty may be inflicted.

Mr. Gard appealed from the decision of the Chair, and the question being submitted to the committee it was decided in the affirmative yeas 83, nays 27, sot the decision of the Chair stood as the judgment of the committee.

2978. One method of attaining an object is not germane to another method of attaining such object unless closely related.

To a bill providing for the distribution of coal by vesting in the Interstate Commerce Commission power to establish priorities an amendment providing for distribution through governmental purchase was held not to be germane.

On August 30, 1922,[2] The Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 12473) proposing to prevent extortion in the sale of fuel, by authorizing the Interstate Commerce Commission to declare car service priorities.

Mr. Sydney Anderson, of Minnesota, offered an amendment proposing to authorize the President within his discretion to buy coal and sell it to consumers at a fair price.

Mr. Walter H. Newton, of Minnesota, made the point of order that the amendment was not germane.

After debate the Chairman [3] ruled:

The provision of our rules which is to be interpreted in this case is as follows:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

"No motion or proposition on a subject different shall be considered germane." There have been many Speakers that have held that merely because an amendment offered referred to a particular subject that was under consideration in the bill did not necessarily make it germane. For instance, in the consideration of the food control law several provisions regarding the purposes for which food might be used were offered. One prohibited the use of any food substance for the purpose of manufacturing liquor. That was ruled out of order by the Chair as not being germane. So that merely because the matter here relates to coal would not bring it within the rule as germane, as that requirement has been interpreted by prior occupants of the chair.

The provision of the bill under consideration is for regulation regarding the transportation of coal. The object and purpose of it is to prevent if possible extortionate charges and to see that there is an equitable distribution of coal. I do not know how far it would be proper to go as considering an extortionate charge a part of transportation, but that has nothing whatever to do with the question under consideration. The subject and object and purpose of the bill is that which relates to the transportation of coal.

Now we have an amendment offered by the gentleman from Minnesota stating that if the emergency, which is referred to in the bill under consideration, exists or is shown to exist, then

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[1] James W. Good, of Iowa, Chairman.

[2] Second session Sixty-seventh Congress, Record, p. 11993.

[3] Horace M. Towner, of Iowa, Chairman.

for purposes specified the President shall have power virtually to take over the mines and run them, because the requirement that the output of the mines be sold only to the Government is equivalent to taking over the mines and the operation of them by the Government. It would have no other foundation under the Constitution except that which would exist under the right of eminent domain, so that we really have under consideration a proposition here of whether or not it is germane within the rules to offer an amendment involving the proposition that the Government shall take over and operate the mines; whether such an amendment shall be considered as germane to a bill regulating the transportation of coal in interstate commerce. I do not think there can be any question under the authorities that such an amendment is not germane.

I want to call attention in this connection to a decision which was rendered a good many years ago, in 1898. This is the statement, and that is sufficient, I think, to indicate the full extent of it:

"To a bill granting a right of way to a railroad an amendment providing for the purchase of the railroad by the Government was held not to be germane."

It seems to me that that is very nearly analogous to the case that we have before us to-day. "To a provision granting a right of way to a railroad an amendment was offered providing for the purchase of the railroad." Here we have a bill for the transportation of coal, to which is offered an amendment for the purchase, sale, and distribution of coal. Taking over and operating the mines would practically be the effect. It seems to me that decision would be pertinent to the question now under consideration. Let me also call attention to a case that is numbered 5891 in the fifth volume of Hinds' Precedents:

"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 was held not to be germane."

Here we have a proposition for the control of interstate commerce by the Interstate Commerce Commission. To that is offered an amendment proposing that the President shall take charge of the entire matter, not only controlling the transportation but the production and sale of the coal. The Chair rules that the point of order is well taken and the amendment is held not to be germane.

2979. To a proposition to effect a purpose by one method a proposition to effect such purpose by another method wholly unrelated is not germane.

To a bill providing for the conservation of food by educational and demonstrational methods an amendment to conserve food by prohibiting the use of food materials in the manufacture of alcoholic beverages was held not to be germane.

On May 21, 1918,[1] the House in the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11945) to stimulate food production and the distribution of agricultural products, when Mr. Charles H. Randell, of California, proposed the following amendment:

Provided, That in order to further eliminate waste and to promote conservation of food, it shall be unlawful during the existence of the war with Germany to use any food or food materials in the manufacture or preparation of alcoholic beverages.

Mr. Ezekiel S. Chandler, of Mississippi, made the point of order that the amendment was not germane.

After debate the Chairman[2] held:

In order that the situation may be clearly apprehended by members of the committee, the Chair will read, first, the language of the paragraph and then the language of the proposed amendment. The language of the paragraph is:

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[1] Second session Sixty-fifth Congress, Record, p. 6867.

[2] Edward W. Saunders, of Virginia, Chairman.

"Fourth. For increasing food production and eliminating waste and promoting conservation of food by *education and demonstrational methods,* through county, district, and urban agents and others, $6,100,000."

The amendment proposed by the gentleman from California is in the following words:

"That in order to further eliminate waste and to promote conservation of food, it shall be unlawful, during the existence of the war with Germany, to use any food or food materials in the manufacture or preparation of alcoholic beverages."

In order to ascertain whether or not this amendment is germane to the paragraph, it becomes necessary to determine the purport, and effect of the matter proposed to be amended. If the paragraph had concluded with the word "food" in line 25, so that it would read as follows:

"For increasing food production and eliminating waste and promoting conservation food, $6,100,000"—

there would be no doubt in the mind of any member of the committee that the amendment would be absolutely in order. But that is not the paragraph. The paragraph in its entirety proposes to increase food production, eliminate waste, and promote conservation of food by *certain indicated processes,* namely, by educational and demonstrational methods, through county, district and urban agents. In other words, lecturers are to be sent out to instruct the public with respect to their farming activities and the household arts so that in the result production will be increased, waste will be eliminated, and food will be conserved. If it was proposed by the amendment that some of the money which is appropriate should be utilized in the employment of agents to instruct the public in the folly of converting food products into alcoholic beverages for public consumption, such an amendment would be in order and in perfect harmony with the avowed purposes of the paragraph. It would come within the manifest scope and intent of this particular portion of the bill. But that is not what is intended to be done by the amendment. The amendment does not propose to educate the public, or by demonstrational methods, convince them of the folly of utilizing food products to produce alcoholic drinks, but to absolutely inhibit the use of such products for alcoholic conversion.

The Chair does not think that it can be successfully maintained that the chief purpose of this paragraph is to increase food production, eliminate waste and promote the conservation of food. If that was the chief purpose of the paragraph then it would end with the word "food" in line 25, thereby rendering possible an infinite variety of methods to accomplish the purposes indicated. Eliminate the words providing the methods by which production is to be increased, waste eliminated and food is to be conserved, and the amendment of the gentleman from California would be plainly germane and in order. But the committee evidently did not intend that the department should have free rein to accomplish the results intended, and secure the elimination of waste by any means that seemed good to them. Hence the use of the restrictive language confining the activities of the department to certain indicated lines of accomplishment. The one and only meaning of the paragraph therefore is to provide the means whereby the results intended may be secured on certain restricted lines of endeavor. The Agricultural Department is "cabin'd, cribbed, confined," so to say, to the restricted paths of activity marked out for them to pursue.

As to the suggested meaning of the word "others," it occurs to the Chair that this word ought to be interpreted to mean "other educational and demonstrational methods," in view of the general meaning of the paragraph. For instance bulletins might be sent out. It is perfectly true that a general subject may be amended by a specific subject of the same character, but the amendment of the gentleman from California is not a specific subject of this general subject. This amendment does not propose to eliminate waste, to increase food products, or to promote conservation by any educational process, but is a flat legislative inhibition upon certain practices. Therefore it is not a specific subject of the same character as the general subject. The general subject is to increase food production, and so forth, by educational and demonstrational methods.

The methods indicated are not illustrative of what may be done, but are restrictive, confining the expenditure of the money appropriated to them, and them only. The department could not expend this money otherwise than as indicated, namely, on educational and on demonstrational methods. The suggestion has been made that certain legislation in this bill has been made in order by the rule, and that this amendment would be in order to this legislation. In this con-

nection the Chair will say that if there is any legislation in this bill, made in order by the rule, to which this amendment would be proper, relevant, and germane, then the amendment can be offered when that legislation is reached, and will then be in order. This matter has been very earnestly argued by gentlemen who have taken a different view of the meaning of the paragraph from that held by the Chair. If their interpretation of the paragraph is correct, then the Chair will admit that the amendment is in order. Hence the propriety of the ruling on this point depends upon the meaning proper to be imputed to the paragraph. In that view it might be well to take an appeal from the decision of the Chair so as to afford the opportunity for full discussion of the paragraph on the appeal, and thereby secure an authoritative disposition of this question by the committee itself. The Chair has sought to set out in full the reasons for the conclusion reached and in view of that conclusion is constrained to sustain the point of order.

2980. To a proposition to attain a definite purpose by a designated method an amendment proposing another method entirely remote is not germane.

To a bill proposing to increase the food supply by educational and demonstrational methods an amendment proposing to effect such increase through sale of nitrate of soda was held not to be germane.

If a portion of an amendment is inadmissible the entire amendment is subject to the point of order.

On May 26, 1917,[1] while the Committee of the Whole House on the state of the Union was considering the bill (H. R. 4188) for the distribution of agricultural products, the following paragraph was reached:

For increasing food production and eliminating waste and promoting conservation of food by *educational and demonstrational methods,* through county, district, and urban agents and others $4,500,000.

Mr. Joseph W. Byrns, of Tennessee, offered an amendment reading in part as follows:

SEC. 5. That whenever the Secretary of Agriculture shall find that there is or may be a special need in any restricted area for nitrate of soda necessary for the production of food or feed crops he is authorized to purchase such nitrate of soda, store it, and sell it to the farmers at cost, including transportation and all other expenses, such cost price to be payable in advance. The Secretary of Agriculture is authorized to require any person having at his disposal a supply of nitrate of soda to furnish the whole or any part thereof to the Secretary of Agriculture in such quantities, at such times, and at such price as shall be determined by him to be reasonable. Upon failure of the person to comply with such requirement the Secretary of Agriculture is authorized to requisition and take possession of such nitrate of soda and pay for it at the price so determined. If the price so determined be unsatisfactory to the person entitled to receive the same, such person shall be paid for such nitrate of soda on delivery the amount prescribed by the Secretary of Agriculture and shall be entitled to sue the United States to recover such further sum as, added to the amount so paid, will be just compensation for such nitrate of soda; and jurisdiction is hereby conferred upon the United States district courts to hear and determine all such controversies. For the purpose of carrying out the provisions of this section the Secretary of Agriculture is authorized to cooperate with the Secretary of the Navy or any other agency of the Government, and for such purpose there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, available immediately and until expended, the sum of $10,000,000. Any moneys received by the United States from the sale of nitrate of soda to farmers under this section may, in the discretion of the Secretary of Agriculture, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts.

[1] First session Sixty-fifth Congress, Record, p. 2933.

Mr. John J. Fitzgerald, of New York, made the point of order that the amendment was not germane to the bill.

The Chairman [1] sustained the point of order and said:

The Chair realizes that it is not always an easy matter to determine just what is germane and what is not. This amendment is not offered as an amendment to any particular section in the bill, but as a new section. The Chair also realizes that there is a well-established principle that one individual proposition may not be amended by adding another individual proposition.

The Chair is also aware of the fact that a single proposition may be added to a general proposition if it is otherwise germane. The Chair is not prepared to discuss generally the rules governing the proposition of germaneness, except in a general way, but will offer this suggestion: The Chair thinks, in order to be germane to the subject matter of the bill, an amendment must relate directly to something in the bill, and is not germane simply because it relates to some similar subject, or to the same kind of a subject covered by the bill. It seems to the Chair that if this amendment should be held germane it would throw open the floodgates. In other words, if this amendment is germane, then a proposition for the Government to purchase mules or horses or wagons or plows or harrows, or even land itself, or to reclaim land, and sell these things to the farmer at cost would be germane, because that might tend generally to stimulate agriculture or the production of food products. If this is germane, either one of those other propositions would unquestionably be germane, and the Chair does not think that the bill contemplates anything of the kind. The Chair realizes that it is rather a close question and he realizes that he may be wrong, and would be glad to leave it to the judgment of the committee. If the gentleman desires to appeal from the decision, the Chair would be very glad to have him do so. But it is the opinion of the Chair that the amendment is not in order on this bill, and the Chair sustains the point of order.

Mr. Byrns modified the amendment and again offered it in this form:

The Secretary of Agriculture is empowered, whenever he shall find that there is or shall be a special need in any restricted area for nitrate of soda for the production of food or feed crops, to purchase such nitrate of soda, store it, and sell it to farmers at cost, including transportation and all other expenses, such cost price to be payable in advance. The Secretary of Agriculture is authorized to require any person having at his disposal a supply of nitrate of soda to furnish the whole or any part thereof to the Secretary of Agriculture in such quantities, at such times, and at such price as shall be determined by him to be reasonable. Upon failure of the person to comply with such requirement the Secretary of Agriculture is authorized to requisition and take possession of such nitrate of soda and pay for it at the price so determined. If the price so determined be unsatisfactory to the person entitled to receive the same, such person shall be paid for such nitrate of soda on delivery the amount prescribed by the Secretary of Agriculture and shall be entitled to sue the United States to recover such further sum as, added to the amount so paid, will be just compensation for such nitrate of soda, and jurisdiction is hereby conferred on the United States district courts to hear and determine all such controversies. Any moneys received by the United States from the sale of nitrate of soda to farmers under this section may, in the discretion of the Secretary of Agriculture, be used as a revolving fund for further carrying out the purposes of this section. Any balance of such moneys not used as part of such revolving fund shall be covered into the Treasury as miscellaneous receipts. For carrying out the purposes of this section, $4,500,000.

Mr. Anderson having again raised a question of order, the Chairman ruled:

The gentleman from South Carolina offers an amendment to which the gentleman from Minnesota makes a point of order. The Chair has before him the rule to which attention has been called. It is in this language:

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

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[1] Courtney W. Hamlin, of Missouri, Chairman.

The paragraph sought to be amended reads as follows:

"For increasing food production and eliminating waste and promoting conservation of food by educational and demonstrational methods, through county, district, and urban agents and others"—

And so forth.

The gentleman's amendment provides for the Government buying nitrate of soda and selling to the farmers, and argues that it is in order for the reason that such action would tend to increase food production. Clearly the food production provided for in this paragraph is in a specific way, and that is by "educational and demonstrational methods." The gentleman from Virginia, Mr. Saunders, fair, as he always is, admits that unless certain language now in the paragraph is stricken out the amendment of the gentleman from South Carolina, Mr. Byrnes, would not be in order, but contends that the language now in the paragraph which stands in the way of the amendment, in the face of a point of order, can be stricken out and the other language contained in the amendment inserted at the same time. The Chair does not think that this can be done. In the face of a point of order the affirmative matter contained in the amendment offered can not even be considered. You can not do by indirection that which can be done directly. A motion to strike out certain language in the bill would, of course, be in order, but the very fact that that motion has coupled with it matter which is not in order renders the whole amendment out of order. If this amendment is in order, you could amend the bill by providing for the purchase of a million acres of land to be given to the farmers of the country to encourage food production. The Chair thinks this is clearly out of order and sustains the point of order.

2981. To a proposition to pay wages a proposition to pay a bonus is not germane.

To a bill establishing a minimum wage scale an amendment to add a bonus was held not to be germane.

On July 16, 1919,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5726) to establish a minimum wage for certain employees of the Government.

The Clerk having read a section providing for salaries of employees of the Post Office Department, Mr. Marvin Jones, of Texas, offered this amendment:

Provided, That fourth-class postmasters shall hereafter be paid the sum of $240 per year in addition to the compensation paid them under existing law.

Mr. John I. Nolan, of California, raised a question of order against the amendment.

The Chairman[2] sustained the point of order.

Subsequently,[3] Mr. Martin L. Davey, of Ohio, proposed the following amendment:

And provided further, That the minimum wage of temporary clerks and carriers of the Post Office Department shall be 50 cents per hour, and that each permanent employee of the Post Office Department in the classified service shall receive the special bonus of $240 per annum during the fiscal year ending June 30, 1920, as provided for other Government employees, and this shall be in addition to the amount otherwise provided.

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[1] First session Sixty-sixth Congress, Record, p. 2681.

[2] William R. Wood, of Indiana, Chairman.

[3] Record, p. 2684.

Mr. Nolan having again raised the question of germaneness, the Chairman said:

The first part of the gentleman's amendment is in order, but that portion with reference to the bonus is not in order.

Mr. Davey then offered an amendment in this form:

And provided further, That that minimum pay of temporary clerks and carriers of the Post Office Department shall be 50 cents per hour, and that the minimum salaries of permanent employees of the Post Office Department in the classified service shall be not less that $240 per annum above the amount already provided by law during the fiscal year ending June 30, 1920.

The Chairman held the amendment to be in order.

2982. To a bill establishing telephone rates an amendment prohibiting reductions in wages of telephone employees while such rates remained effective was held not to be germane.

On June 19, 1919,[1] the bill (S. 120) to amend the telephone, telegraph, and radio control act was read a third time.

Mr. John A. Moon, of Tennessee, moved to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to that committee to report it back to the House forthwith and with the first section of the bill continuing current telephone rates amended by the addition of the following proviso:

Provided further, That no reduction of wages of telephone or telegraph employees now in effect shall be made so long as the orders of the Postmaster General fixing present rates are effective.

Mr. Joseph Walsh, of Massachusetts, raised a question of order against the motion on the ground that the amendment proposed in the motion to recommit was not germane to the bill.

After debate the Speaker[2] held:

The Chair has no right to consider the merits of the amendment. The only question before the Chair is whether it is germane. This bill simply provides that the telephone rates as established in the existing law shall continue, to which the gentleman from Tennessee makes the motion that no reduction of wages shall be allowed. The bill does not refer at all anywhere to the question of wages, and therefore that question is obviously not germane to the bill, and it is clear that the Chair must sustain the point of order.

An appeal by Mr. Moon was, on motion of Mr. Walsh, laid on the table by a vote of 189 yeas to 161 noes.

2983. To a bill granting soldiers the right to retain Government clothing an amendment to grant them extra pay was held not to be germane.

On December 18, 1918,[3] the House was considering the bill (H. R. 13366) authorizing the retention of uniforms and personal equipment by discharged soldiers.

Mr. Frank W. Mondell, of Wyoming, proposed an amendment as follows:

And all persons honorably discharged from the military or naval service should receive one month's extra pay on discharge.

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[1] First session Sixty-sixth Congress, Record, p. 1395.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 523.

Mr. S. Hubert Dent, jr., of Alabama, made the point of order that the proposed amendment was not germane.

The Speaker [1] sustained the point of order.

2984. To a plan providing for acquisition by gift a substitute providing for acquisition by purchase is not germane. To a bill for the acceptance as a gratuity of a tract of land as a site for a sanatorium an amendment providing for the purchase of a tract of land for that purpose was held not to be germane.

To a proposal to establish an institution in one location a proposition to establish it in another location is germane.

To a bill providing for the establishment of a sanatorium at Dawson Springs, Ky., an amendment to establish it on public lands in the State of Minnesota was held to be germane.

On December 4, 1918,[2] the House was in the Committee of the Whole House on the state of the Union considering the bill (H. R. 12917) providing for the establishment of a sanatorium for discharged soldiers and sailors on a tract of land to be donated for that purpose near Dawson Springs, Ky.

Mr. Cassius C. Dowell, of Iowa, proposed an amendment to strike out the provision for the acceptance of land near Dawson Springs, Ky., and insert in lieu thereof the following:

That the United States is authorized to acquire by purchase or otherwise a tract of land to be selected by the Secretary of the Treasury in either of the States of Colorado, New Mexico, Arizona, or Texas suitable.

Mr. Finis J. Garrett, of Tennessee, made the point of order that as the bill provided for acquisition by gift, an amendment providing for acquisition by purchase was not germane.

After debate the Chairman [3] ruled:

The Chair begs to state that this bill now before the committee provides for the building of a sanatorium at Dawson Springs, Ky., and the land can only be secured at Dawson Springs, Ky., by gift. There is no provision in the bill saying that this land can be purchased; so that if the people of Dawson Springs, Ky., should conclude after the bill has become a law that they would not give the Government this land, then, in the opinion of the Chair, it would not be possible to establish the sanatorium there without further legislation, because it says that it must be acquired by gift and that the land can only be secured in that way. The amendment proposed by the gentleman from Iowa says that this sanatorium may be established in either the State of Colorado, New Mexico, Arizona, or Texas by purchase or otherwise. The Chair begs to state that so far as he has been able to ascertain from a brief time spent in looking up the precedents this is the only one where it was proposed to offer an amendment to give away public land, and the Chair at that time held that that was not in order.That decision is found in Volume V of Hinds' Precedents, paragraph 5877. The point of order was made on January 20, 1859, by Mr. Cobb, of Alabama, and the decision was rendered by Speaker Orr, of South Carolina.

The Chair believe, in the view he takes of this amendment, that if this bill should pass with this amendment in it the Secretary of the Treasury might go to either one of these States and if

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 108.

[3] Martin D. Foster, of Illinois, Chairman.

he was unable to secure the land otherwise than by purchase the sanatorium would not be built, and then that would compel the purchase of ground upon which to place the sanatorium, so that it would change the entire scope of the bill as now proposed, which is specifically to provide for the establishment of the sanatorium by gift. Under these circumstances, the Chair thinks that the amendment of the gentleman from Iowa would not be in order.

Mr. Halvor Steenerson, of Minnesota, then offered an amendment proposing as a site for the sanatorium.

One hundred thousand acres of the national forest bordering on Tuck Lake and Cass Lake and Lake Winnibigoshish, in Minnesota, or so much thereof as may be required, be set aside.

Mr. Frank Clark, of Florida, made the point of order that the amendment was not germane.

The Chairman held:

The Chair is ready to make up his mind. The Chair begs to state that the amendment offered by the gentleman from Minnesota proposes to strike out all of lines 5, 6, 7, and 8 and the first three words of line 9 and insert in lieu thereof the following: "One hundred thousand acres of the national forest bordering on Tuck Lake and Cass Lake and Lake Winnibigoshish, in Minnesota, or so much thereof as may be required, be set aside." Now, the Chair thinks this bill provides for the location of a sanatorium at Dawson Springs. That is a particular point. The Chair thinks it would be in order to change the location of the same sanatorium and believes that this provides only for a change of location, not for the buying of any land, but that it shall be established where the Government buys no land, and the Chair begs to call the attention of the committee to the fact that in the case of the canal decision, which has been quoted here many times, that it was in order to change the location of a canal, and therefore, believes this amendment is in order and overrules the point of order.

2985. To a proposition to sell a commodity, service, or equity a proposition to give such commodity, service, or equity is not germane.

To a bill providing for the payment of compensation under certain circumstances as a part of the benefits of insurance policies to be issued by the Government in consideration of the payment of annual premiums an amendment providing for the payment of such compensation as a pension was held not to be germane.

On September 12, 1917,[1] while the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 5723) to amend the war risk insurance act, the following paragraph was read:

COMPENSATION FOR DEATH OR DISABILITY

Sec. 300. That for death or disability resulting from personal injury suffered or disease contracted in the course of the service by any commissioned officer or enlisted man or by any member of the Army Nurse Corps (female) or of the Navy Nurse Corps (female) when employed in the active service under the War Department or Navy Department, the United States shall pay compensation as hereinafter provided.

To this paragraph Mr. Richard Wayne Parker, of New Jersey, offered the following amendment:

After the word "compensation," insert the words "by way of pension."

[1] First session Sixty-fifth Congress, Record, p. 7061.

Mr. William C. Adamson, of Georgia, having made the point of order that the amendment was not germane, the Chairman [1] held:

The Chair thinks that the amendment is not germane, and sustains the point of order.

2986. To a proposition to market a commodity for a consideration a proposition to donate such commodity as a gratuity is not germane.

To a law providing for the sale of insurance to soldiers in consideration of the payment of annual premiums an amendment proposing to grant such insurance for two years without payment of premiums was held not to be germane.

On September 13, 1919,[2] the Committee of the Whole House on that state of the Union was considering the bill (H. R. 8778) to amend the war risk insurance act, when Mr. Roscoe C. McCulloch, of Ohio, proposed an amendment providing insurance for persons honorably discharged from the Army or Navy to continue for a period of two years after such discharge without cost to the insured.

Mr. Bertrand H. Snell, of New York, made the point of order that the amendment was not germane to the bill.

After extended debate the Chairman [3] held:

As we all know, there is a tendency in this House and in the body at the other end of this Capitol to attach all sorts of legislation to bills in the form of what are called riders. This has been carried to such an extent that sometimes matters entirely unrelated and incongruous are combined in the same bill, to the detriment of the law as to clearness of meaning and to the despair of persons trying to find the law after it is enacted.

Rule XVI, paragraph 7, provides that—

"No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

What is the subject under consideration? The subject under consideration is a bill amending the war-risk insurance act in several respects. Section 400 of article 4 of the war-risk insurance act provides—

"That in order to give to every commissioned officer and enlisted man, etc., when employed in active service under the War Department or Navy Department greater protection for themselves and their dependents than is provided in article 3, the United States, upon application to the bureau and without medical examination, shall grant insurance against the death or total permanent disability of any such person in any multiple of $500, and not less than $1,000 or more than $10,000, upon the payment of the premiums as hereinafter provided."

The words "as hereinafter provided" evidently refer to sections 401, 402, 403, 404, and 405.

Section 401 prescribes the time for making applications. It also makes provision for persons in service disabled or dying without applying for insurance, allowance if disabled, allowance in case of death, and limitation of payments of 240 installments.

Section 402 provides the form of policy, viz:

"That the director, subject to the general direction of the Secretary of the Treasury, shall promptly determine upon and publish the full and exact terms and conditions of such contract of insurance."

Section 402 also provides that the insurance shall be nonassignable for alternative policies, the basis of premiums, and the beneficiaries.

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[1] Finis J. Garrett, of Tennessee, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 5343.

[3] John Q. Tilson, of Connecticut, Chairman.

Section 403 provides—

"That the United States shall bear the expenses of administration and the excess mortality and disability cost resulting from the hazards of war. The premium rates shall be the net rates based upon the American Experience Table of Mortality, and interest at 3½ per cent per annum."

Section 404 provides for term insurance during the war, for conversion after the termination of war, and for conversion rights.

Section 405 provides for disagreements, attorney fees, and so forth.

The subject under consideration is not "insurance," nor even "war-risk insurance," but the "granting of insurance by the United States upon the payment of premiums." In short, article 4 provides for insurance upon the payment of premiums. There is nothing in the law which would indicate that it was the intention of Congress to give insurance or to fix premium rates or payments, except by means of the American Experience Table of Mortality.

The joint amendment of the gentleman from Ohio proposes to amend the bill by adding a new section as follows:

"The term insurance in force on the life of every commissioned officer and enlisted man or member of the Army or Navy Nurse Corps (female) on the date he leaves the active military or naval service shall continue in force for two years after the end of the calendar month in which he is separated from the active service, without the payment of premium by the insured: *Provided, however,* That in the case of the persons who are or have been so separated from the service and who have paid their premiums after being so separated the period of two years herein provided shall begin to run on the first day of the calendar month succeeding the passage of this act or on the first day of the calendar month succeeding the month for which the premium was last paid, whichever date was the earlier: *Provided further,* That every person who converts or has converted his term insurance before the expiration of the two-year period herein provided shall, during such period or the remainder thereof, be entitled to a commutation credit on his term or converted insurance equivalent to what the monthly premium on his term insurance would have been during the said two-year period if he had not converted it and if this amendatory act had not bee passed."

What is the subject of the proposed amendment? "The term insurance in force shall be continued in force for two years without the payment of premiums." The object of this amendment, when stripped of all verbiage and reduced to its last analysis, is to give to the insured two years' free insurance.

In other words, the present law, as well as the bill under consideration, provides for insurance upon the payment of premiums, while the amendment provides for insurance without the payment of premiums. Surely such a radical change of the policy of the Government presents a different subject within the inhibition of the rule.

In Hinds' Precedents (v. 5877) is cited a case in point:

"To a bill relating to the sale of the public lands an amendment proposing to give them to settlers was held not to be germane."

Clearly the two propositions are related, but "two subjects are not necessarily germane because they are related."

Many other cases can be cited.

The Chair is not altogether able to follow the logic of the gentleman from Iowa, Mr. Towner, in his contention that the proposition of the amendment is not the granting of free insurance, but is to prevent the lapsing or forfeiture of policies. If the gentleman will refer to the act, section 401, he will find this provision:

"Any person in the active service on or after the 6th day of April, 1917, who while in such service and before the expiration of 120 days from and after such publication he becomes or has become totally and permanently disabled, or dies or has died, without having applied for insurance, he shall be deemed to have applied for and to have been granted insurance, payable to such person during his life in monthly installments."

On June 17, 1919, the gentleman from Iowa, Mr. Good, offered an amendment to the Senate amendment No. 21 on the deficiency appropriation bill. The Senate amendment directed the Secretary of the Treasury to complete the hospital at Broadview in Chicago, and also amended section 6 of the act approved March 3, 1919, creating an emergency fund of $1,500,000 for the

United States Public Health Service. Mr. Good's amendment restricted the Secretary of the Treasury as to taking further action under a number of sections of the above act.

The Speaker sustained the point of order, setting out his reasons in a carefully prepared ruling. If the present occupant of the Chair would follow the long line of precedents clearly established, he must of necessity sustain the point of order.

The Chair sustains the point of order made by the gentleman from New York.

2987. To a joint resolution repealing declarations of war an amendment authorizing the negotiation of treaties of peace was held not to be germane.

It is not in order to strike out an amendment already agreed to by the House.

On June 13, 1921,[1] the House was considering the joint resolution (S. J. Res. 16) repealing the joint resolution of April 6, 1917, declaring a state of war to exist between the United States and Germany, and the joint resolution of December 7, 1917, declaring a state of war to exist between the United States and the Imperial and Royal Austro-Hungarian Government.

The question being on the passage of the joint resolution, Mr. Henry D. Flood, of Virginia, moved to recommit it to the Committee on Foreign Affairs with instructions to that committee to forthwith report the joint resolution back to the House with an amendment striking out all after the enacting clause and inserting the following:

That the President be, and he is hereby, requested and authorized to enter into negotiations with the Government of Germany and her allies and with the powers associated with the United States in the European War with a view to concluding a settlement of all controversies between the United States and Germany and her allies, and to conclude, by and with the advice and consent of the Senate, any and all international acts or agreements necessary to reach a definite adjustment with all of the powers engaged in the European War in respect to any questions or controversies relating to the conflict.

Mr. John Jacob Rogers, of Massachusetts, made the point of order that the amendment proposed in the motion to recommit was not germane to the joint resolution.

After extended debate the Speaker[2] ruled:

The Chair will not consider the suggestions that this motion refers to the Allies of the United States and the Allies of the other nations, because, as the gentleman from Virginia suggested, he could withdraw his motion to recommit and amend it and remedy that defect. The Chair will base his ruling upon the main question, and the Chair will state frankly that he would prefer to hold that it is germane, because, as he understands, those have been the two contentions, one that peace must be secured by a treaty and the other that it can be secured by declaration, and the Chair would be glad to allow the issue to be settled by a vote, and appreciates the force of the suggestion that a motion to recommit is intended to allow the minority to express its views. But the Chair thinks he ought to not depart from parliamentary precedent even to accomplish what the general intent of the rules of the House may have been, and it seems clear to the Chair that a resolution declaring that a war is at an end can not, if the point of order be made, be amended by the recommendation that a treaty shall be entered into. The very issue that has been made is that the House has no right to declare peace; that that is an entirely different proposition from making a treaty of peace, so different that the House has no right to do it; and that the only way to secure peace is by a treaty. Therefore the Chair feels constrained to rule that the motion to recommit is not in order.

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[1] First session Sixty-seventh Congress, Record, p. 2546.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

There is another ground on which the Chair perhaps could easily base his decision, and that is the well-established rule that where the House itself has adopted an amendment as it has in this case, then that amendment can not be stricken out by a motion to recommit, as is attempted by this motion; but the Chair prefers to base his ruling on the general proposition of germaneness. The Chair therefore sustains the point of order.

2988. To a proposition to attain a definite object by a specific method a proposition to achieve the same object by another unrelated method is not germane.

To a bill proposing to regulate grain exchanges by taxation an amendment proposing to regulate them by prohibiting the transmission of messages was held not to be germane.

On May 12, 1921,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery and options for such contracts and providing for the regulation of boards of trade.

The Clerk read as follows:

SEC. 3. That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved in such transactions, upon each and every privilege or option for a contract either of purchase or sale of grain, intending hereby to tax the transactions known to the trade as "privileges," "bids," "offers," "puts and calls," "indemnities," or "ups and downs."

Mr. John L. Cable, of Ohio, proposed to strike out the section and insert in lieu thereof the following:

SEC. 3. That it shall be unlawful, by means of telephone or telegraph lines, wires, or other means of communication extending from one State to another or to foreign countries, to make or offer to make or assist in making any contract respecting the purchase or sale either upon credit or margin of any grain, not intending the actual bona fide receipt or delivery of any such grain, but intending a settlement of such contract based upon the differences of the public market quotation of prices made on any board of trade or exchange upon which such grain is dealt in, and without intending a bona fide purchase or sale of the same.

Mr. David H. Kincheloe, of Kentucky, made the point of order that the amendment was not germane to the section.

After debate the Chairman[2] held:

The bill under consideration has for its purpose the regulation of boards of trade dealing in grain under a governmental license by means of the taxing power. The substitute offered by the gentleman from Ohio, instead of licensing boards of trade to carry on their dealings would absolutely forbid all transactions of the character referred to in the bill that are authorized under certain conditions and limitations. Under the general rule of the House relating to germaneness, as found in Rule XVI, without referring to clause 3, Rule XXI, which still further limits the privilege of amendment on revenue bills, which this is, this amendment would be excluded because it is extraneous to that which is under consideration by the committee. It involves an entirely different subject for consideration than that in the bill under consideration. The bill provides for licensing under the taxation power of Congress; the amendment is to prohibit entirely under the commerce clause. It is clearly a different proposal, and therefore without resorting to the strict rule found in Rule XXI, that on revenue bills an amendment must be germane, not only to the subject matter but to the item under consideration, the Chair believes that it is not germane under the ban of the general rule, and therefore sustains the point of order.

[1] First Sixty-seventh Congress, Record p. 1376.

[2] William H. Stafford, of Wisconsin, Chairman.

2989. To a proposal to authorize certain activities an amendment proposing to investigate the advisability of undertaking such activities is not germane.

To a bill for the improvement of rivers and harbors an amendment providing for a commission to study, consider and report on the subject was held not to be germane.

On June 26, 1917 [1] the river and harbor appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

Mr. John H. Small, of North Carolina, offered an amendment reading in part as follows:

That a commission, to be known as the waterways commission, consisting of the Secretary of War, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, and three additional members to be appointed by the President of the United States from the active or retired list of the Engineer Corps of the Army, or other Government services, or from civil life, one of whom shall be designated by the President as chairman, is hereby created and authorized, under such rules and regulations as it may adopt, to bring into coordination and cooperation the engineering, scientific, and constructive services, bureaus, boards, and commissions of the several governmental department of the United States and commissions created by Congress that relate to study, development, or control of waterways and subjects related thereto, with a view to uniting such services in investigating questions relating to the development, improvement, regulation, and control of rivers and harbors to secure the necessary data, and to formulate and report to Congress, as early as practicable, a comprehensive plan or plans for the development of waterways for the purposes of navigation and recommendations for the modification or discontinuance of any project herein or heretofore adopted.

Mr. Allen T. Treadway, of Massachusetts, made the point of order that the amendment was not germane.

After debate, the Chairman [2] ruled:

When the revenue bill was up some time in 1913 a motion to recommit was made providing for the appointment of a commission to investigate and gather information touching the tariff question, and Speaker Clark, in an elaborate opinion, held that on a revenue bill they would not have the right to appoint a commission to gather this data. There is another decision handed down by the gentleman from Tennessee, Mr. Garrett, along similar lines. The Chair thinks, in view of these decisions, that the point of order should be sustained, and therefore sustains the point of order.

2990. To a proposal to buy bonds from farm-loan banks for a specified purpose an amendment proposing the purchase of bonds from another source which would necessarily contribute directly to the same purpose was held not to be germane.

On May 18, 1920,[3] the Committee of the Whole House on the state of the Union had under consideration the joint resolution (H. J. Res. 351) proposing to amend the Federal farm loan act and reading as follows:

Whereas the Supreme Court of the United States has asked for a reargument of the case involving the constitutionality of the Federal farm loan act; and

Whereas the reargument of the case will postpone a decision until next October at the earliest; and

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[1] First session Sixty-fifth Congress, Record, p. 4331.

[2] Pat Harrison, of Mississippi, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 7254.

Whereas the Federal land banks are now and it is feared will be unable under these circumstances to sell bonds to meet outstanding commitments for loans to farmers pending a final decision: Therefore be it

Resolved etc., That the provisions of the act of congress approved January 8, 1918, entitled "An act to amend section 32 of the Federal farm loan act, approved July 17, 1916," be, and the same hereby are, extended to the final years ending June 30, 1920, and June 30, 1921, to the extent that the Secretary of the Treasury be, and he hereby is, authorized, as by the terms of said act, to purchase during the fiscal years ending June 30, 1920, and June 30, 1921, or either of them, any bonds which he might have purchased during the fiscal years ending June 30, 1918, and June 30, 1919, or either of them, under the provisions of the original act.

Mr. W. M. Morgan, of Ohio, offered an amendment proposing to authorize the Secretary of the Treasury to purchase such bonds at par and accrued interest in the open market.

Mr. Edmund Platt, of New York, made the point of order that the amendment was not germane.

Following debate on the point of order the Chairman [1] ruled:

The pending resolution, for certain reasons set forth in the preamble, seeks to extend the life of the Federal farm loan act and to authorize the Secretary of the Treasury to purchase certain farm-loan bonds. The gentleman from Oklahoma offers an amendment to the amendment of the committee to authorize the Secretary of the Treasury to purchase certain farm-loan bonds in the open market and not from the Federal farm-loan bank, as provided by existing legislation and by the resolution now pending before the committee.

The point of order has been made that the amendment of the gentleman from Oklahoma is not germane. The amendment, of course, must be germane to the subject of the resolution itself, and it must also be germane to the section to which it is offered.

The preamble sets forth the purpose of the resolution in the following language:

"Whereas the Federal land banks are now, and it is feared will be, unable under these circumstances to sell bonds to meet outstanding commitments for loans to farmers pending the final decision: Therefore be it resolved"—

And so forth.

So the preamble itself shows that the purpose of this resolution is to authorize the Secretary of the Treasury to purchase these bonds from the land banks in order to relieve the land banks, and the purpose as set forth in the preamble and the resolution is not apparently to relieve the owners. There is not any very close precedent which the Chair has been able to find on this proposition, but the Chair does think that the argument advanced by the gentleman from Oklahoma is not in accordance with the precedents that exist, namely, that where legislation authorizes the purchase of bonds on one city an amendment authorizing the purchase of bonds of another city would be germane, because that, in the Chair's view, is directly contrary to existing precedents. The Chair thinks that in this amendment the gentleman from Oklahoma seeks to go beyond the scope of the resolution and to introduce in it a new purpose not set forth in the preamble and not set forth in any part of the resolution, and that the provision to authorize the Secretary of the Treasury to buy bonds generally in the open market is not germane to the provision authorizing the Secretary of the Treasury to purchase from a particular source, and therefore the Chair sustains the point of order.

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[1] James W. Husted, of New York, Chairman.

2991. To be a bill levying a tax on gasoline an amendment fixing the price of gasoline was held not to be germane.

On February 11, 1924,[1] the bill (H. R. 655) to provide a tax on motor fuels in the District of Columbia, was being considered in the Committee of the Whole House on the state of the Union:

The Clerk read as follows:

That it shall be unlawful for any person, firm, or corporation, or any dealer or distributor of motor-vehicle fuel to receive and accept any shipment from any dealer or to pay for the same, or to sell, or offer for sale, any motor-vehicle fuel unless the statement provided for in section 5 of this act appears upon the invoices of said shipment.

Mr. Tom D. McKeown of Oklahoma, offered this amendment:

After the word "shipment" insert:

It shall be unlawful for any dealer to charge any additional sum than the regular price and 2 cents per gallon tax.

Mr. Everett Sanders, of Indiana, made the point of order that the amendment was not germane.

The Chairman[2] held:

The Chair does not think that is germane. The gentleman is undertaking to regulate price. The Chair must sustain the point of order.

2992. To a section conferring on carriers the right to recover for loss of freight an amendment conferring on shippers the right to recover was held not to be germane.

On November 17, 1919,[3] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 10453) to provide for the termination of Federal control of railways, and the Clerk had read the following section:

Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property for the total amount of the rate or charge it would have received had it participated in the haul of the property. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee, to be taxed in the case.

To this section Mr. Clay Stone Briggs, of Texas, proposed an amendment as follows:

And in case of loss or of injury or damage to any such property, the owner thereof shall be entitled to recover the fair and reasonable value thereof, or, as the case may be, such amount as will reasonably compensate such owner for such injury or damage sustained by such property.

Mr. Everett Saunders, of Indiana, made the point of order that the amendment was not germane.

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[1] First session Sixty-eighth Congress, Record, p. 2276.

[2] Theodore E. Burton, of Ohio, Chairman.

[3] First session Sixty-sixth Congress, Record, p. 8668.

The Chairman [1] held:

The paragraph to which this amendment is offered confers on carriers the right in a suit or action in any court of competent jurisdiction to recover for the loss of freight by reason of improper diversion of the delivery of the freight, contrary to routing instructions contained in the bill of lading. The amendment of the gentleman from Texas provides that in case of loss or damage to freight being so transported, having been so improperly diverted, the shipper may recover the damage in a proper proceeding in a court for the injuries sustained by the loss or damage to such property. In the opinion of the Chair the remedy proposed to be given to the shipper for this loss or injury is not akin to the provisions of the paragraph conferring a remedy, a right on a carrier, and in the Chair's view the amendment proposed is not germane to the section offered. The chair therefore, sustains the point of order.

2993. To a bill providing that funds derived from the sale of certain public lands be paid into a reclamation fund to be used in the construction of reclamation works amendments proposing that such funds be paid into a national good-roads fund to be used in the building of roads, or deposited in the Treasury to the credit of a Navy petroleum fund, were held not to be germane.

Definition of the term "germane."

On September 22, 1914,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 16136) to authorize exploration for and disposition of coal, phosphate, oil, gas, potassium or sodium.

The Clerk read:

SEC. 30. That all moneys received from royalties and rentals under the provisions of this act, excepting those from Alaska, shall be paid into, reserved, and appropriated as a part of the reclamation fund, created by the act of Congress approved June 17, 1902, known as the reclamation act, but after use thereof in the construction of reclamation works and upon return to the reclamation fund of any such moneys in the manner provided by the reclamation act and acts amendatory thereof and supplemental thereto, 50 per cent of the amounts derived from such royalties and rentals so utilized in and returned to the reclamation fund shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State for the support of public schools or other educational institutions or for the construction of public improvements as the legislature of the State may direct.

Mr. James R. Mann, of Illinois, offered an amendment as follows:

Substitute for section 30:

"That all moneys received from royalties and rentals under the provisions of this act, except those from Alaska, shall be deposited in the Treasury as a special fund, to be known as the 'national good-roads fund,' which fund shall be applied as Congress may from time to time direct by, appropriation or otherwise, for the building of good roads."

Mr. Scott Ferris, of Oklahoma, made the point of order that the amendment was not germane to the bill.

The Chairman [3] ruled:

A few days since, while this bill was under consideration, notice was given that amendments would be offered to this section to provide for the disposition of the receipts from various leases

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[1] Joseph Walsh, of Massachusetts, Chairman.

[2] Second session Sixty-third Congress, Record, p. 15553.

[3] John J. Fitzgerald, of New York, Chairman.

authorized in the bill, in a manner different from that provided in the bill. As a result of the intimation then given, the Chair has given considerable attention to the questions that might arise under this section.

The rule of the House—Rule XVI, paragraph 7—is that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. That is the rule which generally is mentioned as required amendments to be germane to a bill or to the particular part of the bill to which an amendment is offered. Under general parliamentary law amendments need not be germane. Mr. Jefferson states in section 460 in his Manual that—

"Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves."

In a decision by Mr. Carlisle in 1880 the history of the adoption of the rule by the House requiring amendments to be germane is set forth in great detail. Ever since 1822 the rule in the House has been as it is at present. Mr. Carlisle in his decision, which is found in volume 5, section 5825, of Hinds' Precedents, said:

"When therefore it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by the express language of the rule; and if the Chair upon examination of the bill under consideration and the proposed amendment, shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment, subject, of course, to the revisory power of the Committee of the Whole on appeal.

"It is not always easy to determine whether or not a proposed amendment relates to a subject different from that under consideration, within the meaning of the rule, and it is especially difficult to do so when, as in the present instance, the amendment may, by reason of the terms it employs, appear to have a remote relation to the original subject."

That an amendment be germane means that it must be akin to, or relevant to, the subject matter of the bill. It must be an amendment that would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane—and such a rule has been adopted in practically every legislative body in the United States—is in the interest of orderly legislation. Its purpose is to prevent hasty and ill-considered legislation, to prevent propositions being presented for the consideration of the body which might not reasonably be anticipated and for which the body might not be properly prepared.

The provision in this bill to which the amendment is offered provides:

"That all moneys received from royalties and rentals under the provisions of this act, excepting those from Alaska, shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the act of Congress approved June 17, 1902, known as the reclamation act, but after use thereof in the construction of reclamation works and upon return to the reclamation fund of any such moneys in the manner provided by the reclamation act and acts amendatory thereof and supplemental thereto, 50 per cent of the amounts derived from such royalties and rentals so utilized in and returned to the reclamation fund shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State for the support of public schools or other educational institutions, or for the construction of public improvements, as the legislature of the State may direct."

Any amendment to a section which is relevant to the subject matter, and which may be said to be properly and logically suggested in the perfecting of the section in the carrying out of the intent of the bill, would be germane to the bill and thus in order. To determine whether an amendment is relevant and germane, while not always easy, can best be done by applying certain simple tests. If it be apparent that the amendment proposes some modification of the bill, or of any part of it, which from the declared purposes of the bill could not reasonably have been anticipated and which can not be said to be a logical sequence of the matter contained in the bill, and is not such a modification as would naturally suggest itself to the legislative body considering the bill, the amendment can not be said to be germane.

It seems to the Chair that applying these tests to the amendment of the gentleman from Illinois to determine whether it is germane, the question to be answered is whether the amendment is relevant, appropriate, and a natural and logical sequence to the subject matter of the bill. It is quite clear to the Chair that the amendment can not be so characterized, and that the committee could not have anticipated or reasonably expected that to a proposition that the money to be derived from the royalties of the leases, authorized to be made under this legislation, should be put in the reclamation fund, a well-established fund created for specific and definite purposes; that a proposition to create a new fund, to be known as the "national good-roads fund," could be considered as a natural, appropriate, relevant, and logical sequence to the proposal in the bill; and therefore the Chair sustains the point of order.

Mr. Mann having appealed from the decision of the Chair, the decision was sustained—yeas 59, nays 0.

Mr. Irvine L. Lenroot, of Wisconsin, then proposed this amendment:

Provided, That any moneys which may accrue to the United States under the provisions of the act from lands within the naval petroleum reserves shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of a fund to be known as the "Navy petroleum fund," which fund shall be applied to the needs of the Navy as Congress may from time to time direct by appropriation or otherwise.

Mr. Mann made the point of order that the amendment was not germane.

The Chairman said:

The Chair intended, in making his former ruling, to call attention to a decision of Mr. Speaker Clark made on June 23, 1914. On that occasion there was under consideration a Senate amendment in which it was proposed to provide that the proceeds of the sale of certain ships should be appropriated to build an additional battleship. To that amendment there was proposed an amendment providing that the money should be available for the construction of good roads. Mr. Speaker Clark held that that amendment was not in order, because it was not germane.

Very frequently the difficulty in reaching a conclusion as to whether an amendment is germane arises from the fact that while the proposed amendment is somewhat similar to the subject matter of the bill, the particular predilection of Members favorable to the amendment makes them reason themselves into a frame of mind to believe the amendment to be germane without careful analysis of its relation to the matter proposed to be amended. Under the act of June, 1910, the president is authorized to withdraw public lands for any public purposes. While it does not appear on the face of this bill that certain lands have been withdrawn for the purpose of providing oil for the Navy, it is a matter well within the knowledge of the Chair and of Members generally that such action has been taken. Suppose the President had also withdrawn public lands and set them aside to be utilized as military reservations or as forest reserves or for park or some other purpose, would amendments be in order to this provision which would provide that the royalties of any leases of such lands should be segregated in the Treasury and dedicated to the development of military reservations or of public parks or for some other public purpose assigned as the reason in the order of withdrawal made by the President? It seems to the Chair that such proposals could not reasonably be anticipated, nor could they be held as logical sequences to the provision in the bill.

The meaning of the word "germane" is akin to, or near to, or appropriate to, or relevant to, and "germane" amendments must bear such relationship to the provisions of the bill as well as meet the other tests; that is, that they be a natural and logical sequence to the subject matter, and propose such modifications as would naturally, properly, and reasonably by anticipated. The Chair has been unable to find any comprehensive definition of the term "germane" as used in a parliamentary sense. It is not easy to define, and it is difficult to state concisely, yet comprehensively, the rule to be applied to determine unerringly whether amendments are germane. The Chair believes that the true rule, and the tests to be used in applying it, have been here epitomized.

The fundamental purpose of this bill is not to provide revenue and to dedicate or segregate it in the Treasury. The fundamental purpose of the bill is "to authorize exploration for and dis-

position of coal, phosphates, oil, gas, potassium, or sodium," and the segregation of the proceeds of the leases authorized is merely incidental to the general scheme of the legislation.

The amendment of the gentleman from Wisconsin provides that "any moneys which may accrue to the United States under the provisions of this act from lands within the naval petroleum reserve shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of the fund to be known as the Navy petroleum fund, which fund shall be applied to the needs of the Navy as Congress may from time to time direct by appropriation or otherwise."

To simplify determining whether this amendment is in order, without changing its fundamental purpose, let it be assumed that instead of designating this fund as a "Navy petroleum fund" it were to be designated as a "Navy battleship fund," and to be applied by appropriation or otherwise by Congress to the needs of the Navy. The Chair does not believe that it would be seriously argued that the creation of such a fund as an amendment to this provision would be considered germane. The mere designation of the fund as a Navy petroleum fund, because this bill applies to oil leases, while perhaps confusing, does not change the character of the amendment. It would be no different if it were proposed that royalties from leases made of parts of public lands reserved for military purposes be placed in the Treasury for the support of the Army, or of lands reserved for health purposes be applied for the support of the Public Health Service. The very suggestion of such amendments clarifies the situation and, in the opinion of the Chair, obviates any difficulty in determining the question of order. In the opinion of the Chair the amendment is not germane, and the Chair sustains the point of order.

2994. The a resolution to approve the report of a committee an amendment providing for disapproval of the report and amendment of an existing law was held not to be germane.

On January 29, 1913,[1] the House was considering the joint resolution S. J. Res. 158, reading as follows:

Resolved, etc., That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, " approved February 9, 1911, be and the same are hereby, approved.

Mr. Thetus W. Sims, of Tennessee, offered this amendment:

Strike out the word "approve" and insert "disapprove, and that a memorial arch on Sixteenth Street at a suitable point north of the intersection of U Street and Sixteenth Street, at a cost not to exceed $2,000,000, be erected instead of the building provided by the commission."

Mr. James R. Mann, of Illinois, raised a question of order against the amendment and said:

This resolution is a resolution providing:

"That the plan, design, and location for a Lincoln memorial, determined, upon and recommended to Congress December 4, 1912, by the commission created by the act," referred to in the resolution, "be, and the same are hereby, approved."

The act referred to in the resolution is an act approved February 9, 1911, which the Speaker will find in Thirty-sixth Statutes at Large, page 898. That was passed in the last Congress. That act provides that the gentlemen named in the act are created a commission to secure and determine upon a location, plan, and design for a monument or memorial in the city of Washington, D.C., to the memory of Abraham Lincoln, subject to the approval of Congress. Section 3 of the act provides—

"That the construction of the monument or memorial herein and hereby authorized shall be upon such site as shall be determined by the commission herein created and approved by Congress."

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[1]Third session Sixty-second Congress, Record, p. 2250.

The resolution pending before the House is simply a resolution to approve the location, the plan, and the design on the report of the commission which has been submitted to Congress in conformity with the act. It is not a resolution to amend the original act; it does not propose to amend the original act at all, but it is simply a resolution in accordance with the provisions of the original act to approve the plans which have been submitted by the commission.

The Speaker [1] ruled:

The pending resolutions is very simple. It is simply to approve certain findings of that commission; that one proposition and nothing else.

The present occupant of the chair has ruled more than once that where a law contains several sections and some gentleman brings in a bill to amend one section of that law only, then the House can not wander around and undertake in that bill to amend other sections of that law, because there must be an end and a limit to all things. The statute provides that the Lincoln monument or memorial shall be "in the District of Columbia." That settles that part of it. I do not believe that under that statute you can go outside the District of Columbia. I do not believe that a fair, careful reading of this resolution will permit any amendment providing for passing on another memorial in the city of Washington or out of it.

There are various ways of defeating this proposition. The first step, if the House desires to take it, is to vote this resolution down. Any step might be taken after that. There are two ways of getting rid entirely of this limitation as to the District of Columbia. One of them is by a bill amending the statute creating the commission, and another by a joint resolution, which is tantamount to a bill, for the same purpose. Therefore the Chair sustains the point of order.

2995. The burden of proof of the germaneness of an amendment rests upon its proponents.

Propositions however closely related are not necessarily germane.

To a proposal to fix the commencement of the terms of Representatives in Congress a proposition to extend the duration of such terms is not germane.

On March 8, 1928,[2] during the consideration of the joint resolution (S. J. Res. 47) proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress, in the Committee of the Whole House on the state of the Union, Mr. William B. Bankhead, of Alabama, offered an amendment proposing to increase the terms of Members to four years.

Mr. C. William Ramseyer, of Iowa, made the point of order that the amendment was not germane to the joint resolution.

Mr. Bankhead proposed to yield to Mr. Ramseyer for debate when Mr. Ramseyer submitted that the burden of proof of germaneness rested on the proponents of the amendment.

The Chairman [3] agreed:

The burden to show that it is in order is on the gentleman from Alabama. The Chair thinks the gentleman from Alabama would also be entitled to rebut the arguments made in behalf of the point of order.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Seventieth Congress, Record, p. 4368.

[3] Frederick R. Lehlbach, of New Jersey, Chairman.

After debate the Chairman ruled:

The Committee of the Whole House on the state of the Union has before it for consideration the text of the committee substitute for the Senate Joint Resolution 47. This substitute being read for the purpose of amendment, the gentleman from Alabama offers the following amendment:

"SEC. 2. The House of Representatives shall be composed of Members chosen every fourth year by the people of the several States."

To this a point of order is made that the amendment is repugnant to the provisions of the rule on germaneness, which reads as follows:

"And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

In order to determine whether this amendment is on a subject different from that under consideration it is necessary to examine the subject matter of the legislative proposition to which it is offered as an amendment. An examination of the entire article shows that it is composed of four sections having two distinct and definite purposes. Sections 1 and 2 provide that the term of the President shall commence on the 24th day of January and the terms of Senators and Representatives shalll commence on the 4th day of January, instead of as now on the 4th day of March, and that the Congress shall assemble on the 4th day of January, instead of as now on the first Monday of December. That is the distinct proposition involved in the first two sections, the reason for the proposition being to abolish the session of Congress after its successor has been elected and to bring the session of the new Congress nearer the date of election, so that the Congress will be more responsive to the will of the people.

The other proposition deals entirely with who shall exercise the powers of the Chief Executive and perform his duties in the event of the failure to elect the President, Vice President, or both, or in the event of the death of the President elect, or the Vice President elect, or both. These are the distinct and clear-cut propositions involved in the article, and there are no other propositions.

There is no proposition to alter permanently the length of the terms of any of the officers dealt with, either President, Vice President, Members of the Senate, or Members of the House. While in one instance throughout the future history of the country the terms of these officers are shortened by two months, that is merely incident to moving forward the date of the assembling of Congress and the abolition of the session of Congress subsequent to election.

Now, an examination of the amendment offered by the gentleman from Alabama shows that its effect not only deals with the length of the term of the members but necessarily affects the make-up of the Senate and of the Congress. Although the Constitution does not in express words say so, it is a necessary result of the structure of our legislature as laid down in the Constitution that a Congress begins with the term of the Members of the House of Representatives and ends with the expiration of the term of the Members of the House of Representatives. That is not the case with the Senate, because the Senate is considered a continuing body, one-third of its Members going out every two years.

So, if this amendment were adopted, it would result in this, that where now in each Congress every member of the Senate and every Member of the House is a Member at the beginning and remains a Member of the Senate and House until the expiration of Congress, we would have a situation where one-third of the Members of the Senate who began with the Congress would go out in the middle of its work and one-third of the membership of the Senate would come in when the work of the Congress was half done. That shows that this proposition involves not merely the length of the term of the Members of the House of Representatives, and for that reason might be deemed germane to section 1, but other consequences by reason of which it could not be held germane to section 1.

As to the doctrine of germaneness, the Chair has diligently refreshed his memory from the precedents, and will refer first to the decision of former Speaker John G. Carlisle, to which reference has been made.

Mr. Carlisle, prior to this election as Speaker, frequently served as Chairman of the Committee of the Whole House on the state of the Union, and in that capacity in 1880 he rendered a decision in which he discussed at great length the rule requiring amendments to be germane.

"When, therefore, it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that it (the proposed amendment) is a motion or proposition on a subject different from that under consideration. This is the test of admissibility prescribed by the express language of the rule; and if the Chair, upon an examination of the bill under consideration and the proposed amendment, shall be of the opinion that they do not relate to the same subject, he is bound to sustain the objection and exclude the amendment."

Representative Fitzgerald, on September 22, 1914, in passing on a point of order that an amendment is not germane, among other things said:

"If it be apparent that the amendment proposed some modification of the bill, or of any part of it, which from the declared purposes of the bill could not reasonably have been anticipated and which can not be said to be a logical sequence of the matter contained in the bill, and is not such a modification as could naturally suggest itself to the legislative body considering the bill, the amendment can not be said to be germane."

The question might arise whether the doctrine as to germaneness applies to an amendment to the Constitution, and for that reason the Chair directs attention to precedent to be found in the fifth volume of Hinds', paragraph 5882.

It will be observed that the proposition then pending to amend the Constitution was substantially the same proposition that is pending at the present time. The difference between the amendment of the gentleman from Alabama and the amendment held not germane by Mr. Speaker Crisp is that the manner of the election of the Members of the Senate was sought to be added to the propositions then, and the lengthening of the term of Members of the House of Representatives is sought to be appended to similar propositions on this occasion.

Just a word further with respect to the germaneness of this amendment to the text of the committee substitute. The Chair calls attention to the language used on September 19, 1918, by Mr. Finis J. Garrett, of Tennessee, presiding in the Committee of the Whole House on the state of the Union, on the question of germaneness. He said:

"The present occupant of the chair had the honor of presiding as Chairman of the Committee of the Whole when the amendment was proposed to create the Tariff Commission as a part of a revenue bill. The point of order was made, and the Chair held generally that the meaning of the expression 'germaneness' under the facts that were presented was that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill."

The Chair commends that language to the House—"that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill."

The proposition is now advanced, however, that while the amendment may not be germane to the provisions of the subject matter under consideration, inasmuch as the resolution under consideration amends the Constitution in several particulars, it, therefore, is in order to amend it in any particular, although the amendment may not be germane to the amendments carried in the resolution itself. That is based on a doctrine which is frequently reiterated in this House, that if a bill amends a law in several particulars, the law may be amended by an amendment to the bill in all particulars. The Chair has been unable to find substantial authority for this doctrine. In discussing this contention, Mr. Speaker Clark, on December 5, 1912, stated his opinion very succinctly. He said:

"The rule is not that if there are two substantive propositions in the bill you can add anything else to it."

Mr. Speaker Gillett, on June 19, 1919, speaking on this phase of the question of germaneness, said:

"That although more than one clause or section of a law is amended, that fact does not necessarily bring the whole law before the House, but the law itself is only subject to amendment when the propositions under consideration are numerous and go to the heart of the law and change the law in a vital way."

"It is insisted that these proposed amendments do not go to the heart of our Constitution or change it in a vital way. The gentleman from Alabama in his argument has referred to the decision found in Hinds' Precedents, volume 5, section 5824. The Chair is familiar with that decision and

calls attention to the situation that led to the ruling upon which the gentleman from Alabama relies. In holding an amendment to the original law in order because the bill under consideration amended the original law in various particulars the Speaker pro tempore, who was Mr. Dalzell, of Pennsylvania, said this:

"It is apparent from even a casual examination of the bill that it is a general amendatory bill. Section 1 relates to clause 15 of section 1 of the existing bankruptcy law; section 2 relates to clause 5 of section 2 of the existing bankruptcy law; section 3 relates to clause 4 of subdivision A of section 3 of the bankruptcy law; section 6 relates to section 17, and section 10 relates to section 40, and so on, skipping from section to section throughout the entire law, without regard to the particular relation of these sections to each other. In other words, 16 sections in all of the 70 sections of the bankruptcy law are here sought to be amended, or more than one-fourth of the entire law."

In other words, the decision upon which reliance is placed for the doctrine was in a case where the bill under consideration revised generally the original law.

Mr. Sidney Anderson, on June 10, 1921, in passing on an amendment to a bill amending the war risk insurance act in various particulars, the amendment under consideration applying to a section of the original act, not dealt with by the pending bill, said:

"The Chair does not think that the general rule can be laid down that where several portions of a law are amended by a bill reported by a committee, it is not in any case in order to amend another section of the bill not included in the bill reported by the committee nor does the Chair think that the opposite rule can be laid down and rigidly applied in every instance. The Chair thinks that a question of this kind must be determined in every instance in the light of the facts which are presented in the case."

The point of order was sustained.

Chairman Stafford, on December 10, 1921, in passing on a similar point of order as now under consideration, said:

"The gentleman invokes the rule that because the bill under consideration amends two or three provisions of the Judicial Code, therefore it is in order to amend all or any section of the entire Judicial Code. The Chair can not subscribe to that doctrine, since it would violate the fundamental principles that guide the procedure of the House in the consideration of questions that come up from time to time."

The Chair has fortified himself with many other precedents, but does not deem it necessary to go further into an exposition of what the records disclose.

In order to point out the fact that the decision that the Chair is about to render is not based on the decisions only of certain presiding officers, the Chair calls attention to the fact that a decision was made on this very point on May 20, 1920, and that an appeal therefrom was taken, and the decision at that time, holding that the amendment was not germane, was sustained by an almost two to one vote; so that the highest authority that can exist for the ruling that the Chair indicates he is about to make, is the decision of the House itself, on an appeal, sitting in Committee of the Whole House on the state of the Union.

On that occasion a bill containing a series of amendments to the war risk insurance act was under consideration, dealing with various matters of administration but not with the beneficiaries or the benefits provided for in the act. Mr. Sims of Tennessee offered an amendment to include a certain class within the beneficiaries under the act. The point of order that the amendment was not germane was sustained.

The decision was made by the present incumbent of the chair, who reads it not because it has intrinsic merit but that it may be known just what question was involved in the precedent established by the House itself:

On May 20, 1920, Mr. Lehlbach ruled as follows:

"The amendment of the gentleman from Tennessee, Mr. Sims, reads:

" 'That section 401 of the war risk insurance act is amended as follows:

" 'The Chair presumes the intent is to add to the end of section 401 this additional proviso.

The bill under consideration is a bill to improve the facilities and service of the Bureau of War Risk Insurance and further amending and modifying the war risk insurance act as amended. The first

section of the bill provided for the installation of regional offices and suboffices, and the various other sections of the bill provide for the mode of administration and method and manner of making payments under the bill. The bill is entirely within that general scope. It is not a bill generally amending the war risk insurance act. It does not amend it in various particulars, but only amends it in the method or manner of making certain payments; in matters of administration, in other words. It does not deal with a class of beneficiaries or change the advantages that beneficiaries may enjoy, nor does it any way define or modify who such beneficiaries may be. The Chair therefore thinks that the amendment offered by the gentleman from Tennessee is not within the scope of the bill or any of the provisions of the bill and is, therefore, not germane, and sustains the point of order.' "

The Chair, therefore, sustains the point of order that this amendment is not germane to the joint resolution, nor is it in order, under the rule of germaneness, because the resolution amends the Constitution itself in various particulars.

Mr. Bankhead having appealed, the decision of the Chair was sustained. On division, yeas 207, nays 33.

2996. A proposition is not necessarily germane because related to the subject under consideration.

To a bill providing for reapportionment of Representatives in Congress an amendment authorizing redistricting of States in accord with such apportionment is not germane.

An instance in which a bill was considered in the House under the provisions of a special order without having been reported by a standing committee.

The rule on germaneness is not affected by the manner in which a bill is brought before the House or the fact that it has not had previous consideration by a standing committee.

On June 6, 1929,[1] when the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses, and to provide for apportionment of Representatives in Congress, the Chairman[2] announced that a point of order by Mr. John J. O'Connor, of New York, was pending against an amendment proposed by Mr. Daniel A. Reed, of New York.

At the instance of the Chair the amendment was again reported as follows:

Provided, That nothing in this act contained shall be construed to prevent the legislature of any State (subject, however, to the initiative and referendum law in any State wherein such a law exists) at any time after the approval of this act, in order to secure contiguous and compact territory and equalization of population in accordance with the rules enumerated in section 3 of the apportionment act, approved August 8, 1911, by concurrent resolution, from redistricting the State for the purpose of electing Representatives to Congress, and upon each and every such redistricting the Representatives to Congress shall in any such State be elected from the new districts so formed.

Mr. Burton L. French, of Idaho, in debating the point of order took the position that as the bill under consideration proposed to repeal certain sections of the law relating to the apportionment of Representatives in Congress it was therefore in

[1] First session Seventy-first Congress, Record, p. 2444.

[2] Carl R. Chindblom, of Illinois, Chairman.

order to offer amendments relating to other sections of the same law, including the section relating to redistricting.

Mr. Fiorello H. LaGuardia, of New York, took the further position that in view of the fact that the bill had not been considered and reported by a standing committee the rule of germaneness did not apply with its usually strictness, and said:

We are operating at the present moment under unusual and extraordinary conditions by reason of the fact that the committee which would ordinarily have had jurisdiction of the bill has not been appointed by the House, and therefore the bill is now before the House and the Committee of the Whole under a special rule, never having been considered by a committee.

The rules of the House which would ordinarily guide the Chair in deciding the germaneness of the amendment can not be applied, because the rules of the House contemplate that every bill which comes from the Senate goes through the ordinary legislative channels of the House, one of which is to be referred to a committee having jurisdiction of the subject matter, and from that committee reported to the House and from the House considered in the Committee of the Whole. That is not the fact here. Therefore, the Chair can not approach this question under the ordinary rules or precedents of the House established when we have committees and a committee has considered the bill. The Chairman in this instance is exactly in the same position that a chairman of a committee would be. If this amendment were offered in the Census Committee, and the point of order were made, clearly the chairman of that committee would hold that it is germane, that it is related, that it does pertain to the subject matter of the bill, and would hold it in order. The Chairman of the Committee of the Whole in this instance is in exactly that position, because the Committee of the Whole is acting in the capacity of a House committee considering a bill in the first instance. We have no Census Committee functioning. It was therefore necessary to bring in a special rule setting aside all the rules of the House, in order to bring this bill properly before the House and for consideration in the Committee of the Whole.

The Chairman held:

With reference to the suggestion of the gentleman from New York the Chair will say that in the view which the Chair takes of the present situation there is no difference in the application of the rules of the House in regard to the subject of germaneness by reason of the fact that this bill has not been considered by the standing committees of the House. The Chair thinks that the effect of the special rule adopted by the House for the consideration of this bill was merely to bring the bill before the House without the intervention of the action of a standing committee, and, of course, in contravention of the ordinary rules of the House. In that connection the Chair is very distinctly of the opinion that all amendments, whether made by a standing committee having jurisdiction of the subject matter to either a House bill or a Senate bill or offered on the floor of the Committee of the Whole, are equally subject to the rule of germaneness.

There is nothing in the present bill which relates to the subject matter of the amendment which subject matter is the action of State legislatures and of State authorities in redistricting a State upon the basis of a reapportionment of Members of the House made by Congress. The Chair takes it that no one now is prepared to claim that there is anything in the bill pending before us (S. 312) which directly relates to the matter of the redistricting of the States.

However, the gentleman now claims that the provision in section 21 is applicable, which reads as follows:

"That the act entitled 'An act to provide for the fourteenth and subsequent decennial censuses,' approved March 3, 1919, and all other laws and parts of laws inconsistent with the provisions of this act are hereby repealed."

The gentleman calls attention to that provision and claims that that relates to certain sections of the act of August 8, 1911, which bore on the subject of redistricting by the States, but it seems to the Chair that the gentleman overlooked the effect of the words—"all other laws and parts of laws inconsistent with the provisions of this act are hereby repealed."

If there is nothing in this bill relating to redistricting, then there can be nothing in it which is inconsistent with the act of 1911 on that subject. There can be no repeal by this bill of any law

or parts of laws which are not inconsistent with that act on the subject of redistricting by State legislatures.

All the way through every provision of the act of August 8, 1911, relates to "this apportionment"; that is, the apportionment provided for in the act of August 8, 1911.

Therefore, it seems to the Chair very clearly that the amendment offered by the gentleman from New York is not germane to the pending bill; and the Chair sustains the point of order.

2997. A specific proposition may not be amended by a general provision.

To a paragraph applying to one bureau in the Navy Department an amendment applying to the Navy Department as a whole was held not to be germane.

On February 28, 1920,[1] the House was considering Senate amendment No. 34 to the second deficiency appropriation bill, reading as follows:

BUREAU OF CONSTRUCTION AND REPAIR

For the preservation and completion of vessels on the stocks and in ordinary, etc., including the same objects specified under this head in the naval appropriation act for the fiscal year 1920, $3,000,000.

Mr. George Holden Tinkham, of Massachusetts, offered this amendment:

Provided, That such parts of this appropriation as in the judgment of the Secretary of the Navy may be necessary may be applied to the objects of expenditure specified in the appropriations for various bureaus of the department for the fiscal year 1920.

Mr. James. W. Good, of Iowa, made the point of order that the amendment was not germane.

The Speaker[2] held:

The Chair sustains the points of order. The Chair thinks that clearly the amendment offered by the gentleman from Massachusetts extends this appropriation, which is made for yards and docks over the whole Navy Department, and is subject to the ruling which was made in the committee on this subject.

2998. A general provision is not in order as an amendment to a specific proposition.

To a bill relating to a specific class of canned goods an amendment dealing with canned goods in general was not admitted.

On May 7, 1930,[3] the House had under consideration the bill (H. R. 730) to amend section 8 of the pure food and drugs act.

Mr. Franklin Menges, of Pennsylvania, offered an amendment reading:

Provided, That the standards of quality and condition for any canned foods which have been or which in the future may be established by or under authority of any other act of Congress shall be and are hereby adopted for the purpose of this act as the official standards of the United States for canned foods.

Mr. Carl Chindblom, of Illinois, made the point of order that the amendment was not germane to the bill and argued:

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[1] Second session Sixty-sixth Congress, Record, p. 3647.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventy-first Congress, Record, p. 8532.

I wish to call the attention of the Speaker to the language in the proposed amendment to section 8 of the pure food and drugs act:

"For the purposes of this paragraph the words canned food mean all food which is in hermetically sealed containers and is sterilized by heat, except meat and meat food products, which are subject to the provisions of the meat inspection act of March 4, 1907 (34 Stat. 1260), as amended, and except canned milk."

Then, I call the attention of the Chair to the following words, which follow immediately:

"The word class means and is limited to a generic product for which a standard is to be established, and does not mean a grade, variety, or species of a generic product. The Secretary of Agriculture is authorized to determine, establish, and promulgate, from time to time, a reasonable standard of quality, condition, and/or fill of container for each class of canned food as will in his judgment promote honesty and fair dealing in the interest of the consumer; and he is authorized to alter or modify such standard from time to time as in his judgment honesty and fair dealing in the interest of the consumer may require."

All of these provisions are limited to class, and the term "class" is specifically defined to be limited to a generic product and does not include a grade, variety, or species of a generic product. The amendment offered by the gentleman from Pennsylvania is not limited to class. It includes grades, varieties, and species of classes; that is, of generic products.

Every other act which has been passed by Congress relates to canned foods, aside from the pure food and drugs act, which alone is amended by the pending bill. Therefore, it goes beyond the purposes of the bill as reported by the committee, and is subject to the objection which I am making.

The Speaker [1] sustained the point of order on the ground that:

The class of defined in this act and that the amendment of the gentleman from Pennsylvania goes beyond the class as defined in the bill.

2999. To an amendment affecting one item in a paragraph a proposed substitute affecting all items in the paragraph was held not germane.

On April 8, 1909,[2] the bill H. R. 1438, the tariff bill, was being considered in the Committee of the Whole House on the state of the Union, when Mr. Sereno E. Payne, of New York, offered an amendment changing the proposed duty on one item in a paragraph comprising a number of similar items.

To this amendment Mr. John J. Fitzgerald, of New York, moved an amendment as follows:

Provided, That only 50 per cent of all the other rates of duty in this paragraph shall be collected for a period of ten years next ensuing after the date on which the act shall take effect.

Mr. Payne made the point of order that the proposed amendment was not germane to the pending amendment to which offered.

The Chairman [3] ruled:

The committee amendment offered by the gentleman from New York applies only to the duty on decalcomanias in ceramic colors, and proposes to change the rate from $2.50 to 80 cents. Now, the amendment to the amendment as offered by the gentleman from New York, Mr. Fitzgerald, does not relate to that item at all, but in express terms relates only to "all other" rates in the paragraph.

This question is analogous to the question which was raised when the present occupant was in the Chair during the consideration of the Philippine tariff bill in 1906. The bill related only to sugar coming from the Philippine Islands.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-first Congress, Record, p. 1229.

[3] Marlin E. Olmsted, of Pennsylvania, Chairman.

An amendment was offered relating to sugar coming from other countries. The present occupant of the chair ruled that the amendment was not germane. The bill and the amendment were subjects of great controversy and some feeling; an appeal was taken from the decision of the Chair, and the Chair was sustained by a vote of nearly two to one (5 Hinds' Precedents, 5857). The Chair has no hesitation in ruling that the amendment offered by the gentleman from New York is not germane to the committee amendment to which it is offered.

3000. To a proposition to impose a penalty an amendment imposing additional and unrelated penalties is not germane.

To a bill providing for the deportation of aliens avoiding the draft law an amendment prohibiting the acquiring title to real estate was held not to be germane.

On February 13, 1918,[1] the bill (H. R. 5667) providing for the deportation of aliens failing to comply with the requirements of the draft law was under consideration in the Committee of the Whole House on the state of the Union, when Mr. Richard Wayne Parker, of New Jersey, offered the following amendment providing that such aliens:

Shall forever be denied the right of acquiring any interest or estate, legal or equitable, in any lands within the United States or any of its possessions.

Mr. John L. Burnett, of Alabama, raised the question of order that the amendment was not germane.

The Chairman[2] tentatively held the amendment to be in order but after debate said:

On second thought the Chair believes that the amendment is out of order. Here is an authority in the Manual:

"One individual proposition may not be amended by another individual proposition, even though the two belong to the same class."

This is adding another penalty to the same class, and the Chair holds it out of order.

3001. To a bill designed to prohibit speculation in cotton an amendment adding wheat and corn was held not to be germane.

On July 16, 1912,[3] the House was considering the bill (H. R. 56) to prohibit transmission of certain messages by telephone, telegraph, and cable, when the Clerk read as follows:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations.

Mr. Thomas L. Rubey, of Missouri, offered this amendment:

SEC. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton, grain,

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[1] Second session Sixty-fifth Congress, Record, p. 2076.

[2] Joseph J. Russell, of Missouri, Chairman.

[3] Second session Sixty-second Congress, Record, p. 9142.

or other farm product without intending that such cotton, grain, or other farm product shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto or any party for whom or in whose behalf such contract is made or acquires the right or privilege to demand in the future the acceptance or delivery of cotton, grain, or other farm product without specifying the grade to be delivered, and being thereby obligated to accept or to deliver such cotton, grain, or other farm product of the grades and quantities specified in said contract, and a settlement of a contract by the payment of a margin shall constitute prima facie evidence of a violation of this section; and the transmission of any message relating to any such transaction is hereby declared to be an unlawful interference with commerce among the States, Territories, insular possessions, District of Columbia, and with foreign nations.

Mr. James R. Mann, of Illinois, made the point of order that the amendment was not germane.

After extended debate, the Speaker[1] ruled:

If the Chair chose to do so, he could find precedents in the action of eminent Speakers whereby he could submit this question to the House. Mr. Speaker Blaine, one of the greatest men who ever occupied the Speaker's chair, did that on more than one occasion. The Chair had two or three hours' notice that this question would probably be raised, and the Chair examined all the precedents, and they all run one way.

The parliamentary situation is this: The gentleman from Missouri offers a substitute for section 2 of the bill, by which substitute he proposes to add wheat, corn, and so forth, to the bill. The proposition, whether brought in as an amendment or in a motion to recommit, which is the same thing precisely, must be germane.

Now, it has been held, with reference to the last suggestion made by the gentleman from New York, Mr. Fitzgerald that if the other bill—that is, the one treating of futures in wheat, corn, and several of the subjects—were pending here, which is general in its character, then we could add to it by way of amendment the item of cotton. There is no question whatever about that, if we pay any attention to the precedents. It has been held, for instance, that if a bill were pending to admit one Territory into the Union as a State we could not add another as an amendment; that situation would be identical with the present situation; but when the proposition was turned around, and there was a bill that proposed to bring more than one Territory into the Union as States, then we could add another Territory to that bunch. All of the decisions run in the same direction, and there are many of them.

Now, let us apply these precedents to the case before us. What is the subject matter of the section to which the gentleman from Missouri is offering an amendment by way of substitute? And what is the subject matter of this bill? The Chair expresses his own opinion, independent of this report, that the only thing talked about or treated in this bill is the question of dealing in cotton futures. The committee must have known when it presented this report. Here is a paragraph from the report:

"The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity. It does not seek to prohibit or to interfere with a single legitimate transaction in cotton."

The precedent that comes nearest to supporting the contention of the gentleman from New York, Mr. Fitzgerald, is one about renovated butter. The title of the bill under consideration then was in reference to "oleomargarine and other imitation dairy products." Evidently the distinguished gentleman from Iowa, Mr. Lacey, who happened to be in the chair at that time, let this amendment about renovated butter come in under the words "imitation of dairy products," because I know enough about butter—and most of the Members of this House do, especially those from the rural districts—to know that renovated butter is essentially an imitation of butter.

The decision which General Grosvenor rendered about the canals was a correct decision. The question then under consideration was building a canal to connect the waters of the Atlantic

[1] Champ Clark, of Missouri, Speaker.

and the Pacific, and the fact that the original bill referred to the Nicaragua route and the amendments proposing the Panama route were mere incidents.

In one case Mr. Speaker Cannon rendered a decision which is in point here. There was a proposition pending in the House to appropriate money to get rid of the boll weevil, and the gentleman from Massachusetts, Mr. Gillett, offered an amendment to appropriate money to get rid of the gypsy moth. Speaker Cannon ruled that one proposition had nothing to do with the other.

The matter in controversy here is cotton and cotton futures, and nothing else, and the point of order made by the gentleman from Illinois is sustained.

3002. A general subject may be amended by a specific proposition of the same class.

To a section enumerating a number of requirements to be complied with in the marketing of certain foodstuffs an amendment providing an additional requirement of the same class was held to be germane.

On September 27, 1919[1], the House was in the Committee of the Whole House on the state of the Union considering the bill (H. R. 9521) to regulate the preservation and distribution of cold-storage foods.

The Clerk read a section forbidding the sale and distribution of—

Any article of food that is or has been in cold storage, unless such article of food or the container thereof is plainly and conspicuously marked in accordance with this act or the regulations under this act, (1) "Cold storage," (2) with all the dates when put in and when taken out of cold storage, (3) together with the name and location of all warehouses in which so stored.

To this section Mr. William B. Bankhead, of Alabama, proposed the following amendment:

After the word "storage," add the following words: "and the selling or market price at which the article of food or contents of the package went into cold storage."

Mr. Sydney Anderson, of Minnesota, made the point of order that the amendment related to a subject different from that treated by the pending bill.

After brief debate the Chairman[2] ruled:

The object of this section is to identify the goods that are in cold storage, and the chief method of doing it is to determine how they should be marked. The language of the section is "marked in accordance with this act or the regulations under this act—'cold storage.'" The marks of identification are the date, together with the name and the location, and this amendment intends to add one other item, viz, the price. These marks of identification having already been put in the bill; in the opinion of the Chair, it will be germane to add this other, the price of the article, and the Chair overrules the point of order.

3003. A bill dealing with an individual proposition but rendered general in its scope by amendment is then subject to further amendment by propositions of the same class.

To a bill providing for food relief in a designated area but rendered general in its nature by the addition of a second area an amendment proposing the incorporation of a third area was held to be germane.

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[1] First session Sixty-sixth Congress, Record, p. 6059.

[2] Simeon D. Fess, of Ohio, Chairman.

On April 24, 1928,[1] while the Committee of the Whole House on the State of the Union was considering the bill S. 3740, the flood control bill, providing for flood relief on the Mississippi River, an amendment was agreed to on motion of Mr. Robert A. Green, of Florida, extending the scope of the bill to include the Sacramento River.

Subsequently Mr. Green offered an amendment further extending the operation of the bill as follows:

The sum of $10,000,000 is hereby authorized to be appropriated for the control of floods in the Florida Everglades.

Mr. Frank R. Reid, of Illinois, having made a point of order against the amendment, the Chairman[2] held:

The bill as originally reported to the House dealt solely with the control of floods on the Mississippi River and its tributaries. An amendment was submitted by the committee for the control of floods on the Sacramento River, Calif. This amendment was clearly subject to a point of order, but no point of order was made, and now it is in the bill.

The bill now contains two similar projects to control floods in two different sections of the country. It is a well-known rule of germaneness that where there are two similar projects, a third project may be added by a germane amendment. For instance, where two Territories are admitted to the Union an amendment to admit a third Territory is in order. In the same way where authority is given for the construction of buildings in two cities it is perfectly in order to put in an amendment for a building in a third city. For this reason the amendment is in order and the point of order is overruled.

3004. To a proposition general in its nature an amendment specific in character is germane if within the same class.

To a section of the river and harbor bill making a lump-sum appropriation for the maintenance of river and harbor projects an amendment designating specifically the projects on which the sum should be expended was held to be germane.

On January 22, 1920,[3] while the river and harbor bill was under consideration in the Committee of the Whole House on the state of the Union, the Clerk read the following paragraph:

Be it enacted, etc., That the sum of $12,000,000 be, and the same hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be immediately available and to be expanded under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the preservation and maintenance of existing river and harbor works and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation.

Mr. Edward E. Denison, of Illinois, moved to strike out the section and insert in lieu thereof an amendment designating a number of projects on which the money should be expended.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the amendment was not germane.

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[1] First session Seventy-first Congress, Record, p. 7121.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 1895.

After debate the Chairman[1] ruled:

This is a bill appropriating money for the improvement of rivers and harbors. Section 1 of the bill provides for a lump-sum appropriation to be expended under the direction of the Secretary of War. The gentleman from Illinois offers an amendment to the section by way of substitute incorporating a lump-sum provision and also providing for certain specific appropriations. The gentleman from Massachusetts makes the point of order that the amendment is not germane to the section of the bill. It is true that certain circumstances might suggest that the purpose of the amendment is to defeat the purpose of the first section. The method proposed by the first section is one way of expending the money provided. The gentleman from Illinois proposes another way of doing it, and he also provides appropriations for certain improvements that fall within the class for which the lump-sum appropriation is made.

The general rule is that specific provisions can be made qualifying a general provisions in a bill. The Chair holds that the section under consideration is an appropriation for the improvement of rivers and harbors generally and for the continuation of certain projects, and it seems to the Chair that the amendment of the gentleman from Illinois is germane not only to the subject of the bill itself but also to the subject under consideration; and the Chair therefore overrules the point of order.

3005. A bill general in its provisions may be amended by specific provisions inclusive thereunder.

To a bill providing for a decennial census of the entire population of the United States a specific provision relating to the alien population of the United States was admitted as germane.

On June 4, 1929,[2] the Committee of the Whole House on the state of the Union was considering the bill (S. 312) providing for the fifteenth and subsequent decennial censuses.

Mr. William B. Bankhead, of Alabama, offered the following amendment:

In taking such census the Director of the Census shall cause to be registered the names and addresses of all aliens and shall have entered upon such registration a statement by each alien showing by what right or authority of law he had entered the United States.

Mr. Fiorello H. LaGuardia, of New York, having lodged a point of order against the amendment, the Chairman[3] decided:

While it seems to the Chair that the matter of the registration, so called, is a little vaguely expressed, its purport in connection with the context to which it is offered doubtless would be that the census enumerators would make up lists of the names and addresses of all aliens, and in connection with those lists would show by what right or authority of law the aliens had entered the United States. That is a statistical matter, it seems to the Chair. The section deals with matters of statistics and enumerates the various things which may be subjected to a statistical enumeration and ascertainment of facts. It will be noticed that the section is very broad in the matter of the subject matter of these statistics and of the enumeration. It is not limited merely to population, but in addition relates to agriculture, irrigation, drainage, distribution, unemployment, and in the original text, to radio sets and mines. With such a large number of items named in the section as to which statistics may be obtained, it seems to the Chair that the amendment is merely an enlargement of the general purposes of the section and therefore is not subject to a point of order, and the Chair overrules the point of order.

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[1] James W. Husted, of New York, Chairman.

[2] First session Seventy-first Congress, Record, p. 2339.

[3] Carl R. Chindblom, of Illinois, Chairman.

3006. A general subject may be amended by a specific proposition within the subject.

To a bill authorizing an executive to select sites for certain public institutions an amendment specifically designating the sites is germane.

On January 22, 1930,[1] the House had under consideration the bill (H. R. 6807) establishing two institutions for the confinement of United States prisoners, providing:

That the Attorney General is hereby authorized and directed to select forthwith and procure two sites, of not less than 1,000 acres each, and cause to be erected thereon suitable buildings for two institutions for the confinement of male persons who have been or shall be convicted of offenses against the United States.

Mr. John C. Shafer, of Wisconsin, offered an amendment specifically designating the sites as:

After the word "sites," insert the words "one in the State of Idaho and one in the State of Ohio."

Mr. Tom D. McKeown, of Oklahoma, having objected that the amendment was not germane, the Speaker[2] overruled the point of order.

3007. To a proposition general in its nature an amendment specific in character is germane if subsidiary to the pending proposition.

To a bill authorizing the appointment of a commission to report on matters relating to the public domain an amendment specifying that the commission report on a designated area of the public domain is germane.

On January 24, 1930,[3] the bill (H. R. 6153) authorizing the President to appoint a commission to study and report on the conservation and administration of the public domain was being considered in the Committee of the Whole House on the state of the Union.

The bill having been read, Mr. James V. McClintic, of Oklahoma, offered an amendment requiring the investigation by the proposed Commission of a portion of the public domain known as the Oregon and California land grant.

In response to a point of order by Mr. Don B. Colton, of Utah, the Chairman[4] ruled:

The bill reads:

"That the President of the United States be, and he is hereby, authorized to appoint a commission to study and report on the conservation and administration of the public domain."

And the amendment reads:

"That the commission shall make a full investigation of that part of the public domain known as the Oregon and California land grant, and the law which permits such lands to be assessed in favor of certain counties in the States of Oregon and Washington."

The amendment, therefore, recites that the lands to which it relates are a part of the public domain.

The Chairman can not, upon the information that has been furnished him, determine the exact question whether the lands may be in the public domain or not. The Chair will have to rely upon the language of the bill and the language of the amendment, and upon that basis it seems

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[1] Second session Seventy-first Congress, Record, p. 2141; Journal, p. 10.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Seventy-first Congress, Record, p. 2335.

[4] Carl R. Chindblom, of Illinois, Chairman.

clear to the Chair that the amendment is germane. Both on their face relate to the "public domain," whatever that may be.

Secondly, with reference to the question whether to general language contained in the bill a specific subject included in that language may be offered by way of amendment, the Chair calls attention to a decision in paragraph 9848 of Cannon's Precedents, volume 7, reading as follows:

"To a proposition general in its nature, an amendment specific in character is germane if within the same class"—

and specifically holding as follows:

"To a section of the river and harbor bill making a lump-sum appropriation for the maintenance of river and harbor projects, an amendment designating specifically the projects on which the sum should be expended was held to be germane."

Under this and similar decisions the Chair will hold the amendment in order.

3008. To a proposition general in its application an amendment making specific provision within the proposition may be germane.

To a bill providing a lump-sum appropriation for the prosecution of authorized river and harbor works an amendment designating specific works upon which the appropriation should be expended was held to be germane.

On January 22, 1920,[1] the question was pending on the passage of the river and harbor bill, when Mr. John H. Small, of North Carolina, moved to recommit the bill to the Committee on Rivers and Harbors with instructions to report it back forthwith with an amendment striking out the section providing a lump-sum appropriation for the "prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation" and inserting in lieu thereof a section naming specific projects on which the sum so appropriated should be expended.

Mr. Joseph Walsh, of Massachusetts, raised the question of order that the projects proposed in the amendment were not referred to or provided for in the bill and the amendment was not germane.

The Speaker[2] overruled the point of order and said:

The Chair is disposed to think that a general clause making a general appropriation for the "prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation" could fairly be amended by specifically mentioning projects which are now under construction by the department, and as the Chair understands this present amendment is confined to existing projects, the Chair overrules the point of order.

3009. To a proposition general in its nature a specific provision is germane.

To a resolution requesting the sale of surplus food products an amendment suggesting a specific plan for such sale was held to be germane.

On July 29, 1919,[3] the House had under consideration a resolution reported by the Select Committee on Expenditures in the War Department as follows:

Be it resolved, etc., That the Secretary of War be, and is hereby, requested to place on sale, without delay, the surplus food products in the hands or under the control of the War Department

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[1] Second session Sixty-sixth Congress, Record, p. 1923.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 3356.

now stored in the United States, under such plan as will safeguard the interest of the Government and insure an opportunity to the people of the United States to purchase the same directly from the Government.

Mr. M. Clyde Kelly, of Pennsylvania, offered this amendment:

After the word "Government," in the last line, strike out the period, insert a comma and the following: "And such plan shall include utilizing the Parcels Post Service."

Mr. Finis J. Garrett, of Tennessee, having raising a question of order, the Speaker [1] ruled:

The original resolution provides: "That the Secretary of War is requested to place on sale under such plans as will safeguard the interests of the Government," and so forth.

The gentleman from Pennsylvania offers to amend by adding "and such plans shall include utilizing the parcels post."

The original resolution provides a general plan, and the amendment of the gentleman from Pennsylvania adds or includes a specific plan. It is a rule that a general proposition can be amended by a specific one, and the Chair thinks that this amendment is clearly in order.

3010. To a bill including several propositions of the same class an amendment adding another proposition of that class is germane.

To a section providing a number of restrictions on the expenditure of certain funds an amendment adding another restriction was held to be germane.

On October 16, 1919,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 4438) to provide for industrial vocational rehabilitation and providing a number of restrictions upon the expenditure of the fund so appropriated.

Mr. William R. Wood, of Indiana, offered an amendment providing an additional restriction as follows:

Provided, That if any discrimination is made on account of color, sex, or religion, in the use of the funds herein authorized, the State so offending shall forfeit all its rights to further participation in the benefits provided for in this act.

Mr. William B. Bankhead, of Alabama, made the point of order that the amendment was not germane.

After debate the Chairman [3] overruled the point of order and said:

The Chair is inclined to think that if the pending bill as reported by the committee did not make several reservations or provisions as to what should be done further reservations would not be in order. But in view of the fact that this section already makes five reservations the Chair thinks it is competent for the House by amendment to add one more reservation to the section. If there was only one reservation, the Chair does not think it would be competent to add a further reservation as proposed by the gentleman from Indiana, but under the practice of the House it seems to the Chair, in view of the language of the bill making several reservations as to how the money shall be expended, or as to the conditions under which it shall be expended, that it is well within the rules of the House for the Committee of the Whole to add one or more reservations, as it sees proper to do so. The Chair, therefore, overrules the point of order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 7023.

[3] Martin B. Madden, of Illinois, Chairman.

3011. A proposition dealing with a number of subjects may be amended by an additional subject of the same class.

To a section embodying a declaration of policy and including a number of purposes an amendment proposing to incorporate an additional purpose was held to be germane.

On April 24, 1929,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 1) to establish a Federal Farm Board to promote the effective merchandizing of agricultural commodities in interstate and foreign commerce and to place agriculture on a basis of economic equality with other industries.

The first section of the bill, embodying the declaration setting forth a number of purposes which the legislation was intended to accomplish, being read, Mr. Clarence Cannon, of Missouri, offered an amendment proposing to add another purpose as follows:

to make the tariff effective on such commodities.

Mr. Fred S. Purnell, of Indiana, having raised a point of order, Mr. Cannon said:

The first section of the bill now pending contains the declaration of policy. Two purposes are included in that declaration, "to promote effective merchandising" and "to protect, control, and stabilize commerce." Under the rule a general subject may be amended by specific propositions of the same class. The proposed amendment embodying a third policy, "to make the tariff effective," is another specific proposition of the same class and is therefore in order.

The Chairman[2] ruled:

The Chair does not understand that the declaration of policy has any particular effect upon the bill, and in this paragraph containing the declaration of policy there are several different propositions. This amendment suggests one more. It seems to the Chair that the amendment is in order.

The Chair therefore overrules the point of order.

3012. A general subject may be amended by a specific proposition of the same class.

To a bill providing appropriations for a number of Army camps at designated locations an amendment providing for an additional camp at another location was held to be germane.

On December 13, 1919,[3] the pending question was on the passage of the Army appropriation bill, including among other provisions appropriations for the purchase of sites for a number of army camps.

Mr. Warren Gard, of Ohio, offered a motion to recommit the bill to the Committee on Military Affairs with instructions to that committee to report it back forth-with with an amendment providing an appropriation for the acquisition of Dayton-Wright plant and real estate at Dayton, Ohio, as a site for an air service engineering experimental station.

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[1] First session Seventy-first Congress, Record, p. 466.

[2] Carl E. Mapes, of Michigan, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 549.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was not germane.

The Speaker [1] said:

The Chair finds the bill makes a number of appropriations for different fields, and the Chair thinks a provision for the addition of any field is not subject to a point of order, and therefore overrules the point of order.

3013. To a proposal embodying a number of individual propositions of the same class the addition of another individual proposition belonging to that class may be germane.

To a bill providing for the assignment of district judges and circuit judges to relieve congestion in the Federal courts an amendment providing for the assignment of judges of the Court of Customs Appeals was held to be germane.

On December 10, 1921,[2] the bill (H. R. 9103) for the appointment of additional Federal judges was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

That whenever it shall be certified to the Chief Justice of the United States by the Chief Justice of the Court of Appeals of the District of Columbia or in his absence by an associate justice of said court of appeals, that on account of the accumulation or urgency of business in said district it is impracticable for the judges of the supreme court of said district to relieve such accumulation or urgency of business the Chief Justice of the United States may, if in his judgment the public interests so require, designate, and appoint the judge of any district court in any circuit to sit in the Supreme Court of the District of Columbia and to have and to exercise within said district to which he is so assigned the same powers as are vested in a supreme judge thereof.

Mr. Andrew J. Volstead, of Minnesota, proposed the following amendment to be inserted as a new section:

The judges of the United States Court of Customs Appeals, or any of them, whenever the business of that court will permit, may, if in the judgment of the Chief Justice of the United States the public interest so requires, be designated and assigned by said Chief Justice for service from time to time and until he shall otherwise direct, in the district court of any district or the Supreme Court of the District of Columbia or the court of appeals of said district, when so requested by the judge thereof, or in courts with more than one judge when requested by the senior judge or chief justice thereof, and the judge so assigned shall exercise and is hereby vested with all powers, jurisdiction, rights, and duties conferred by law upon the judge of the court to which he may be assigned.

Mr. Otis Wingo, of Arkansas, made the point of order that the amendment was not germane to the bill.

After debate the Chairman [3] overruled the point of order and said:

The bill under consideration, so far as the assignment of judges is concerned, provides not only for assignment of district judges, but in section 6, for the assignment of circuit judges to relieve the congested conditions in various district courts.

If the bill under consideration were restricted merely to the appointment of district judges, it might be argued that, as it applied only to one class, it would not be in order to provide for the

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 207.

[3] William H. Stafford, of Wisconsin, Chairman.

designation of another class. but as there are two classes of judges that may be designated to district courts, it comes within that familiar rule where when a bill provides for more than one class, a third class may be added. The Chair overrules the point of order.

3014. To a bill providing for several departments of service in the Army an amendment providing an addition for a transportation service was held to be germane.

On March 12, 1920,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12775) to reorganize the Army, including in its provisions authorizations specific and several, for the General Staff, the Adjutant General's Department, the Inspector General's Department, the Judge Advocate General's Department, the Quartermaster Corps, the Finance Department, the Medical Department, the Corps of Engineers, the Ordnance Department, the Chemical Warfare Service, the Signal Corps, the Air Service, and the Bureau of Insular Affairs.

Mr. Charles C. Kearns, of Ohio, offered an amendment to be inserted as a new section providing for a separate transportation service.

Mr. Thomas L. Blanton, of Texas, submitted that the amendment was not germane to the bill.

The Chairman[2] overruled the point of order.

3015. To a bill to pay several employees of the Government, specifically named, for injuries received while in discharge of duty an amendment to pay another employee for such injury was held to be germane.

On February 3, 1911,[3] the House was considering the bill (H. R. 26367) for the relief of injured Government employees, providing for the payment of claims of 26 designated employees of the Government injured in the line of duty.

Mr. D. R. Anthony, Jr., of Kansas, offered an amendment to be added as a new paragraph as follows:

That the sum of $5,000 be, and the same is hereby, appropriated for the relief of Catherine Ratchford, because of the death of her son, James Ratchford, on or about the 7th day of August, 1895, caused by the injuries received by him on or about the 24th day of July, 1895, while an employee of the United States Government, riprapping on the Missouri River, near Leavenworth, Kans., because of the negligent and careless acts of omission of his foreman in using a rotten and defective rope after be had notice of the same, and after they had promised to replace the same.

Mr. George W. Prince, of Illinois, made the point of order against the amendment that it was not germane.

The Speaker[4] said:

The Chair will read from the Manual:

"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; to a bill for the relief of one individual, an amendment proposing similar relief for another; to a

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[1] Second session Sixty-sixth Congress, Record, p. 4241.

[2] John Q. Tilson, of Connecticut.

[3] Third session Sixty-first Congress, Record, p. 1905.

[4] Joseph G. Cannon, of Illinois, Speaker.

resolution providing a special order for one bill, an amendment to include another bill; to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth," etc.

Now, that is where there is one proposition, but this is not one proposition, not two propositions, but a whole class of propositions.

The Chair reads further from the Manual, subsection (c), page 391, section 780;

"A general subject may be amended by specific proposition 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: to a bill providing for the construction of building in each of two cities, an amendment providing for similar buildings in several other cities; to a resolution embodying two distinct phases of international relationship, an amendment embodying a third. But to a resolution a class of employees in the service of the House, an amendment providing for the employment of a specific individual was held not to be germane."

That is not this case. This bill covers many claims for accidents and deaths of those who were employed by the Government in various departments. It seems to the Chair that the amendment is germane.

3016. To a proposition to collect statistics on population, agriculture, manufacturing, and mining, an amendment providing for the simultaneous collection of similar statistics on insurance was held to be germane.

February 2, 1910,[1] the bill (H. R. 18364) to amend the act providing for the thirteenth and subsequent decennial censuses was under consideration in the Committee of the Whole House on the state of the Union.

To a section providing for the compilation of statistics on population, agriculture, manufacturing and mining, Mr. Philip P. Campbell, of Kansas, offered this amendment:

And to collect authoritative statistics relating to farmers' mutual insurance companies, showing the amount of such insurance and the insurance results accomplished.

Mr. Edgar D. Crumpacker, of Indiana, made the point of order that the amendment was not germane to the section.

The Chairman[2] ruled.

The Chair is of the opinion that section 8 of the census law being presented here for amendment, the entire section is before the Committee of the Whole, being a part of the test of the bill as presented here for consideration. That being so, the matter of insurance is only adding another phase to the inquires already provided for in the bill, to wit, population, agriculture, manufacturing, and mining, and is no more foreign, for instance, to population than agriculture is to population, or manufacture is to population. So the Chair is of the opinion that it is germane to section 8 of the census law, which is presented here for consideration. Therefore, the point of order is overruled.

3017. A bill dealing with a subject as a whole may be amended by provisions relating to specific items within the subject.

To a bill authorizing the compilation of census statistics on population, professions, properties, unemployment, and other subjects an amendment authorizing the compilation of statistics showing the number of persons whose right to vote has been abridged was held to be germane.

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[1] Second session Sixty-first Congress, Record, p. 1409.

[2] John Q. Tilson, of Connecticut, Chairman.

On June 4, 1929,[1] during the consideration of the bill (S. 312) providing for the fifteenth and subsequent decennial censuses Mr. George Holden Tinkham, of Massachusetts, offered an amendment proposing to enumerate—

the number of inhabitants in each State being 21 years of age and citizens of the United States, whose right to vote at the election next preceding such census for the choice of electors for President and Vice President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislative thereof, has been denied or abridged except for rebellion or other crime.

Mr. John E. Rankin, of Mississippi, made the point of order that the amendment was not germane to the bill.

The Chairman[2] overruled the point of order and said:

We are now considering the portion of the bill which relates to the census, and for all practical purposes section 1 is a part of census bill. That section provides for the taking of a census making enumeration for the purpose of statistical information on a number of different subjects. The original text included population, agriculture, irrigation, drainage, distribution, unemployment, radio sets, and mines, and the action of the committee has already added another item relating to the enumeration of aliens in the United States. At this point in the bill the Chair believes the amendment to be in order on the theory which is well known to the membership of the House, that where a large number of objects are enumerated other objects relating to the same general subject matter may be added as being germane to the text.

The Chair overrules the point of order.

3018. To a bill providing severally for the support and civilization of a number of Indian tribes an amendment adding another tribe was held to be germane.

On January 25, 1924,[3] during consideration of the Interior Department appropriation bill in the Committee of the Whole House on the state of the Union, a section of the bill was reached providing for the support and civilization of a number of Indian tribes designated by name.

Mr. Knud Wefald, of Minnesota, offered an amendment extending the benefits of the provision to the Chippewa Indians of Minnesota.

Mr. Louis C. Cramton, of Michigan, made the point of order that the amendment was not germane.

After brief debate the Chairman[4] held:

It seems clear that it is well within the rules for the committee to bring in such an appropriation. In this case, at any rate, a Member has the right to propose the amendment just offered from the floor. The Chair overrules the point of order.

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[1] First session Seventy-first Congress, Record, p. 2348.

[2] Carl R. Chindblom, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 1464.

[4] John Q. Tilson, of Connecticut, Chairman.

3019. To a bill relating to salaries of officers in a number of bureaus of the Department of Agriculture an amendment relating to salaries to of other officers of the department was held to be germane.

On February 7, 1923,[1] the bill (H. R. 10819) relating to the Department of Agriculture was being considered in the Committee of the Whole House on the state of the Union, when Mr. Gilbert N. Haugen, of Iowa, proposed an amendment increasing the salaries of various officers in the Department of Agriculture, not provided for in the bill.

Mr. William H. Stafford, of Wisconsin, made the point of order that the purpose of the bill was to increase the salaries of officers engaged in scientific research only, and provision for other officers was not germane.

The Chairman[2] ruled:

This is a bill the title of which is "Relating to the Department of Agriculture." Section 1 attempts to increase the maximum salaries of certain scientific investigators and employees engaged in scientific work.

Section 2 of the bill relates to the salaries of certain officials described as "officers in the Department of Agriculture," making no reference whatever to whether they are scientific or other officers. The only question, then, is whether the officers included in the amendment are officers in the Department of Agriculture. If so, the amendment is germane to the second section of the bill, which is the section to which the amendment is offered. It would seem to be clear that they are officers in the Department of Agriculture. The Chair therefore overrules the point of order.

3020. To a paragraph providing a lump sum appropriation for repairs to suburban roads an amendment proposing additional repairs for designated suburban roads was held to be germane.

On March 29, 1920,[3] while the District of Columbia appropriation bill was being read for amendment in the Committee of the Whole House on the state of the Union, the Clerk read:

Repairs to suburban roads: For current work of repairs to suburban roads and suburban streets, including maintenance of motor vehicles and the purchase or exchange of three light motor vehicles with truck bodies, in lieu of three motor vehicles owned by the District of Columbia, at a total cost not to exceed $1,800, $250,000.

Mr. Sydney E. Mudd, of Maryland, offered the following amendment:

After the figures $1,800 insert the following: "And including repairs to Bladensburg Road from Fifteenth and H Streets NE. to the District line, at a total cost not to exceed $51,100; and including Alabama Avenue from Pennsylvania Avenue to Ridge Road and Bowen Road, between Ridge Road and the District line, at a total cost not to exceed $21,000.

Mr. Thomas U. Sission, of Mississippi, made the point of order that the amendment proposed an additional item and was not in order.

Mr. James R. Mann, of Illinois, argued:

Mr. Chairman, it is certainly in order to appropriate in this bill specifically for the improvement of streets. The bill carries a great many items of that sort—specific items. The paragraph under consideration is repair of suburban roads. That provision appropriates $250,000.

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[1] Fourth session Sixty-seventh Congress, Record, p. 3224.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 4980.

Now, in a paragraph for the improvement of suburban roads it is certainly in order to include an item for an additional amount that is desired for specific roads or to provide that any portion of this total sum shall be used for the improvement of specific roads. The whole theory of the bill is based upon the point of Congress making appropriations for the improvement of these roads. I do not see how it can be held that the amendment is subject to the point of order. It certainly is not.

The Chairman [1] held:

The Chair thinks that what the gentleman from Illinois has stated is the fact and that this amendment is in order and overrules the point of order.

3021. To a proposition to pay a claim against the Government an amendment authorizing the claimant to bring suit in a Federal court for the amount claimed was held not to be germane.

On October 3, 1919,[2] the Committee of the Whole House was considering this bill:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of any money in the Treasury not otherwise appropriated, to Mrs. Thomas McGovern, the sum of $5,000 for damages suffered by reason for her husband Thomas McGovern, being struck and fatally injured by a Government motor truck which was driven by a regularly enlisted soldier of the United States Army.

Mr. Warren Gard, of Ohio, offered the following amendment:

Strike out all after enacting clause and insert:

That Mrs. Thomas McGovern, or the authorized legal representatives of Thomas McGovern deceased, may sue the United States for the benefit of the widow and children of said deceased in the district court of the United States for the district of Nebraska under the rules governing such court for damages because of the death of Thomas McGovern, and said court shall have jurisdiction to hear and determine said suit and to enter a judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the authorized legal representative of Thomas McGovern, deceased, upon the same principles and measures of liability as in like cases between private parties and with the same right of appeal.

Mr. Albert W. Jefferis, of Nebraska, raised a question of order against the amendment.

After debate the Chairman [3] held:

This is a bill authorizing the Secretary of the Treasury to pay the sum of $5,000 to the widow of the deceased—Mrs. McGovern. The amendment offered by the gentleman from Ohio authorizes the legal representative of the deceased to bring an action, a proper action, in the district court of the United States for the district of Nebraska.

There is such a distinction between the bill and the amendment as has arisen in former cases and upon which many ruling have been made:

"A bill to pay a claim may not be amended by an amendment directing that the claim be referred to the Court of Claims."

So that by analogy this being a bill to pay the claim outright can not be amended by referring the claim to the district court of the United States for the district of Nebraska, and the Chair sustains the point of order.

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[1] Martin B. Madden, of Illinois, Chairman.

[2] First session Sixty-sixth Congress, Record, p. 6359.

[3] Philip P. Campbell, of Kansas, Chairman.

3022. To a provision delegating certain powers a proposal to limit such powers is germane.

To a section authorizing the Interstate Commerce Commission to change rates an amendment providing that the commission in making such changes shall not increase rates was held to be germane.

On November 17, 1919,[1] the bill (H. R. 10453) to provide for the termination of Federal control of railroads was being read for amendment in the Committee of the Whole House on the state of the Union.

The Clerk read section 415 of the bill proposing to amend section 13 of the existing commerce act, authorizing the Interstate Commerce Commission to change rates charged by interstate carriers, when Mr. Marvin Jones, of Texas, offered an amendment as follows:

Provided, This section shall not be construed to empower the commission to change any such intrastate rate by substituting any greater compensation in the aggregate for the transportation of passengers, or of property of like kind or kinds, for a shorter than for a longer distance the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the intermediate rates subject to the provision of this act.

Mr. John J. Esch, of Wisconsin, raised a question of order against the amendment.

The Chairman[2] ruled:

The section under consideration is section 415 of the bill, which is to amend section 13 of the commerce act. Section 13 of the commerce act deals with complaints and investigation of complaints, and the issuance of orders by the Interstate Commerce Commission as a result of its investigation. This is offered as an amendment to paragraph (4) of the section, which paragraph gives the commission authority to make such findings and orders as may tend to remove undue advantage, preference, or prejudice between persons or localities in intrastate commerce on the one hand and interstate foreign commerce on the other hand, or any undue burden upon interstate and foreign commerce, which is forbidden and declared to be unlawful, and it further provides that such findings and orders shall be observed while in effect by the carriers parties to such proceedings affected thereby, the law of any State or the decisions or order of any State authority to the contrary notwithstanding.

The amendment proposed by the gentleman from Texas is a proviso to the effect that the authority given in paragraph (4) particularly and the section of the bill shall not be construed to empower the commission to change any such intrastate rates by substituting a greater compensation in the aggregate for the transportation of passengers, and so forth, for the shorter than for a longer distance over the same line in the same direction.

The Chair is of opinion that this is a restriction placed upon the Interstate Commerce Commission in making its findings, namely, that after it has investigated and had these joint hearings with the State commissions or boards, and comes to make its findings, in making its findings it shall not change any intrastate rates by substituting as proposed, and the Chair overrules the point of order.

3023. To a proposal to grant certain authority an amendment proposing to limit such authority is germane.

To a bill authorizing the Bureau of War-Risk Insurance to insure vessels an amendment denying such insurance to vessels charging exorbitant rates was held to be germane.

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[1] First session Sixty-sixth Congress, Record, p. 8655.

[2] Joseph Walsh, of Massachusetts, Chairman.

On June 1, 1917,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (S. 2133) authorizing a bureau of war-risk insurance.

The clerk read as follows:

SEC. 2. That the said Bureau of War-Risk Insurance, subject to the general direction of the Secretary of the Treasury, shall, as soon as practicable make provisions for the insurance by the United States of America vessels, their freight and passage moneys, cargoes shipped or to be shipped therein, and personal effects of the masters, officers, and crews thereof against loss or damage by the risks of war, whenever it shall appear to the Secretary that America vessels, shippers, or importers in American vessels, or the masters, officers, or crews of such vessels, are unable in any trade to secure adequate war-risk insurance on reasonable terms.

Mr. Charles H. Dillon, of South Dakota, offered the following amendment:

Provided, That when it shall appear to the Secretary of the Treasury that the ocean rates charged by the owners or operators of such vessels are unreasonable or confiscatory, or when such rates are fixed by an unlawful combination of owners or operators engaged in shipping, then it shall be the duty of the Bureau of War-Risk Insurance to refuse insurance on such vessels.

Mr. Joshua W. Alexander, of Missouri, made the point of order that the amendment was not germane to any portion of the bill.

Mr. James R. Mann, of Illinois, said in opposition to the point of order:

I do not think I am in favor of the amendment, but here is a section, Mr. Chairman, which makes provision for the insurance by the United States of American vessels, their freight and passage moneys, and so forth and so on, including officers and everything else. Now, that is the authority to make the insurance. A limitation upon that authority, of course, is germane to it.

The Chairman[2] agreed and said:

The Chair thinks this amendment is in the nature of a limitation on the paragraph and overrules the point of order. The Chair thinks the amendment is clearly germane to the paragraph.

3024. Provisions restricting authority may be modified by amendments providing exceptions.

To a bill prohibiting the issuance of injunctions by the courts in labor disputes, an amendment excepting all labor disputes affecting public utilities, was held to be germane.

On March 8, 1932,[3] the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H. R. 5315), amending the judicial code.

The Clerk read:

Be it enacted, etc., That no court of the United States, as herein defined, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in strict conformity with the provisions of this act; nor shall any such restraining order of temporary or permanent injunction be issued contrary to the public policy declared in this act.

Mr. James M. Beck, of Pennsylvania, offered as an amendment the following proviso:

Provided, however, That neither this section or any subsequent section of this bill shall apply to any labor dispute which involves the suspension or discontinuance of a public utility

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[1] First session Sixty-fifth Congress, Record, p. 3204.

[2] Joseph W. Byrns, of Tennessee, Chairman.

[3] First session Seventy-second Congress, Record, p. 5504.

whose continuous operation is essential to the property, health, and lives of the people of any State or community.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that the amendment was not germane to the bill.

The Chairman [1] ruled:

The amendment of the gentleman for Pennsylvania is clearly an exception, which provides that no court of the United States, as herein defined, shall have jurisdiction to issue any restraining order or temporary or permanent injunction, and so forth. The amendment of the gentleman from Pennsylvania excepts cases where the welfare and health of the public are concerned.

The Chair overrules the point of order.

3025. To a bill dealing with radio communication in general an amendment proposing to restrict the operation of the proposed law was held to be germane.

On January 24, 1923,[2] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 13773) to amend the act to regulate radio communication approved August 13, 1912.

Mr. Thomas L. Blanton, of Texas, offered the following proviso:

Provided, That where intrastate operation is so controlled and regulated by States in cooperation with the Secretary of Commerce that same does not conflict or interfere with interstate operations, then such intrastate operations shall remain wholly within the jurisdiction and control of such State.

Mr. Frederick C. Hicks, of New York, made a point of order against the amendment.

After debate the Chairman [3] held:

The measure under consideration is all pervading, so far as the regulation of radio communication is concerned. It is a general law, and in the first section covers radio communication among the several States or with foreign nations, radio communication upon any vessel of the United States engaged in interstate or foreign commerce, and also the transmission of radiograms or signals which extend beyond the jurisdiction of the State, Territory, or the District of Columbia. Under the last clause it is apparent that its purpose is to cover regulation of radiograms that extend beyond the jurisdiction of the State, Territory, or District of Columbia, radiograms that lapse over into a State from another State. This being a general law relating to the regulation of radiograms, it is within the power of the committee to restrict it in whatever way it seems fit. It is within the power of Members to offer amendments to restrict it to communications on foreign vessels. The committee may restrict control over activities exclusively interstate. The extent of the jurisdiction to be exercised is for the committee to pass upon, and the Chair holds the amendment is germane and overrules the point of order.

3026. To a section dealing with a designated class an amendment exempting from the provisions of the section a certain portion of that class may be germane.

To a bill denying the benefits of war risk insurance to persons discharged from service on the charge of being alien enemies an amendment granting such benefits to alien enemies who had rendered faithful service was held to be germane.

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[1] John J. O'Connor, of New York, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 2349.

[3] William H. Stafford, of Wisconsin, Chairman.

On June 9, 1921,[1] in the consideration of the bill (H. R. 6611) for the establishment of a veterans' bureau, the following section was reached:

SEC. 29. The discharge or dismissal of any person from the military or naval forces on the ground that he is an enemy alien, conscientious objector, or a deserter, or is guilty of mutiny, treason, spying, or any offense involving moral turpitude, or willful and persistent misconduct shall terminate any insurance granted on the life of such person under the provisions of article 4, and shall bar all rights to any compensation under article 3 or any insurance under article 4: *Provided,* That, as to converted insurance, the cash surrender value thereof, if any, on the date of such discharge or dismissal shall be paid the insured, if living, and, if dead, to the designated beneficiary.

Mr. Andrew J. Hickey, of Indiana, proposed to amend the section by the addition of the following proviso:

Provided further, That an enemy alien who volunteered or who was drafted into the Army, Navy, or Marine Corps of the United States during the World War, and whose service was honest and faithful, shall be entitled to the benefit of the war risk insurance act.

Mr. William B. Bankhead, of Alabama, made the point of order that the amendment was not germane.

After debate the Chairman[2] held:

Section 29 of the pending bill, to which the provision of the gentleman from Indiana is offered as an amendment, deals with the termination of insurance or of compensation under the war risk insurance act by virtue of the discharge or dismissal of any person from the military and naval service, on the ground that he is an enemy alien, conscientious objector, or a deserter, and so forth. The amendment of the gentleman from Indiana provides that—

"An enemy alien who volunteered or was drafted into the Army, Navy, or Maine Corps of the United States during the war and whose service was honest and faithful shall be entitled to the benefits of the war risk insurance act."

The Chair thinks the amendment of the gentleman from Indiana is germane to the section under consideration and overrules the point of order.

3027. To a proposition extending certain benefits to a class a proposal to establish qualifications limiting the number of individuals in that class entitled to receive such benefits is germane.

To a bill authorizing aid to shipping an amendment limiting participation in such benefits to ships equipped with ship-saving devices was held to be germane.

On November 29, 1922,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 12817) to amend the merchant marine act of 1920 by providing for the granting of certain benefits to ships of the merchant marine.

Mr. J. Will Taylor, of Tennessee, offered this amendment to be added as a new section:

All vessels which receive the benefits of this act shall be equipped with an efficient and quickly applicable vessel-saving device for quickly and effectively closing accidental openings in the hull of the vessel below the water line so as to stop the inrush of water and prevent the vessel from sinking.

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[1] First session Sixty-seventh Congress, Record, p. 2351.

[2] Sydney Anderson, of Minnesota, Chairman.

[3] Third session Sixty-seventh Congress, Record, p. 425.

Mr. George W. Edmonds, of Pennsylvania, made the point of order that the amendment was not germane.

After debate the Chairman [1] ruled:

It seems to the Chair that if the Congress so desired it might prescribe that all the ships receiving aid should be painted red, white, and blue. The Congress would have the right to do this. The amendment offered by the gentleman from Tennessee provides that ships receiving aid shall be equipped with a certain kind of life-saving device, which seems to bring this amendment within the rule. Therefore the Chair overrules the point of order.

3028. To a bill extending the operation of an existing law an amendment excepting certain portions of the law was held to be germane.

On October 18, 1921,[2] the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 8643, reading as follows:

Be it enacted, etc., That titles 1 and 5 of the act entitled "An act imposing temporary duties upon certain agricultural products to meet present emergencies and to provide revenue; to regulate commerce with foreign countries; to prevent dumping of foreign merchandise on the markets of the United States; to regulate the value of foreign money; and for other purposes," approved May 27, 1921, shall continue in force until February 1, 1922, unless otherwise provided by law.

Mr. Walter H. Newton, of Minnesota, moved to amend the bill by adding the following proviso:

Provided, That this shall not apply to item 3 of title 1, reading as follows:
"3. Flaxseed, 30 cents per bushel of 56 pounds."

Mr. Nicholas Longworth, of Ohio, raised a question of order as to the germaneness of the proposed amendment.

After the debate the Chairman [3] said:

What does the gentleman from Ohio say to the argument that this is a bill which provides for the extension of the duties on certain articles and fixing the time when those duties shall cease. This proposed amendment selects out one of those articles, giving it an exceptional position; is not that according to the ruling made by the gentleman from Kansas Mr. Campbell on the 12th of April last? That ruling was that a general subject may be amended by a specific proposition of the same class. An amendment taking away from a general subject a specific item is germane.

This brings to an end at a certain date one of the duties specified in the amendment.

While the Chair does not consider this question free from doubt, he overrules the point of order.

3029. Provision for delaying operation of a proposed enactment pending an ascertainment of fact is germane to such proposed enactment.

To a bill providing for the deportation of a certain class of aliens an amendment exempting a portion of such class was held to be germane.

On July 30, 1919,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 6750) to deport certain undesirable aliens providing for the deportations of alien convicted of certain designated crimes.

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[1] John Q. Tilson, of Connecticut, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 6464.

[3] Theodore E. Burton, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 3370.

Mr. J. Hampton Moore, of Pennsylvania, moved to amend the bill by inserting at the end of the bill the following proviso:

Provided, That no alien whose property has been seized by the Alien Property Custodian during the war who has not been convicted of crime shall be deported against his protest pending the lawful determination of the ownership of the property claimed by him.

Mr. Albert Johnson, of Washington, made the point of order that the amendment was not germane to the bill.

After debate the Chairman [1] held:

At first blush the Chair thought that the point of order was well taken, for the reason stated, that there were not sufficient references to this bill to warrant the finding that the amendment was germane; but on a closer examination of the proposition the Chair is well satisfied that the amendment is germane, for this fundamental reason and upon this principle: This bill is for the purpose of deporting aliens under certain circumstances. This amendment offers a time restraint. It says that it shall not be done until certain things have been found with regard to property. Now, the germaneness of an amendment of this kind is not dependent upon the nature of the time conditions, because it has been decided more than once that the ascertainment of a fact which delays the operation of the principal portion of the bill is a germane amendment. For that reason and upon that ground the point of order is overruled.

3030. To a provision to become effective immediately, an amendment deferring the time at which it shall become effective, without involving affirmative legislation, was held to be germane.

On May 5, 1932,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11051), providing for the leasing and utilization of Muscle Shoals, when the Clerk read section 18 of the bill as follows:

SEC. 18. This act shall take effect immediately.

Mr. William R. Eaton, of Colorado, offered the following amendment:

This act shall not become effective until those certain phosphate and fertilizer lands of the United States in the States of New Mexico and California heretofore leased and for which 139 prospecting permits have been issued in eight States, under the act of February 25, 1920, show signs of depletion within the present existing and authorized terms of said leases and permits.

Mr. John J. McSwain, of South Carolina, made the point of order that the amendment was not germane to the provision of the bill to which proposed.

The Chairman [3] overruled the point of order.

3031. To a bill providing for the appointment of judges for an unlimited term an amendment restricting the term to four years was held to be germane.

It is not within the province of the Chair to pass upon the constitutionality of a legislative provision.

On December 10, 1921,[4] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 9103) for the appointment of additional

[1] Horace M. Towner, Chairman.

[2] First session Seventy-second Congress, Record, p. 9669.

[3] Daniel E. Garrett, of Texas, Chairman.

[4] Second session Sixty-seventh Congress, Record, p. 192.

judges for certain courts of the United States providing for the creation and appointment of Federal judges for an unlimited term.

Mr. Sid C. Roach, of Missouri, offered an amendment limiting the tenure of office to four years.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the Constitution in authorizing such judges provided for life tenure, and an amendment to limit the term of office was not in violation of the Constitutional provision but was not germane.

After debate the Chairman [1] held:

The gentleman from Missouri offers an amendment limiting the term of the judges to be appointed by this act to four years. The gentleman from Massachusetts makes the point of order that it is not germane, and argues that because the Constitution provides in section 1 of article III that judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, therefore this amendment is in violation of that constitutional mandate. All the precedents that the Chair is acquainted with are uniform to the effect that it is not for the presiding officer to pass upon the constitutionality of any proposed legislation.

The Chairman of the Committee of the Whole does not occupy the position of a judge of the supreme Court to pass upon the constitutionality of a bill or of amendments that are offered to bills. Many times in the history of Congress bills are subject to objection on the ground that they are beyond the constitutional prerogative of Congress, and the individual Member may oppose them for that reason. Yet the Supreme Court, recognizing the fact that we have a Government of coordinate branches, does not even set aside a bill upon the ground that it is unconstitutional because they would have, as member of the legislative body, considered it such, but they resolve the doubt as to constitutionality in favor of the Congress, and hold it unconstitutional only when they have no doubt that the Congress has exceeded its constitutional powers.

Leaving out of consideration, then, the question whether the Constitution has any effect on this question, the point of order now pressed by the gentleman from Massachusetts resolves itself for decision whether in a bill providing for the creation and appointment of judges for an unlimited term, as this bill proposes, an amendment restricting that term would not be in order as not being germane. The Chair, from that point of view, can not follow the reasoning of the gentleman from Massachusetts. Suppose this bill had by its phraseology provided that these district judges should be created for a term of life or for a specific term of years, it would be in order for the gentleman to offer an amendment limiting and restricting the term. Therefore the Chair overrules the point of order.

3032. To a bill authorizing the conversion of ships to oil-burning vessels an amendment denying the use of the appropriation proposed to be authorized for the purchase of oil-burning engines constructed outside of the United States was held to be germane.

On May 28, 1924,[2] the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8687) reading as follows:

Be it enacted, etc., That alterations are hereby authorized for the United States ships *New York, Texas, Florida, Utah, Arkansas,* and *Wyoming*, to consist of the installation of additional protection against submarine attack, of the installation of antiair attack deck protection, of the conversion of such vessels to oil burning, and, in addition, for the *New York* and *Texas,* the purchase, manufacture, and installation of new fire-control systems, at a total cost not to exceed $18,360,000 in all.

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[1] William H. Stafford, of Wisconsin, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 9765.

Mr. Edgar Howard, of Nebraska, offered the following amendment to be added as a proviso:

Provided, That no part of the money authorized to be appropriated by this bill shall be used for the purchase or installation of any oil-burning engine constructed outside of the United States, or under any pattern owned by citizens of any foreign government.

Mr. Roy O. Woodruff, of Michigan, made the point of order that the amendment was not germane.

After debate the Chairman [1] ruled:

The only question in this matter, it seems to the Chair, is whether the amendment is germane. If it is germane, it would be as proper as a limitation to a bill of this kind as it would to an appropriation bill. This section provides that alterations are authorized for certain ships, naming them, and that these alterations shall consist of the installation of additional protection against submarine attack, the installation of antiair attack deck protection, and the conversion of such vessels to oil burning. Now, the conversion of these vessels to oil-burning vessels means the buying or obtaining in some way of oil-burning engines; and, of course, if you can buy an oil burning engine, it is proper for the House or the committee to say that you can not spend your money on foreign engines or that you can not buy a certain type. Then it becomes a germane limitation.

In the opinion of the Chair it is simply a question whether this is a germane limitation and the Chair thinks it is. The wisdom of the provision is for the committee to settle and not for the Chair. The point or order is overruled.

3033. An amendment is not necessarily germane because presented in the form of a limitation.

To a bill proposing to increase the efficiency of naval vessels an amendment authorizing an effort to reduce naval armament was held not to be germane.

On May 28, 1924,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 8687) providing for the conversion of naval ships to oil-burning vessels, when Mr. Meyer Jacobstein, of New York, proposed this amendment:

Provided, however, That no money authorized to be appropriated by this section and the following section shall be expended until the President has made an earnest effort to secure a further limitation in naval armament among the great powers on a naval ratio basis acceptable to the United States.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the amendment was not germane to the bill.

After debate the Chairman [3] sustained the point of order and said:

The Chair may say in the first place that, of course, if this amendment is in order at all it is obviously as much in order here as at any place. It provides "That no money authorized to be appropriated by this section and the following section shall be expended until the President has made an earnest effort to secure a further limitation to naval armament among the great powers on a naval-rate basis acceptable to the United States."

The gentleman who offered this amendment doubtless had in mind the idea that it is a limitation. The rule of limitation does not apply to a legislative bill. The limitation rule is for use

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[1] William J. Graham, of Illinois, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 9771.

[3] William J. Graham, of Illinois, Chairman.

on appropriation bills and authorities certain legislation by way of limitation, which might not otherwise be in order.

Two recent decisions have been made along similar lines which, I think, are in point. For instance, on the 24th of March last to a bill for the relief of starving women and children in Germany an amendment which was offered provided that the act should not take effect until the soldiers' compensation legislation had become a law. The amendment was held not germane.

Also, on April 12, Chairman Sanders ruled that to an immigration bill an amendment dealing with foreign relations was not germane; to a bill regulating immigration an amendment restricting the operation of the act from conflict with the so-called gentleman's agreement with Japan was held not germane.

What does this amendment do? It seeks to authorize and direct the President to make an earnest effort to get the powers to agree to a limitation of armament. That is not germane. There is to mention of an armament conference in this bill. This bill is to authorize certain expenditures for the repair and building of certain ships and does not deal with the question of disarmament or of any arbitration. Therefore it is not germane, and the Chair sustains the point of order.

3034. It is not in order to propose by way of limitation propositions on subjects different from that under consideration.

To a bill authorizing expenditures on naval vessels an amendment providing that no part of such expenditures be made for repairs in Government yards which could be made at less expense elsewhere was held not to be germane.

On February 16, 1923,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (S. 4137) to authorize the transfer of certain vessels from the Navy to the Coast Guard, and authorizing repairs and alterations in vessels and equipment incidental to such transfer.

Mr. Frederick W. Dallinger, of Massachusetts, proposed the following amendment:

Provided, however, That no part of the moneys authorized to be appropriated in each or any section of this act shall be used or expended for repairs or changes by private parties or for the purchase or acquirement of any article or articles that at the time of the proposed repairs, changes, or acquirement can be made, manufactured, or produced in each or any of the Government navy yards of the United States, when time and facilities permit, for a sum less than they can be made, produced, or acquired otherwise.

Mr. Thomas L. Blanton, of Texas, made the point of order that the amendment was germane neither to the pending section nor to the bill.

Mr. William J. Graham, of Illinois, argued:

It is a proper limitation on the other sections of the bill so far as they call for expenditures. A proper limitation on expenditures is a limitation that they shall not be used except in a certain way, and therefore is applicable only to the expenditures authorized by the bill. This limitation comes within those requirements. For that reason I think it is pertinent and germane. I well remember, for instance, the argument made by our late colleague, Mr. Mann, here when he contended on the floor of the House, and I think properly, that if the House should provide a limitation that the expenditure should be made by a red-headed man it would be a good limitation. That was a favorite expression of his. I think this is germane.

After further debate the Chairman[2] held:

This is not a question of limitation on an appropriation bill. It is a legislative bill, and the only question here is the question of germaneness. As the amendment is drawn, referring to a num-

[1] Fourth session Sixty-seventh Congress, Record, p. 3803.

[2] John Q. Tilson, of Connecticut, Chairman.

ber of sections in the bill, it seems to the Chair that under the rules of the House it is not germane to this particular section. The amendment affects all the sections and all the expenditures authorized in the bill. Therefore the Chair sustains the point of order.

3035. A different subject from that under consideration may not be proposed under the guise of a limitation.

To a bill for the relief of women and children in Germany an amendment providing that the proposed legislation should not become effective until a soldiers' compensation law had been enacted was held not to be germane.

On March 24, 1924,[1] during consideration in the Committee of the Whole House on the state of the Union of the joint resolution (H. J. Res. 180) for the relief of distressed and starving women and children of Germany, Mr. Roy G. Fitzgerald of Ohio, offered this amendment:

Provided further, That this act shall take effect only if and when the adjusted compensation measure for the American veterans of the World War shall become a law.

Mr. Hamilton Fish, jr., of New York, having made the point of order that the amendment was not germane to the joint resolution, Mr. Fitzgerald argued that the amendment merely limited action proposed to be taken and could not therefore be ruled out as not germane.

After further debate the Chairman[2] ruled:

This House joint resolution is for the relief of distressed and starving women and children of Germany. It deals with that question exclusively. At the end of the resolution the gentleman from Ohio seeks to add a proviso, as follows:

"Provided further, That this act shall take effect only if and when an adjusted-compensation measure for the American veterans of the World War shall become a law."

The Chair will state that he finds himself in some doubt because of two decisions which at first blush seemed to him to be conflicting. I think, however, upon analysis and some thought, that there is a distinction, which I shall endeavor to point out. The War Department appropriation bill was before the House on June 24, 1922, with Speaker Gillett in the chair, and an item had been read for the continuation of work on Dam No. 2 on the Tennessee River, at Muscle Shoals, Ala., to be immediately available, $7,500,000; and to that Mr. Huddleston offered a substitute, an amendment which had the following language in it:

"Provided, however, That this appropriation shall not become available until such time as the Congress shall have taken final action on H. R. 11903, and not then if the subject matter of said bill is enacted into law in a manner as will result in the consummation of contracts for lease and sale of the Government Muscle Shoals properties to Henry Ford: *Provided further*, That this provision shall not operate to postpone such availability later than January 1, 1923."

To that amendment Mr. Stafford, of Wisconsin, offered a point of order. The Speaker said during the discussion:

"The Chair will state that it seems to the Chair very clear that the provision carrying out the purposes of the Government as to contracts for lease or sale is legislation. The Chair will hear the gentleman on that."

After further discussion the Chair ruled on the matter. The Speaker said:

"The Chair is ready to rule. It seems to the Chair that this is purely a limitation on the appropriation. It does not make an appropriation available that the present law does not make available. It simply makes it contingent on a future event, and that seems to the Chair merely a limitation. The Chair overrules the point of order."

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[1] First session Sixty-eighth Congress, Record, p. 4859.

[2] William J. Graham, of Illinois, Chairman.

That would seem, on the face of it, to be authority, but there is this distinction: That was an appropriation bill and the Chair was deciding the matter on a question of limitation, and not on the question of making the appropriation available on the passage of some other act.

Now, then, afterwards, on the 9th day of February, 1923, with Mr. Speaker Gillett in the chair, a bill was before the House, and a motion to recommit was made, as follows:

"Mr. O'Connor moves to recommit the bill to the Committee on Ways and Means with instructions to that committee to report the same back forthwith with the following amendment: At the end of the bill insert: 'This resolution shall not go into effect until the Hay-Pauncefote treaty is repealed.'"

A point of order was made against it by Mr. Stafford, and Speaker Gillett sustained the point or order. The Chair thinks that is authority, and sustains this point of order.

3036. The presentation of an amendment in the form of a limitation does not render it germane.

An amendment is required to be germane to the particular section or paragraph to which it is offered.

To a provision authorizing a corporation to borrow money an amendment providing that no money so borrowed be expended for a particular purpose was held not to be germane.

On May 31, 1924,[1] the bill H. R. 9033, the farm relief bill, providing for the creation of a corporation to deal in agricultural products, was being considered in the Committee of the Whole House on the state of the Union.

The Clerk read the following section:

SEC. 32. The corporation may borrow money and issue its notes, bonds, or other evidences of indebtedness therefor, except that the corporation shall not have power to issue or obligate itself in an amount of notes, bonds, or other evidences of indebtedness outstanding at any one time in excess of five times the amount of its authorized capital stock. The rate of interest, the maturity, and the other terms of the notes, bonds, or other evidences of indebtedness, and the security therefor, may be determined by the corporation.

Mr. James H. MacLafferty, of California, offered an amendment as follows:

Provided, however, That neither the money subscribed for the capital stock as provided in section 31 of this act nor the additional funds raised by the issuance of obligations as provided in this section shall be used for the purpose of exporting surpluses of agricultural products by sea during emergencies unless the exportation is carried out in ships of American registry.

Mr. L. J. Dickinson, of Iowa, raised the question of order that the amendment was not germane.

After debate the Chairman[2] held:

The section just read—section 32—is a grant of power to the corporation to borrow money and issue bonds, and it contains nothing further than that grant of power. The amendment is as follows:

"Provided, however, That neither the money subscribed for capital stock as provided in section 31 of this act nor the additional funds raised by the issuance of obligations as provided in this section shall be used for the purposes of exporting surpluses of agricultural products by sea during emergencies, unless the exportation is carried out in ships of American registry."

The rule is that an amendment to be in order must be not only germane to the bill but germane to the particular section to which it is offered. This amendment is not germane to the par-

[1] First session Sixty-eighth Congress, Record, p. 10037.

[2] William J. Graham, of Illinois, Chairman.

ticular section to which it is offered. The Chair expresses no opinion as to whether it is germane to the bill itself, but as to this particular section the point of order is sustained.

The rule of limitations is only applicable as ordinarily understood to appropriation bills. This is not an appropriation bill. This is a legislative bill, and, therefore, the only test as to whether this amendment is in order is the test of germaneness. It is not germane to the particular subject matter in this section. It may be to the bill, but not to the particular section; and the Chair sustains the point of order.

3037. An amendment delaying operation of proposed legislation pending an unrelated contingency was held not to be germane.

On February 9, 1923,[1] the House was considering the bill (H. R. 14254) for the funding of the foreign debt.

The bill having been read the third time, Mr. James O'Connor, of Louisiana, moved to recommit the bill to the Committee on Ways and Means with instructions to report it back forthwith with the following amendment:

This resolution shall not go into effect until the Hay-Pauncefote treaty is repealed.

Mr. William H. Stafford, of Wisconsin, raised a question of order against the motion on the ground that the amendment proposed in the instructions was not germane to the pending bill.

The Speaker[2] sustained the point of order.

3038. A revenue amendment is not germane to an appropriation bill.

On March 27, 1920,[3] while the District of Columbia appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, the Clerk read a paragraph proposing to increase rates of taxation in the District of Columbia.

Mr. James R. Mann, of Illinois, raised a question of order[4] against the paragraph.

The Chairman[5] held:

The Committee on the District of Columbia appropriation bill report the following item in the pending bill:

"The rate of taxation on real estate in the District of Columbia, under the provisions of section 5 of the District of Columbia appropriation act approved July 1, 1902, is hereby increased from 1½ per cent to 2½ per cent, and the rate of taxation on tangible personal property in the District of Columbia, under the provisions of section 6 of the said act, is hereby increased from 1½ per cent to 2½ per cent."

Of course no one will contend that it is within the power of the committee to report legislation on an appropriation bill, and it is clear that this provision is legislation, in that it seeks to amend the act of 1902. Furthermore, if the provision were offered as an amendment by direction of the Committee on the District of Columbia under the proviso to the Holman rule it would hardly be in order, since a revenue amendment is not germane to an appropriation bill, nor is an

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[1] Fourth session Sixty-seventh Congress, Record, p. 3371.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-sixth Congress, Record, p. 4930.

[4] Points of order were raised against similar propositions on December 10, 1914, May 22, 1916, and June 4, 1919.

[5] Martin B. Madden, of Illinois, Chairman.

amendment increasing income or revenue such retrenchment legislation as would be in order under the Holman rule.

Therefore the Chair, without expressing any opinion as to the merits of the case, feels that the point of order is well taken, and sustains it.

3039. An amendment offered to a revenue bill proposing a tax for any other purpose than that of securing revenue is not germane.

To an internal revenue bill an amendment proposing to levy a tax on rents in excess of a fixed standard was held not to be germane.

On February 26, 1924,[1] the Committee of the Whole House on the state of the Union was considering the bill H. R. 6715, the revenue bill, when Mr. Tom D. McKeown, of Oklahoma, offered an amendment proposing as a new title a provision for the levying of a tax on dwelling-house rents in excess of a standard rent and prescribing in detail a method for computing the standard.

Mr. Everett Sanders, of Indiana, made a point of order against the amendment and said:

The amendment singles out the sole proposition of rents and then undertakes to deal with excessive rents, and it comes within the ruling of the Chair which was sustained by the committee that an amendment can not be offered in a tax bill which has some ulterior purpose in view which has for its purpose the regulation of some matter and merely adds on the question of the tax. If the gentleman can do this, he can go out and regulate the price of coal, the price of shoes, the price of anything else in the whole category and merely say that if it exceeds a certain profit then it shall be subject to taxation. It opens up this tax bill to all of the wide, wild field of regulation of prices.

After further debate the Chairman[2] ruled:

The gentleman from Oklahoma offers an amendment which is to substitute a new title, and has in it several sections. The ruling of the committee, twice expressed, one on the matter of undistributed profits and the other on an excess-profits tax, was as the Chair understands it, that any matter of internal-revenue tax would be admissible as an amendment to this bill, whether offered as an amendment to some section or as a new section or title. The ruling went no further than that, as the Chair understood it.

The Chair has had this matter under advisement for a little while, because of the fact that the amendment was printed in the Record, and there are some rulings which the Chair has found in which the principle is adhered to that the effect of the amendment must govern its germaneness, and not the purpose of which the amendment is offered. But that does not mean that everything that is offered as an amendment to this bill would be in order because it contains a tax. The Chair thinks that the common-sense and practical view of the matter would justify him in coming to the same conclusion that the Chair has arrived at from the offering previously of an amendment of this kind, to take into account what the apparent purpose of the amendment is; and in this case the Chair believes that he has the right to determine this matter from a consideration of this question, namely, whether this amendment imposes a new tax, whether that is its manifest purpose, or whether its manifest purpose is to do something else and it is attempted to incorporate a provision in this revenue bill something alien to the subject matter.

This amendment in its first paragraph provides for the rent of a dwelling house, when, if it is above the standard rent as defined in the paragraph, 50 per cent of that increase over the standard rent should be taxes. Then the amendment provides that it the landlord increases the rent not exceeding 15 per cent on account of repairs, the amount so expended on repairs shall not be deemed an increase for the purpose of this title.

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[1] First session Sixty-eighth Congress, Record, p. 3177.

[2] William J. Graham, of Illinois, Chairman.

In the second paragraph the amendment provides that where the standard rent is not in excess of 10 per cent net of the capital value of the dwelling the amendment shall not apply, and the only return the landlord shall be required to render is an affidavit to the effect that the rent received during the taxable year does not exceed the standard rent as defined in the amendment.

In the third section the provision is that when a person lets a dwelling house or any part thereof at a rent which includes payment in respect of the use of furniture which will yield the lessor a profit of 25 per cent per annum in excess of the standard rent of the dwelling unfurnished, the excess rent shall be taxed 50 per cent.

Then the next section provides that if the landlord rents more than one dwelling house or part of a dwelling house in excess of a standard rent, the excess rent shall be taxed 75 per cent.

It is unnecessary for the Chair to go into a long dissertation on which this amendment does. The Chair has come to the conclusion, after looking it over and examining its contents, that it is a manifest attempt to regulate rents and that it comes within the purview of the ruling of the Chair on the corrupt practices amendment, and the Chair sustains the point of order.

On appeal the decision of the Chair was sustained.

3040. To a bill providing for determination of the amount of a tax an amendment requiring such determination to be made within a certain time was held to be germane.

On February 22, 1924,[1] during consideration of the bill H. R. 6715, the revenue bill, in the Committee of the Whole House on the state of the Union, the Clerk read this paragraph:

SEC. 271. As soon as practicable after the return is filed the commissioner shall examine it and shall determine the correct amount of the tax.

Mr. Eugene Black, of Texas, proposed to amend the paragraph by adding the following:

Provided, That except in cases of fraud, such determination as to returns under this act shall be made within two years from the time said return is filed.

Mr. William R. Green, of Iowa, submitted that the proposed amendment was not germane.

After debate the Chairman[2] ruled:

Section 271 is headed "Examination of return and determination of tax," and reads:

"SEC 271. As soon as practicable after the return is filed the commissioner shall examine it and shall determine the correct amount of the tax."

To which the gentleman from Texas wants to add the following proviso:

"Provided, That except in cases of fraud such determination as to returns under this act shall be made within two years from the time said return is filed."

The section is intended to have these returns passed upon as soon as practicable. Suppose the section had said within two years after the return. There is a time limit in one case "as soon as practicable," but this might have been put in other language defining a certain period of limitation.

The gentleman from Texas simply desires to modify that by language "that except in cases of fraud the determination shall be made within two years." There might be a better place in the bill for the amendment, and it might be advisable for the committee to refuse to adopt such amendments except to a later section, but that is a legislative question and not a question of parliamentary law. The Chair thinks that if the gentleman from Texas insists upon his amendment it is germane, and overrules the point of order.

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[1] First session Sixty-eighth Congress, Record, p. 2968.

[2] William J. Graham, of Illinois, Chairman.

3041. To an internal-revenue tax bill an amendment requiring persons making returns under the act to include a statement of campaign contributions was held not to be germane.

On February 22, 1924,[1] while the bill H.R. 6715, the revenue bill, was under consideration in the Committee of the Whole House on the state of the Union, Mr. R. Walton Moore, of Virginia, offered an amendment to be added as a new section requiring persons making returns under the act to include a statement of contributions made for campaign purposes.

Mr. William R. Green, of Iowa, having raised a question of order against the amendment, the Chairman[2] ruled:

The title which the committee is now considering is "Title III—Corporations," and deals with the tax on corporations. The particular part of the title which the committees has just finished is headed "Corporation Returns," and provides for certain returns to be made by corporations for the purpose of the assessment of their corporation tax, and for no other purpose. Throughout the paragraph relative to returns to be made by the taxpayer nothing else is included except elements upon which this tax may be assessed. To that the gentleman from Virginia seeks to add a new section to be known as 239(b), which is as follows:

"Every person required by this act to make a return shall therein specifically state each item, and the amount thereof, of all gifts, advances, subscriptions, payments, contributions, and expenditures made, and to whom, in behalf of, or for the purpose of influencing directly or indirectly the nomination or defeat or election or defeat of, any candidate or candidates for the office of President, Vice-President, Senator, or Representative, or presidential and vice-presidential electors, or for use in, or in respect to, any convention, primary, or election in which there is nominated or elected a candidate for any of the aforesaid offices, but when the aggregate thereof in any taxable year does not exceed the sum of $1,000 no return thereof need to be made."

There is nowhere in this amendment any statement of any fact which aids and assists the taxing officers in computing the amount of the tax and that should be the reason for the return to be made by the taxpayer. If there was any information contained in the amendment which would affect the amount of the tax, it would be germane, but there is nothing in it that affects that question. The only thing that is affected by it is that if the taxpayer is a candidate for public office and spends less than $1,000, he need not make this return to the taxing authorities. Therefore, the matter is not in any particular germane to the object to be accomplished, namely, to tax corporations; but this is an attempt, as the Chair last night ruled, and I think properly, to impose upon every candidate for office the necessity of complying with certain corrupt practices provisions under the guise of an income-tax return. If the House, in its wisdom, desires to overrule the Chair on this ruling, it will have the right to do so, but the Chair can not stultify himself, and come to any other conclusions than that he has heretofore expressed, that such an amendment is not germane, and therefore sustains the point of order.

3042. To a bill raising revenue by several methods of taxation the Committee of the Whole (overruling the Chairman) held an amendment proposing an additional method of taxation to be germane.

To a bill proposing an income tax, an estate tax, and certain excise taxes, an amendment proposing a tax on the undistributed profits of corporations accruing during the taxable year was held to be germane.

On February 21, 1924[3] the Committee of the Whole House on the state of the Union was considering the bill H. R. 6715, the revenue bill, proposing to raise

[1] First session Sixty-eighth Congress, Record, p. 2950.

[2] William J. Graham, of Illinois, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 2916.

revenue through the levying of various taxes, including an income tax, a corporation tax, excise taxes, and taxes derived from other methods of taxation.

Mr. James A. Frear, of Wisconsin, moved to amend the bill by adding a new section as follows:

In addition to the taxes herein provided there shall be levied, collected, and paid on that portion of the net income of every corporation, not distributed in the form of cash dividends, a tax upon the amount of such net income for such year in excess of the credits provided in section 236, and a further deduction of $3,000 for such year at the following rates: Five per cent of the amount of such excess not exceeding $20,000; 10 percent of the amount of such excess above $20,000.

Mr. John Q. Tilson, of Connecticut, made the point of order that the amendment was not germane.

After exhaustive debate the Chairman [1] held that the proposed tax on undivided profits was not in the class with other methods of taxation provided by the bill and sustained the point of order.

Mr. Frear appealed from the decision of the Chair and the vote being taken by tellers, the yeas were 150, the noes were 164, and the decision of the Chair did not stand as the judgment of the committee.

3043. To a proposed constitutional amendment authorizing taxation of income derived from securities issued under authority of the States an amendment authorizing taxation of income derived from other sources was held not be germane.

On January 23, 1923,[2] the Committee of the Whole House on the state of the Union was considering the joint resolution (H. J. Res. 314) proposing to amend the Constitution by adding an article authorizing the taxation of income derived from securities issued under the authority of the States, as follows:

SECTION 1. The United States shall have power to lay and collect taxes on income derived from securities issued, after the ratification of this article, by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued, after the ratification of this article, by or under the authority of the United States or any other State.

Mr. George Huddleston, of Alabama, offered this substitute:

In the exercise of the power to lay and collect taxes on incomes as granted by Article XVI, Congress shall lay and collect taxes on incomes derived from securities issued by or under the authority of the United States an by or under the authority of any State, Territory, or possession, and on incomes derived from salaries or compensation by all public officers, and on incomes derived from all other sources whatsoever, all without discrimination on account of the source from which derived.

Mr. William R. Green, of Iowa, submitted that the proposed amendment was not germane to the joint resolution.

After debate the Chairman [3] ruled:

The resolution brought in by the Committee on Ways and Means, H. J. Res. 314, deals with State securities, public securities, bonds; while the amendment offered by the gentleman

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[1] William J. Graham, of Illinois, Chairman.

[2] Fourth session Sixty-seventh Congress, Record, p. 2276.

[3] Clifton N. McArthur, of Oregon, Chairman.

from Alabama deals with income-tax questions, the salaries of public officials, and other matters, and in the judgment of the Chair it is clearly not germane to the resolution pending.

3044. To a section of a revenue bill relating to tax returns required by the bill an amendment relating to all tax returns was held not to be germane.

On February 22, 1924,[1] the bill H.R. 6715, the revenue bill, was being read for amendment under the five-minute rule in the Committee of the Whole House on the state of the Union.

Mr. James A. Frear, of Wisconsin, offered an amendment striking out the pending paragraph and inserting in lieu thereof an amendment reading in part as follows:

All tax proceedings and determinations subject to reasonable regulation shall be public, and an advance calendar of all hearings of contested tax rulings shall be open to the public.

Mr. William R. Green, of Iowa, raised the question of order that the amendment was not germane.

After debate the Chairman[2] sustained the point of order and said:

This is offered as a substitute for section 257.

Section 257(a) provides for returns to be pubic records and deals entirely with income-tax returns and records and states that under certain circumstances those income-tax returns shall be public records, and under certain other circumstances they shall not be public records. The gentleman from Wisconsin offers an amendment as follows: To insert in lieu of that language this provision:

"That when returns of any person shall be made as provided in this title, the returns, together with any correction thereof which may have been made by the commissioner, shall be filed in the Treasury Department and shall constitute public records and be open to inspection as such, under the same rules and regulations that govern the inspection of other public records."

Thus far, obviously, the language is germane to the section. Then follows this paragraph:

"All tax proceedings and determinations, subject to reasonable regulation, shall be public, and an advance calendar of all hearings of contested tax rulings shall be open to the public."

The query arises, just what that language means. The language is "all tax proceedings." What sort of tax proceedings? Income-tax proceedings, internal revenue tax proceedings, external revenue tax proceedings, or what sort of proceedings? In other words, it seems to the Chair that the language "all tax proceedings," if this amendment is to be considered germane, should be limited by some appropriate language so that it will be confined to the internal revenue provisions contained in this bill.

3045. To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of that law rather than to those of the bill was held not to be germane.

To a proposition relating exclusively to the educational test in the current immigration law an amendment applying to the law as a whole was held not to be germane.

On December 18, 1912,[3] the bill (S. 3175) to regulate the immigration of aliens to the United States, which was being considered under a special order, was read the third time.

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[1] First session Sixty-eighth Congress, Record, p. 2954.

[2] William J. Graham, of Illinois, Chairman.

[3] Third session Sixty-second Congress, Record, p. 863.

Mr. James R. Mann, of Illinois, moved to recommit the bill to the Committee on Immigration and Naturalization with instructions to that Committee to report it back forthwith with an amendment in part as follows:

The word "alien" wherever used in this act shall include foreign-born, unnaturalized seamen. That the term "United States," as used in the title as well as in the various sections of this act, shall be construed to mean the United States, including the Territories of Alaska and Hawaii; and if any alien shall attempt to enter the United States from the Canal Zone, the Philippines, Porto Rico, or any other place outside of the United States but subject to the jurisdiction thereof, such alien shall be permitted to enter only on the conditions applicable to aliens entering the United States from a foreign country. That the term "seamen" as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign port or place. That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests.

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that it was not permissible by a motion to recommit to propose amendments not germane to the bill.

After debate, the Speaker [1] ruled:

The rule about motions to recommit is simple enough in its statement, though it is sometimes difficult to apply it. It is that the propositions contained in a motion to recommit must have been germane to the subject matter of the bill if offered as an amendment. The situation in this case is very peculiar. The Chair does not believe that a similar situation has arisen in the 18 years he has been in the House. In the first place, this special rule is peculiar. It contains a provision that the Chair does not remember ever to have seen in one before; and while the House got out from under that rule when it got back into the House, still the Chair will read the rule and see what the House was trying to do and what the House intended to do:

"Resolved, that immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3175, with the amendment reported by the House Committee on Immigration and Naturalization."

Of course, everybody who paid any attention to the debate knows the amendment was a substitute and covered everything the House wanted to do.

"That there shall be four hours' general debate, to be divided equally between those favoring and those opposing the measure. At the expiration of said four hours' general debate the same shall be considered under the five-minute rule as follows: The amendment proposed by the House committee shall be first read for amendment and perfected. After same has been so perfected the vote shall be taken upon the question of the adoption of said amendment. If same shall be adopted, then the Senate bill shall not be read."

That is the remarkable statement in that rule. If it ever was in any other, the Chair has forgotten it.

"If same shall be adopted, then the Senate bill shall not be read, but the committee shall rise and report the measure to the House. If it shall not be adopted, then the Senate bill shall be considered for amendment under the five-minute rule, and when perfected the committee shall rise and report the same to the House. Immediately upon the perfected measure being reported to the House the previous question shall be considered as ordered upon the bill and all pending amendments to final passage"—and there was only one amendment, that is, the committee amendment, and it was not changed in a single respect—"and all pending amendments to final passage without intervening motions, except one motion to recommit. But a separate vote may be demanded upon any amendment or amendments thereto adopted by the Committee of the Whole."

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[1] Champ Clark, of Missouri, Speaker.

The only purpose of reading that rule was to show what the House was trying to get at. Evidently the intention of the House was to consider the educational test and nothing else. The Senate bill has never even been read to the House. The question before the House is evidently this educational test and nothing else.

The Senate bill discusses the whole question of immigration. It defines the terms to be used. It has a section in it as to people in the Philippines, and so on, to the end of the bill. But the House indicated its intentions to hold this matter down to the educational test. That is all the Chair reads this special rule for. Under the rule the gentleman from Illinois could not offer the propositions in this motion to recommit as amendments in the Committee of the Whole. The House was so determined that it would not consider the Senate bill that it provided it should not be even read—a most extraordinary provision.

There is another thing about this. The Chair has held—this occupant of the chair, and it was held before, although not quite so elaborately as the present Speaker stated it, because the matter had not been argued, I suppose, so vociferously—but on one occasion the Chair held that you could not do by indirection, in a motion to recommit, what you could not do by direction, and the Chair was backed up by the authority of a long line of illustrious Speakers. You can not take a proposition that has been ruled out directly by the House and put it back again by a motion to recommit.

In this case clearly the only thing before this House is the educational test. If the general Senate bill had been pending and the previous question had not been ordered, and the gentleman from Illinois or any other gentleman had offered the educational test as an amendment to a general immigration bill, the Chair would have held it in order, because it would have been in order. But this situation turns the question squarely around. The matter pending before this House is on the educational test. This motion of the gentleman proposes to recommit with an entire immigration bill as an amendment. Consequently the point of order is sustained.

3046. To a bill regulating the entry of aliens into the United States an amendment providing like restrictions on admission of anarchists, Bolshevists, and others, was held not to be germane.

On October 15, 1919,[1] the House in the Committee of the Whole House on the state of the Union was considering the bill (H. R. 9782) to regulate further the entry of aliens into the United States, when Mr. Henry I. Emerson, of Ohio, proposed this amendment:

Which restrictions shall provide that no Bolshevist, anarchist, or I.W.W. sympathizer shall be allowed to enter the United States.

Mr. John Jacob Rogers, of Massachusetts, submitted a point of order.

After debate the Chairman[2] ruled:

The bill is designed to prevent the admission of aliens. The amendment offered by the gentleman from Ohio adds to it other classes which may not be admitted, anarchists, I.W.W.'s, Bolshevists, and so on. The rule is clear that where a bill is limited to one class you can not by amendment add several other classes, and the Chair sustains the point of order.

3047. To a proposition relating to one class of individuals a proposition relating to another class of related individuals is not germane.

To a section proposing the admission of aliens fleeing from religious persecution an amendment proposing the admission of aliens fleeing from political persecution was held not to be germane.

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[1] First session Sixty-sixth Congress, Record, p. 6982.

[2] Simeon D. Fess, of Ohio, Chairman.

On April 21, 1921,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 4075) to limit the immigration of aliens into the United States.

The Clerk read the following committee amendment providing for the admission of aliens who prove to the satisfaction of the proper immigration officer or of the Secretary of Labor that they are seeking admission to the United States to avoid religious persecution in the country of their last permanent residence, whether such persecution is evidenced by overt acts or by laws or governmental regulations that discriminate against the alien or the race to which he belongs because of his religious faith.

Mr. Adolph J. Sabath, of Illinois, proposed to amend the committee amendment by the addition of the following provision:

After the word "faith," insert: "Aliens fugitive or refugee for political reasons, which facts may be established by the verdict of a jury on an issue framed in a habeas corpus proceeding in the district court of the United States where such alien may be sojourning."

Mr. Albert Johnson, of Washington, raised the question of order that the proposed amendment was not germane to the committee amendment to which it was offered.

After debate the Chairman[2] ruled:

The gentleman from Illinois offers an amendment which seeks to add a different class to that of the committee amendment, namely, to fugitives or refugees for political reasons. The amendment under consideration excepts only those from the computation who seek admission to this country to avoid religious persecution. This is adding a new class apart and distinct to that in the amendment under consideration and accordingly is out of order. The Chair will say that he will recognize the gentleman to offer his amendment as a new subdivision. The point of order made by the gentleman from Washington is sustained.

3048. An amendment providing for the dissemination abroad of information designed to attract a better class of immigrants was held not to be germane to a bill to limit the immigration of aliens into the United States.

On April 11, 1924,[3] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 7995) to limit the immigration of aliens into the United States, when Mr. James B. Aswell, of Louisiana, offered as a new section an amendment in part as follows:

The Secretary of Labor shall from time to time in cooperation with the various States and Territories desiring or in need of immigration collect and publish for distribution in foreign countries information concerning the resources, products, and physical characteristics of each such State or Territory and the opportunities for profitable employment existing therein, and such other information as will enable consular officers to select immigrants of the class and occupation needed and who are qualified by education, training, or previous experience to meet the necessary requirements. The publication herein provided for shall be in the language of the country where distributed, and shall be in such form as shall by regulations be prescribed. Consular officers shall post such information in public or other places or otherwise distribute the same in such manner and to such extent as will bring the information to the notice and attention of prospective immigrants.

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[1] First session Sixty-seventh Congress, Record, p. 549.

[2] William H. Stafford, of Wisconsin, Chairman.

[3] First session Sixty-eighth Congress, Record, p. 6158.

Mr. John E. Raker, of California, raised the question of order that the amendment was not germane.

After debate the Chairman [1] ruled:

The amendment offered by the gentleman from Louisiana is composed of four or five different sections dealing with the question of advertisements in the different foreign countries with respect to prospective immigrants, and dealing subsequently with the conduct of the immigrants who are admitted to this country.

The Chair is of the opinion that the amendment is not germane to the point in the bill at which it is offered, and the point of order is sustained.

3049. To a bill excluding certain several classes of immigrants an amendment excluding all immigrants was held to be germane.

On April 11, 1924,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 7995) to limit the immigration of aliens into the United States, when Mr. Albert H. Vestal of Indiana, offered the following amendment to be inserted as a new section:

Whenever the Secretary of Labor and the Secretary of Commerce shall jointly certify that unemployment exists in the continental United States or any specified Territory or insular possession thereof to such an extent as in their opinion immigration thereto should be suspended in whole or in part from all or certain designated countries, the President of the United States shall by proclamation suspend immigration for the time and to the extent set forth in such certificate and during such time immigration certificates shall not be issued to any immigrant who is a national of any country designated in such proclamation, nor shall such immigrant be permitted to enter the continental United States or such specified Territory or insular possession thereof.

Mr. John E. Raker, of California, made the point of order that the amendment was not germane.

After debate the Chairman [3] held:

The Chair is inclined to the opinion that the amendment is germane. The whole bill deals with the question of restricting the number of aliens who can come to this country, and it seems to the Chair that an amendment providing that all could be kept out for a certain time would be germane, and that, regardless of the fact that it departs from the general trend of the bill, it does not depart to such an extent as to affect the germaneness, and therefore the point of order is overruled.

3050. To a bill regulating immigration an amendment providing that the operation of the proposed act should not conflict with an informal "agreement" with Japan was held not to be germane.

On April 12, 1924,[4] the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 7995, the immigration bill, providing for the exclusion of certain classes of aliens applying for admission to the United States.

Mr. Emanuel Celler, of New York, proposed to insert as a new section the following:

Nothing in this act shall affect the validity of the "gentleman's agreement" of 1907 between the United States and Japan concerning immigration from Japan, which agreement is hereby reaffirmed.

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[1] Everett Sanders, of Illinois, Chairman.

[2] First session Sixty-eighth Congress, Record, p. 6143.

[3] Frederick R. Lehlbach, of New Jersey, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 6231.

Mr. Albert Johnson, of Washington, having raised the question of order that the amendment was not germane, the Chairman [1] said:

The amendment offered by the gentleman from New York is an amendment dealing with diplomatic relations. It is not germane at this point of the bill if germane at all, and the point of order is sustained.

3051. To a bill providing for an eight-hour day and creating a commission to investigate the subject, an amendment authorizing the appointment of a commission to arbitrate labor disputes and prevent strikes was held not to be germane.

On September 1, 1916,[2] the House was considering the bill (H. R. 17700) to establish an eight-hour day for employees of interstate carriers.

The bill was ordered to be engrossed and was read the third time, when Mr. John A. Sterling, of Illinois, moved to recommit it to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith with an amendment for the creation of a board of mediation and conciliation authorized to induce employers and employees to submit their labor controversies to arbitration and providing for such arbitration.

Mr. William C. Adamson, of Georgia, made the point of order that the amendment proposed in the motion to recommit was not germane to the bill.

The Speaker [3] sustained the point of order and said:

The gentleman from Illinois, Mr. Mann, very correctly suggests that the Speaker does not have to forget all he knows in order to rule upon a point of order, and what the Chair does know is that those six propositions laid down by the President embodied two principal features, one of which was to prevent a strike from taking place on all of the railroads of the United States at 7 o'clock next Monday morning, and the other looking to a general system of preventing strikes in days to come. The one that we are working on now is to prevent a strike at 7 o'clock next Monday morning. All of the propositions laid down in the motion of the gentleman from Illinois, Mr. Sterling, may be of the highest merit. The Chair is not passing upon that; he does not have to pass upon it. This bill contains four sections. One of them establishes an eight-hour law. The second section is to appoint a commission of observation—and that is exactly what it is—which is to make its report at a certain time. The third is that, pending the report of this commission and for a period of 30 days thereafter, the compensation of the railway employees subject to the act shall not be reduced below the present standard day's wage, and that for all necessary time in excess of eight hours such employees shall be paid at a rate not less than the pro rata rate for such standard eight-hour workday. Section 4 prescribes penalties for violating the provisions of the bill.

The Chair does not think that the motion of the gentleman from Illinois, Mr. Sterling, is germane, and, therefore, sustains the point of order.

An appeal by Mr. James R. Mann, of Illinois, was, on motion of Mr. John J. Fitzgerald, of New York, laid on the table—yeas 204, nays 87.

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[1] Everett Sanders, of Indiana, Chairman.

[2] First session Sixty-fourth Congress, Record, p. 13606.

[3] Champ Clark, of Missouri, Speaker.

3052. To a bill prohibiting the mailing of revolvers an amendment prohibiting the mailing of publications containing advertisements of revolvers was held not to be germane.

To a bill prohibiting the mailing of revolvers except to certain public officials an amendment proposing an additional excepted class was construed as a further exception and admitted as germane.

On December 17, 1924,[1] the House had under consideration the bill (H. R. 9093) declaring revolvers and other firearms capable of being concealed on the person unmailable.

Mr. Thomas L. Rubey, of Missouri, offered an amendment proposing to exclude from the mails:

Any newspaper, circular, pamphlet, or any publication of any kind containing any advertisement for the sale of any pistol, revolver, or other firearm.

Mr. C. William Ramseyer, of Iowa, having raised a question of order against the amendment, the Speaker[2] held that the amendment was not germane to the bill and sustained the point of order.

Thereupon Mr. John Philip Hill, of Maryland, proposed this amendment:

Provided, That no firearm shall be mailed to any person unless such person is required to wear a prescribed and distinctive uniform when armed with such firearm.

Mr. Ramseyer again raised the question of order as to germaneness.

The Speaker said:

The bill is all in one section. The part pertaining to the mailing of firearms is an exception. The Chair can not see why there can not be another exception. The Chair overrules the point of order.

3053. To a bill providing for the establishment of branch banks an amendment proposing regulations for the control of such branches was held to be germane.

On January 13, 1925,[3] the bill (H. R. 8887) providing for the amendment of the national bank act and the Federal reserve act was being considered in the Committee of the Whole House on the state of the Union, when section 8 of the bill providing for the establishment of branch banks by certain national banking associations was read.

Mr. Emanuel Celler, of New York, submitted an amendment as follows:

Provided, That all such branches of such associations shall be established, maintained, and operated subject to the same rules and regulations, if any, prescribed in pursuance of section 9 of the Federal reserve act by the Federal Reserve Board for the establishment, maintenance, and operation of branches by State banks and trust companies which may be members of the Federal reserve banks.

Mr. Otis Wingo, of Arkansas, raised the question of order that the amendment was not germane.

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[1] Second session Sixty-eighth Congress, Record, p. 735.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-eighth Congress, Record, p. 1839.

The Chairman [1] ruled:

Section 8 of this bill under consideration provides for the establishment in certain locations and under certain circumstances of branch banks of national banks and provides that such branches of such national banking associations shall be subject to the general supervising powers of the Comptroller of the Currency and shall operate under such regulations as he may prescribe. Now the amendment offered by the gentleman from New York provides further that not only should the establishment of such branches be limited by the provisions contained in the bill; that is, supervisory powers of the Comptroller and the regulations he may prescribe, but that such establishment of branches shall be subject to the further regulations, as provided in section 9 in reference to the admission of State banks to the Federal reserve system. Now with the wisdom or unwisdom of the proposition of such further limitation upon the establishment of branches the Chair has nothing to do, and is ruling only on the germaneness of the amendment offered. The Chair thinks it will not be questioned that if instead of referring to section 9 the limitations contained in section 9 were set forth in language and sought to be added to the limitations already carried in the section as reported by the committee, the point of order would not be good. This is a further limitation, prescribing still further regulations with respect to the establishment of branches, and therefore is germane, and the Chair overrules the point of order.

3054. To a proposition providing for the attainment of an objective by a specific method a proposal to achieve the same objective through the adoption of another method closely related may be germane.

To a bill authorizing the Secretary of War in his discretion to discharge enlisted men an amendment directing the Secretary of War to prescribe regulations permitting the discharge of such men was held to be germane.

An instance wherein a proposal to instruct an executive to take definite action was held to be germane to a proposal to authorize him to take such action.

A paragraph subject to the point of order that it constitutes legislation on an appropriation bill but allowed to remain in the bill is open to germane amendments.

On May 6, 1921,[2] while the army appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, the Clerk read:

The Secretary of War shall discharge from the military service with pay and with the form of discharge certificate to which the service of each, after enlistment, shall entitle him all enlisted men under the age of 18 on the application of either of their parents or legal guardian, and shall also furnish to each transportation in kind from the place of discharge to the railroad station at or nearest to the place of acceptance for enlistment, or to his home if the distance thereto is no greater than from the place of discharge to the place of acceptance for enlistment, but if the distance be greater he may be furnished with transportation in kind for a distance equal to that from place of discharge to place of acceptance for enlistment; and the Secretary of War is authorized in his discretion to grant applications for discharge of enlisted men without regard to the provisions of existing law respecting discharges.

Mr. Harry E. Hull, of Iowa, proposed this amendment:

After the word "is," strike out the words "authorized in his discretion" and insert "directed under such reasonable regulations as he may prescribe"; after the word "discharges," insert the words "until the number in the Army has been reduced to 150,000 enlisted men, not including the Philippine Scouts."

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[1] Frederick R. Lehlbach, of New Jersey, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 1134.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the amendment was not germane.

Mr. Horace M. Towner, of Iowa, opposed the point of order and said:

Mr. Chairman, the whole paragraph is subject to a point of order, as the Chair suggests. However, that point of order was not made. Therefore it becomes a part of the bill proper for consideration. Now, the point of order with regard to this particular amendment is that it is not germane. It seems to me that clearly it is germane. The particular sentence in the original bill is as follows:

"The Secretary of War is authorized in his discretion to grant applications for discharge of enlisted men without regard to the provisions of existing law respecting discharges."

The amendment is as follows, so that that particular paragraph will read:

"And the Secretary of War is directed under such reasonable regulations as he may prescribe to grant applications for discharge," and so forth. So it will be seen, I think, clearly, by the Chair that there is no question but what the amendment refers to the particular matter directly. In effect it only charges "is authorized in his discretion," and "directs" him. To say that is not a germane provision it seems to me is going altogether too far. So it appears that as far as the question of germaneness is concerned the amendment of the gentleman from Iowa is clearly within the rule.

The Chairman [1] decided:

This is a general appropriation bill. The paragraph is clearly legislation, and would have been subject to a point of order had anyone raised that point of order. That point of order, however, was not raised. Now comes the gentleman from Iowa and offers an amendment, to which a point of order is made on the ground that it is not germane to the paragraph in the bill.

It is not within the province of the Chair to decide as to the merits of the proposition. Personally, as a Member of the House, the present occupant of the chair would be opposed to the adoption of such an amendment and therefore does not approach the consideration of it with any predilection in favor of holding the amendment to be in order. The question is, is it germane under paragraph 7 of Rule XVI? This paragraph of the rule reads:

"And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

This question of germaneness has been considered in a great number of decisions, all turning upon this one point: When is a proposition or subject different from that under consideration? The subject under consideration in this paragraph is, in the first part of it, the discharge of men under 18 years of age. If it stopped there, then this paragraph might be held out of order as introducing a new subject. But it does not stop there. It goes further. The Chair will read the last clause of the paragraph:

"And the Secretary of War is authorized in his discretion to grant applications for discharge of enlisted men without regard to the provisions of existing law respecting discharges."

What is the subject of consideration in this part of the paragraph? It is the discharge of men from the Army. It provides a method; that is, that the Secretary of War is authorized in his discretion to grant applications for discharge, and so on, without regard to the existing law. The amendment proposes a somewhat different way, and yet in the opinion of the Chair it clearly relates to the same subject, in that the Secretary of War is directed, under such reasonable regulations as he shall prescribe, to grant application for the discharge of enlisted men, without regard to the provisions of existing law respecting discharges, until the number has been reduced to 150,000 enlisted men.

The Chair is unable, after a review of a number of decisions, to discover such difference in subject matter as would warrant the Chair in holding that this amendment is not germane to the paragraph. Therefore the Chair overrules the point of order.

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[1] John Q. Tilson, of Connecticut, Chairman.

3055. To a proposition designed to achieve a certain objective in one way a proposal to attain the same objective in another and closely related way is germane.

To a resolution proposing to amend the rules of the House in a number of particulars in order to establish a Budget system, as amendment changing the rules in other particulars with the same object in view was held to be germane.

On June 1, 1920,[1] the House took up the consideration of the resolution (H. Res. 324) proposing to amend the rules by transferring from various legislative committees to the Committee on Appropriations jurisdiction to report appropriations, and making certain other changes in the rules in order to provide for the establishment of a Budget system.

After consideration, the question being on agreeing to the resolution, Mr. Sydney Anderson, of Minnesota, moved to recommit the resolution to the Select Committee on the Budget, reporting it, with instructions to report the same back forthwith with an amendment striking out all after the resolving clause and inserting in lieu thereof the following:

There shall be a committee on the budget, to consist of the chairman and ranking member of the majority party and the ranking member of the minority party on the following committees: Appropriations, Ways and Means, Rivers and Harbors, Agriculture, Foreign Affairs, Military Affairs, Naval Affairs, Post Office and Post Roads, Indian Affairs, Public Buildings and Grounds, and the District of Columbia. The chairman of the Committee on Appropriations shall be the chairman of the budget committee.

It shall be the duty of the budget committee to consider the budget transmitted by the President at the beginning of each regular session of Congress, and from time to time to determine the aggregate amount of appropriations which may be reported by any committee having authority to report appropriations under the rules. No committee shall report appropriations in excess of the total amount authorized by the budget committee for such committee for the ensuing fiscal year.

Mr. James W. Good, of Iowa, made the point of order that the proposed amendment was not germane to the pending resolution.

After debate the Speaker[2] held:

The original resolution amends the rules of the House in various ways, all applying to the one general subject. Now the gentleman from Minnesota offers his motion to recommit, and the objection is made that it is not germane. This proposition has been for years one of the alternative programs for establishing the budget system. It has been advocated as accomplishing the same result as the main resolution. It has been associated constantly with the subject and is substantially akin to it and is certainly in order unless it is technically not by precedents germane. The Chair would be disposed consequently to hold it in order unless very clearly it were out of order, inasmuch as it affords the House an opportunity to express its preference as to the different budget methods. The original resolution covers several rules, and the Chair thinks that the fact that this motion to recommit does authorize a new committee does not make it out of order, because the Chair thinks it is germane to the whole resolution. The Chair, therefore, overrules the point of order.

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[1] Second session Sixty-sixth Congress, Record, p. 8120.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

3056. To a proposition to accomplish a certain purpose by one method a proposition to achieve the same purpose by another closely related method is germane.

To a bill proposing the adjudication of claims arising out of informal contracts with the Government, through the agency of the Secretary of War, an amendment proposing to adjudicate such claims through the agency of a commission appointed for that purpose was held to be germane.

On January 9, 1919,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 13274) for the relief of informal contracts, providing for the settlement of claims arising from informal obligations incurred by the Government during the war, through the mediation of the office of the Secretary of War.

Mr. J. Hampton Moore, of Pennsylvania, offered an amendment proposing to adjudicate such claims through judicial determination of a commission.

Mr. Finis J. Garrett, of Tennessee, raised the question of order that the proposed amendment was not germane.

After debate the Chairman[2] held:

This bill before the House has for its object the validating and settling of damages arising out of informal contracts made by the War Department. The bill before the House provides that the Secretary of the War, or any of his agents or representatives, can adjust and settle these differences. The amendment of the gentleman from Pennsylvania provides a different method or a different agent or a different tribunal to settle these differences. The Chair believes it is germane to the bill before the House. The Chair does not believe the House is confined to the particular method of settlement of these claims that the committee reports. The Chair believes the amendment is germane proposing another vehicle, and it is for the House to determine which shall be adopted. The Chair overrules the point of order.

3057. To a text authorizing arbitration of claims against the Government an amendment providing an appropriation to pay claims so arbitrated was held not to be germane.

On February 12, 1917,[3] during consideration of the naval appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Lemuel P. Padgett, of Tennessee, proposed an amendment authorizing the Government under certain contingencies to take over and operate private factories and providing that the owners of such plants should have the right to sue for compensation in the Court of Claims.

To this proposal Mr. Thomas S. Butler, of Pennsylvania, offered an amendment providing for the appointment of commissioners to arbitrate such claims and concluding as follows:

Whenever any department of the Government of the United States shall have exercised any of the powers herein conferred, such department, either before or after the proceedings above mentioned, is hereby a authorized from time to time to pay to the injured party or parties, either its discretion, out of any moneys appropriated for that purpose, either the whole or any part of parts of treasonable damages admitted by such department to have been sustained, or which

[1] Third session Sixty-fifth Congress, Record, p. 1209.

[2] Charles R. Crisp, of Georgia, Chairman.

[3] Second session Sixty-fourth congress, Record, p. 3140.

are likely to be sustained, by reason of the exercise of such power, without prejudice to the rights of either party by reason of such payment of payments and upon final judgment being entered in any such proceeding, the proper department is hereby authorized and directed to draw its warrant on the Treasury for the amount of said judgment and costs, and said amount for the payment thereof is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. Padgett having raised a question of order against the amendment, the Chairman[1] ruled:

In the amendment offered by the gentleman from Tennessee provision is made in the last clause, page 6:

"It shall make just compensation therefor"—that is, the property that has been taken by the Government—"and in default of agreement upon the damages, compensation, price, or rental due by reason of any action hereunder the person to whom the same is due shall be entitled to sue the United States to recover his fair and reasonable damages in the manner provided for by section 2, paragraph 20, section 145 of the Judicial Code."

Which, as the chair understands it, would allow suit in the Court of Claims for damages. Now, the amendment offered by the gentleman from Pennsylvania that suit may be brought in the proper district court of the United States, or that within the jurisdiction of this court it may be arbitrated in the judgment of the Chair and in the opinion of the Chair that part of the amendment of the gentleman from Pennsylvania is germane to the amendment offered by the gentleman from Tennessee. But in the later clause of the amendment offered by the gentleman from Pennsylvania he creates an indefinite and continuing appropriation, and the question of germaneness, as the Chair has stated, in the first part of the amendment of the gentleman from Pennsylvania, he would hold it was germane, but in the opinion of the Chair the amendment of the gentleman from Pennsylvania creating a continuing and indefinite appropriation destroys the germaneness, and the point of order is sustained.

3058. To a section authorizing the assignment of clerks an amendment prescribing qualifications to be considered in the appointment of such clerks was held not to be germane.

On June 9, 1921,[2] while the bill (H. R. 6611) to establish a veterans' bureau was being considered in the Committee of the Whole House on the state of the Union, the Clerk read the following section:

For the purpose of this act, the director is authorized to detail from time to time clerks or persons employed in the bureau, to make examinations into the merits of compensation and insurance claims, whether pending or adjudicated, as he may deem proper, and to aid in the preparation, presentation, or examination of such claims; and any such person so detailed shall have power to administer oaths, take affidavits, and certify to the correctness of the papers and documents pertaining to the administration of this act.

Mr. William R. Stevenson, of South Carolina, proposed this amendment:

Provided, That in appointing clerks to be detailed for such service, or for any other service under this bill, former soldiers who are eligible shall be preferred, in accordance with the act of July 11, 1919.

Mr. Everett Sanders, of Indiana, having made the point of order that the amendment was not germane, the Chairman[3] said:

The Chair, in the first place, can not concern himself about the merits of this amendment. The Chair does not think that because this bill is in the interest of ex-service men that any amend-

[1] Robert N. Page, of North Carolina, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 2346.

[3] Sydney Anderson, of Minnesota, Chairman.

ment which might be proposed in the interest of ex-service men would therefore be in order as an amendment to this bill. The particular section to which this amendment is offered deals solely with the detail of clerks already in the service and its provisions are limited to such details, while the amendment of the gentleman from South Carolina deals with original appointments to the service. The Chair thinks that an amendment dealing with original appointments to the service is not germane to a provision which deals solely with details within the service, and therefore the Chair sustains the point of order.

3059. To a bill discontinuing certain subtreasuries and repealing the law authorizing them an amendment providing for officers and employees of such subtreasuries was held to be germane.

On January 17, 1919,[1] during consideration of the legislative, executive, and judicial appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read:

The Secretary of the Treasury is authorized and directed to discontinue the offices of the assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis, and San Francisco from and after July 1, 1919; and section 3595 of the Revised Statutes and all laws or parts of laws so far as they authorize the establishment and maintenance of officers of assistant treasurers in the cities enumerated are repealed from and after the said date.

Mr. John E. Raker, of California, offered an amendment appropriating for the salaries of the officers and employees of the subtreasuries proposed to be discontinued.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment was not germane.

After debate the Chairman[2] ruled:

The paragraph in question provides that—

"The Secretary of the Treasury is authorized and directed to discontinue the offices of the assistant treasurers at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis, and San Francisco from and after July 1, 1919; and section 3595 of the Revised Statutes and all laws or parts of laws, so far as they authorize the establishment and maintenance of offices of assistant treasurers in the cities enumerated, are repealed from and after the said date."

That provision or paragraph would be subject to a point of order as new legislation if it were not for the Holman rule, which provides that legislation may be incorporated in appropriation bills where it retrenches expenditures or decreases the whole amount covered by the bill. Manifestly, if these Subtreasuries are abolished, it would diminish expenditure. For that reason, under the Holman rule the paragraph is in order.

Now, the gentleman from California offers an amendment, the purport of which is to restore provisions for the subtreasurers and the other officers and employees in Subtreasuries, all now authorized by law.

We have on the one hand the proposition to abolish the Subtreasuries and on the other hand the proposition to make provision by appropriation for the continuance of the various offices named in this paragraph of the bill. It seems to the Chair that the amendment offered by the gentleman from California is germane to the subject matter of the paragraph. On the one hand the proposition is to abolish the Subtreasuries; on the other hand to make appropriations for the subtreasuries now authorized by law. The point of order is overruled.

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[1] Third session Sixty-fifth Congress, Record, p. 1613.

[2] Joshua W. Alexander, of Missouri, Chairman.

3060. To a provision making appropriation for the acquiring and diffusing of information pertaining to agricultural products an amendment making appropriation for an investigation incident thereto was held to be germane.

On December 21, 1926,[1] during the consideration of the Department of Agriculture appropriation bill in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

For acquiring and diffusing among the people of the United States useful information on subjects connected with the marketing, handling, utilization, grading, transportation, and distributing of farm and nonmanufactured food products and the purchasing of farm supplies, including the demonstration and promotion of the use of uniform standards of classification of American farm products throughout the world, independently and in cooperation with other branches of the department. State agencies, purchasing and consuming organizations, and persons engaged in the marketing, handling, utilization, grading, transportation, and distributing of farm and food products, and for investigation of the economic costs of retail marketing of meat and meat products, $571,780: *Provided*, That practical forms of the grades recommended or promulgated by the Secretary for wool and mohair may be sold under such rules and regulations as he may prescribe, and the receipts therefrom deposited in the Treasury to the credit of miscellaneous receipts.

Mr. Tom Connally, of Texas, offered the following amendment:

After the word "receipts," insert: "For instituting and conducting scientific and technical research into American-grown cotton and its by-products and their present and potential uses, with a view to discovering new and additional commercial and scientific uses for cotton and its by-products, $50,000."

Mr. Walter W. Magee, of New York, made the point of order that the amendment was not germane.

After extended debate the Chairman[2] held:

The amendment offered by the gentleman from Texas is to make an appropriation "for instituting and conducting scientific and technical research into American-grown cotton and its by-products and their present and potential uses with a view to discovering new commercial and scientific uses for cotton and its by-products."

The gentleman from New York makes the point of order that the amendment is not germane and is an appropriation unauthorized by law. The gentleman from Texas answers the point of order made by the gentleman from New York by stressing the word "utilization" in the paragraph under consideration. The Chair has followed his argument and has studied the definition of the word "utilization" and does not find that in connection with the paragraph in question it deals directly with production of commodities designated in this bill. The Chair finds "utilize" is to make useful or to turn to profitable account or use, to make use of, as the utilization of the whole power of the machine; to utilize one's opportunities.

Now, the Chair considers that the paragraph in question has to do with information for the production of agricultural commodities, not to do with their marketing, and it was with that thought in view that the chair asked the question as to whether authority in law could be cited, that the term "utilization" should apply to consumption of an article after it has been produced, but the citation requested was not supplied. It therefore seems to the Chair, no citation of that nature having been furnished, that the contention of the gentleman from New York that the amendment is not germane even to the definition of the word "utilization" and that the para-

[1] Second session Sixty-ninth Congress, Record, p. 887.

[2] Allen T. Treadway, of Massachusetts, Chairman.

graph itself has to do with information concerning production rather than the use of the finished article.

The Chair will rule that the amendment is not germane and sustain the point of order.

Mr. Connally thereupon offered this amendment:

After the word "world," insert: "including scientific and technical research into American-grown cotton and its by-products and their present and potential uses with a view to discovering new and additional commercial and scientific uses for cotton and its by-products."

Mr. Magee having again raised the question of germaneness, the Chairman ruled:

The organic act establishing the Department of Agriculture designates as one of the objects of the establishment of the department the diffusion among the people of the United States of useful information upon the subject of agriculture. The Chair felt, in the first instance, that the gentleman from Texas offered an amendment which was not germane to the subject of the diffusion of knowledge among the people of the country in reference to agriculture, but was setting up new machinery to discover uses for cotton which was not in the nature, as the Chair understood it, of agricultural information. The second amendment offered by the gentleman from Texas directly applies to the part of the paragraph which provides, in accordance with the phraseology of the organic act, for the diffusion of agricultural knowledge among the people of the United States, and not having as its first purpose the making of an investigation and the making of an appropriation therefor. It seems to the Chair that while, very likely, it is the intention of the gentleman from Texas that his new amendment shall cover practically the same thing asked for under his original amendment that nevertheless it comes within the terms of germaneness in its phraseology at the place where he is offering it, namely, to diffuse information among the people of the United States relative to an agricultural product. The Chair, therefore, overrules the point of order.

3061. To a proposition to construct two ships by contract or in navy yards an amendment proposing to construct one in a navy yard and the other either by contract or in a navy yard was held to be germane.

On April 15, 1908,[1] the naval appropriation bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read:

That, for the purpose of further increasing the naval establishment of the United States, the President is hereby authorized to have constructed by contract or in navy yards, as hereafter provided, two first-class battleships to cost, exclusive of armor and armament, not exceeding $6,000,000 each similar in all essential characteristics to the battleship authorized by the act making appropriations for the naval service for the fiscal year ending June 30, 1908.

Mr. William M. Calder, of New York, offered the following amendment:

At least one of such battleships shall be built and constructed, under the direction of the Secretary of the Navy, at one of the navy yards; the other of said battleships may also be constructed at one of the navy yards, in the discretion of the Secretary of the Navy, or by contract, as hereinafter provided.

Mr. Martin B. Madden, of Illinois, raised the question of order that the amendment was not germane.

The Chair[2] ruled:

The paragraph now before the committee contains the provisions that the Secretary of the Navy may build the vessels herein authorized by contract or in such navy yards as he may desig-

[1] First session Sixtieth Congress, Record, p. 4807.

[2] James R. Mann, of Illinois, Chairman.

nate. The That provision of itself might be considered legislation, but, if so, any amendment germane to it would be in order. The Chair thinks the amendment offered by the gentleman from New York is germane and the Chair therefore overrules the point of order.

3062. To a bill authorizing the sale of Government property to one vendee an amendment proposing another vendee was held to be germane.

On February 17, 1925,[1] the Committee of the Whole House on the state of the Union was considering the bill (S. 2287) to permit the Secretary of War to dispose of, and the Port of New York Authority to acquire, the Hoboken Manufacturers' Railroad.

Mr. John J. Eagan, of New Jersey, offered an amendment proposing the sale of the railroad to the city of Hoboken instead of the port of New York.

Mr. Ogden L. Mills, of New York, made the point of order that the amendment was not germane as it provided for the substitution of one individual proposition for another individual proposition of the same class.

The Chairman[2] ruled:

The Chair must admit that the question raised here is not as clear or as free from doubt as he would like to have it. It is the general rule and well established that to one specific proposition another may not be added by way of amendment, because it would not be germane to the original specific proposition. The rule as to germane amendments is that "no proposition on a subject different from that under consideration shall be admitted under color of an amendment." The question always arises as to what is the "subject under consideration," as these terms are used under the rule. The case in hand is not clear, because there are a number of substantive elements entering into it. After such casual examination as the Chair has been able to give to the question it would seem that the subject matter under consideration in the bill is the disposition of certain property and the acceptance therefore of bonds instead of cash. The proposed amendment makes no substantial change in this regard. It therefore seems to the Chair that this is not a new proposition on a different subject, since it only substitutes one proposed recipient of the property for another. In effect, it is the striking out of one person or one entity and inserting in place of it another.

The subject matter of the bill being to dispose of certain property and to authorize the Secretary of War to accept a certain kind of character of security for the property, the amendment would strike out the port of New York as the recipient and insert the city of Hoboken. The subject under consideration remains the same, and even the manner of its disposition remains substantially the same, except as to the one to whom the disposition is made. It seems to the Chair that this alone is not sufficient to bring the amendment under the prohibition of the rule. The Chair, therefore, overrules the point of order.

3063. To a proposition to authorize the construction of naval vessels an amendment providing that they be constructed in Government plants was held to be germane.—On March 16, 1928[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 11526) to authorize the construction of certain naval vessels, when Mr. Frederick W. Dallinger, of Massachusetts, offered the following proviso:

And provided, That the first and each successive alternate cruiser upon which work is undertaken, together with the main engine, armor, and armament for such eight cruisers, the construc—

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[1] Second session Sixty-eighth Congress, Record, p. 3969.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] First session Seventieth Congress, Record, p. 4911.

tion and manufacture of which is authorized by this act, shall be constructed or manufactured in the Government navy yards, naval gun factories, naval ordnance plants, or arsenals of the United States.

Mr. Thomas L. Blanton, of Texas, having raised a question of order as to germaneness, the Chairman[1] said:

The Chair thinks that this amendment is clearly germane. The bill provides for the authorization of certain cruisers and vessels for the Navy, and the Chair thinks it is germane that certain details of their construction shall be provided. The Chair overrules the point of order.

3064. To a bill creating two boards with separate duties an amendment creating one board authorized to discharge the duties devolving upon both boards was held to be germane.—On May 28, 1930,[2] the Committee of the Whole House on the state of the Union had under consideration the joint resolution (S. J. Res. 49) to provide for the national defense by the creation of a corporation for the operation of the Government properties at and near Muscle Shoals, in the State of Alabama, providing for the creation of two boards, one charged with the duty of leasing the properties and the other with the duties of supervision and administration of the lease.

Mr. John J. McSwain, of South Carolina, offered an amendment authorizing the creation of a single board to discharge the functions of both boards.

Mr. William H. Stafford, of Wisconsin, made the point of order that the amendment was not germane.

The Chairman[2] overruled the point of order and said:

The amendment of the gentleman from south Carolina provides for one board which is directed to lease the property, and after it is leased to supervise the work of the lessee. The committee bill creates two boards for this purpose—the leasing board to lease the property, and after it is leased, it provides for the administrative board, consisting of the three Secretaries, to supervise and administer the lease and the work under it. Both bills set forth in detail the general principles which are to guide the different boards in negotiating the leases and in supervising the work afterwards. While the two propositions are not identical, it seems to the Chair that they are closely related and that one is germane to the other. The chair therefore overrules the point of order.

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[1] Robert L. Bacon, of New York, Chairman.

[2] Second session Seventy-first Congress, Record, p. 9743.

[3] Carl E. Mapes, of Michigan, Chairman.

Chapter CCLVII.[1]

GENERAL PRINCIPLES AS TO VOTING.

3065. Debate may continue, the previous question not having been ordered, until the 'Speaker has put the negative side of the question.—On Wednesday, February 2, 1910,[2] the House resumed consideration of the bill (H. R. 18813) to amend the act of August 28, 1894, relating to the compensation of storekeepers and gaugers, on which the House was dividing and on which the affirmative had been taken to adjournment on the previous Wednesday.

The previous question not having been ordered and the negative vote not having been taken on the passage of the bill, Mr. James R. Mann, of Illinois, took the position that debate was still in order, Mr. Mann said:

The previous question was not ordered on this bill, having been a report from the Committee on the Whole House on the state of the Union. While the affirmative of the question was put on last Wednesday and the negative of the question was put on last Wednesday, it will be necessary in any event to put the affirmative on the question again to-day if the bill proceeds to a vote. And under the rule, as I understand it, even after the affirmative should be put to-day, it would be in order for any gentleman to rise and ask to be recognized in debate. What took place the other day, so far as the vote is concerned, is wiped out by the fact that there was no quorum present; and hence that point being raised it was not within the power of the House to vote, and all of those proceedings must necessarily be gone over gain. The previous question not having been ordered on the bill, it seems to me that up to the time that the negative of the vote is ordered to-day it is in order to address the Chair and receive recognition in debate.

The Speaker[3] said:

The Chair will read from the Digest, on page 237, as follows:

"After the Speaker has put the affirmative part of the question, any Member who has not spoken before to the question can rise and speak before the negative be put"—

That is, where the previous question has not been ordered—"because it is no full question until the negative part be put."

Now, the affirmative was put and the negative was put, but upon the negative being put immediately the point of no quorum was made, and it was ascertained that no quorum was present.

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[1] Supplementary to Chapter CXXVII.

[2] Second session Sixty-first Congress, Record, p. 1389.

[3] Joseph G. Cannon, of Illinois, Speaker.

A quorum is absolutely necessary for the transaction of business. The Chair would be inclined to hold that everything that transpired in the House when no quorum was present would be void. The point of no quorum was not put when those who were in the affirmative voted, but it was put immediately when those who were in the negative voted, and it was ascertained that no quorum was present. There being no quorum present when the negative vote was put, it occurs to the Chair that the whole matter is void so far under the rule. Therefore, the Chair, within the language, would say that debate is in order, because "any Member who has not spoken before the question may arise and speak before the negative be put." The negative was put, but immediately it was disclosed that there was no quorum, and the putting of the negative to less than a quorum, it seems to the Chair, is void. There was a quorum present so far as the Journal disclose up to the time that the negative was put. Then it was immediately disclosed for the first time that there was no quorum, and therefore it occurs to the Chair that the House had no power to transact business.

Acting on the letter of the rule and the Manual, the Chair would say that when the affirmative was put there was a quorum and when the negative was put there was no quorum; and it seems to the Chair, from the Journal, that the negative would have to be put again; and the Chair recognizes the gentleman who desires to talk.

3066. After the Chair has put the affirmative, debate is still in order before the negative is put unless the previous question has been ordered.— On September 12, 1919,[1] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 8778) to amend the war risk insurance act, with the question pending on agreeing to an amendment proposed by Mr. John J. Esch, of Wisconsin.

The Chairman[2] having put the question the vote was taken on the affirmative, when Mr. Henry W. Temple, of Pennsylvania, addressed the Chair and being recognized engaged in a colloquy with Mr. Sam Rayburn, of Texas.

Mr. William B. Bankhead, of Alabama, made the point of order that the committee was dividing and debate was not in order.

The Chairman held:

The Chair must overrule the point of order made by the gentleman from Alabama upon the state of facts known to the Chair to exist, that the affirmative vote had just been ordered and not completed. The negative vote had not been taken at all. Under these conditions the gentleman rose and was recognized, and the Chair believes was properly recognized. The point of order made by the gentleman from Alabama is therefore overruled.

3067. Unless the previous question is operating, debate is in order after the third reading and pending the vote on the passage of the bill.— On December 1, 1919,[3] the bill (S. 183) providing additional time for the payment of purchase money under homestead entries of lands within the former Fort Peck Indian Reservation had been read the third time and the Speaker pro tempore announced the question on the passage of the bill.

Mr. Frank W. Mondell, of Wyoming, addressed the Chair and being recognized proceeded in debate.

Mr. Frederick C. Hicks, of New York, made the point of order that debate was no longer in order.

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[1] First session Sixty-sixth Congress, Record, p. 5312.

[2] John Q. Tilson, of Connecticut, Chairman.

[3] Second session Sixty-sixth Congress, Record, p. 13.

The Speaker pro tempore [1] overruled the point of order and said:

The previous question had not been ordered; and if there is anything before the House, the gentleman has the right to discuss it.

3068. Debate is not admitted after roll call has begun and it is not in order for a Member to explain or otherwise discuss his vote.—On July 22, 1919,[2] prior to the pronouncement of the vote by yeas and nays on a motion to adjourn, Mr. John T. Watkins, of Louisiana, said:

Mr. Speaker, in view of the unsettled condition of affairs in the city, and the anxiety of some members to be at home with their families, I change my vote from "nay" to "yea."

The Speaker [3] admonished:

The gentleman must not debate it.

3069. After a vote has been announced by the Speaker it is not in order for a Member to change or withdraw his vote even though inadvertently cast in violation of a pair.—On December 19, 1911,[4] Mr. J. Hampton Moore, of Pennsylvania, being recognized to make a personal explanation, said:

Mr. Speaker, on Saturday last I voted on the mileage question, overlooking the fact that I was paired with the gentleman from Alabama, Mr. Hobson. I voted "no." In fairness to the gentleman from Alabama, as well as to myself, I now ask that I may be permitted to withdraw that vote and to be recorded "present."

The Speaker [5] ruled:

The Chair will state that this question has arisen twice, and it seems to the Chair that it would be an extremely dangerous precedent to set, to allow a member, after two or three days, to come in and change a roll call.

3070. Before the result of a vote has been finally and conclusively pronounced by the Chair, but not thereafter, a Member may change his vote.

The purpose of a recapitulation is the verification of the vote as cast, and a Member failing to vote on the roll call may not be recorded on recapitulation.

A decision holding that recapitulation of a vote may be requested prior to final announcement of the result but not thereafter.

Members failing to vote on the roll call may not be recorded on recapitulation.

On March 1, 1919,[6] the House was considering the contested-election case of Britt against Weaver and the question was pending on the resolution reported by the Committee on Elections deciding Zebulon Weaver, the sitting Member, entitled to his seat.

Mr. Cassius C. Dowell, of Iowa, offered a substitute declaring that James J. Britt had been elected.

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[1] John Q. Tilson, of Connecticut, Speaker pro tempore.

[2] First session Sixty-sixth Congress, Record, p. 3015.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-second Congress, Record, p. 511.

[5] Champ Clark, of Missouri, Speaker.

[6] Third session Sixty-fifth Congress, Record, p. 4801.

The yeas and nays being demanded and ordered on the question of agreeing to the substitute, the roll was called and the Speaker announced:

There is only 2 difference in the vote—181 to 179.

Mr. Joseph Walsh, of Massachusetts, reminded the Speaker [1] that while he had stated the vote he had not announced which side had the majority.

The Speaker explained that after announcement of the vote recapitulation was not in order, and said: Until a final announcement is made any Member has the right to call for a recapitulation, but if the Chair has announced which side carries it, he can not demand recapitulation or change his vote. It is a fine distinction, but that is it.

In response to a further inquiry from Mr. J. Thomas Heflin, of Alabama, the Speaker said:

Until the final announcement is made any gentleman has the right to change his vote if he wants to.

Mr. Charles R. Crisp, of Georgia, asked that the vote be recapitulated.

The Speaker acquiesced:

We will see how close it is. The Chair thinks the gentleman is entitled to a recapitulation.

The vote having been recapitulated, Mr. Jerome F. Donovan, of New York, submitted a parliamentary inquiry as to whether Members who had failed to vote when the roll was called might be recorded on recapitulation.

The Speaker said:

Of course not. The recapitulation is only to verify what is here.

3071. In determining whether the personal interest of a Member in the pending question is such as to disqualify him from voting thereon a distinction has been drawn between those affected individually and those affected as a class. The question as to whether a Member's personal interest is such as to disqualify him from voting is a question for the Member himself to decide and the Speaker will not rule against the constitutional right of a Member to represent his constituency.—On December 22, 1914,[2] the question was pending on agreeing to the resolution (H. J. Res. 168) proposing an amendment to the Constitution prohibiting the manufacture, transportation, and sale of intoxicating liquor.

Mr. Richmond P. Hobson, of Alabama, as a parliamentary inquiry, asked if the pecuniary interest of Members owning stocks in breweries, distilleries, or saloons was such as to disqualify them from voting on the pending question.

The Speaker said: [3]

The rule about that is Rule VIII:

"Every Member shall be present within the Hall of the House during its sittings unless excused or necessarily prevented; and shall vote upon each question put, unless he has a direct, personal, or pecuniary interest in the event of such question."

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-third Congress, Record, p. 615.

[3] Champ Clark, of Missouri, Speaker.

It was decided after a bitter wrangle in the House in the case of John Quincy Adams, who came back to the House after he had been President, that you could not make a Member vote unless he wanted to. It has practically been decided by Speaker Blaine in a most elaborate opinion ever rendered on the subject that each Member must decide the thing for himself, whether he is sufficiently interested pecuniarily to prevent his voting. It must affect him directly and personally and not as a member of a class. If it were not so long, the Chair would read it in full. It arose in this way. They had a bill about national banks before the House and Mr. Hooper, of Massachusetts, who was the president of a national bank, voted. Somebody raised the point of order that his vote ought to be stricken from the Record. Speaker Blaine made this kind of a ruling of which I will give the substance; that where it affected an individual he could not vote, but that where it affected a class he could vote. He cited two different classes, one of which was national banks—a law that affected every national bank in the country, and a great number of Members of the House were more or less interested in national banks. Another class he cited was the old soldiers, of whom there were many in the House, and bills were constantly coming up at that time providing for pensions and bounties. He said that nobody would claim that these old soldiers should not be permitted to vote on that kind of a bill. He would up finally with the suggestion that knowing the fine constitution of the mind of the gentleman from Massachusetts and his high sense of honor, and how jealous he was of his reputation, he would suggest to him whether he would withdraw his vote or not, and he withdrew the vote.

Now, if there was a bill here affecting one institution, if you call it that, the Chair would be inclined to rule that a Member interested in it pecuniarily could not vote, but where it affects a whole class he can vote.

3072. Where the subject matter before the House affects a class rather than individual, the personal interest of Members who belong to the class is not such as to disqualify them from voting.

The power of the House to deprive one of its Members of the right to vote on any question is doubtful.

On April 5, 1928,[1] the House agreed to a special order providing for the consideration of the bill (H. R. 8927) to amend the act entitled "An act to promote export trade," approved April 10, 1918.

Thereupon Mr. Fiorello H. LaGuardia, of New York, propounded as a parliamentary inquiry the following:

Mr. Speaker, I rise to propound a parliamentary inquiry relative to the disqualification of certain Members of the House to vote upon this measure.

The bill under consideration permits an association of individuals or corporations for the purpose of engaging in certain import trade. Import trade as described in the bill itself means solely trade or commerce in crude rubber, potash, sisal, or other raw materials certified by the Secretary of Commerce as coming within the definition of the bill, to wit, to be controlled by any foreign government, combination, or monopoly. When we come to the crude rubber, we know exactly who this bill will affect. The reason we know this is that the pool or association which would be legalized under this bill is now in existence.

The bill, if enacted into law, will result in a direct benefit to certain now known corporations. This bill does not affect all corporations in the United States, but its conceded purpose will bring advantages and privileges to a certain small group of corporations now in existence. I desire to inquire whether a Member directly interested in that corporation as a stockholder comes within the prohibition and intent of section 1 of rule 8 of the rules of this House. In this connection I desire to call attention to the ruling of Mr. Speaker Hunter of February 28, 1873, found in section 5955 of Hinds' Precedents.

[1] First session Seventieth Congress, Record, p. 5973.

That ruling seems to me to be directly in point, and with the indulgence of the Speaker I will read it in full:

"A bill affecting a particular corporation being before the House, the Speaker held that a Member directly interested in that corporation as a shareholder had no right to vote.

"Instance wherein the Committee of the Whole reported a question of order to the House for decision."

It strikes me, Mr. Speaker, that in the case just cited, the decision applied to one corporation, while the bill under consideration will affect six or seven corporations. I will, of course, concede that in the ruling of Mr. Speaker Blaine the particular corporation was named in the bill, while the bill under consideration does not mention by name any particular corporation. I submit, however, that the purpose of the rubber pool is so clear, its existence so certain, its activities so gigantic that there can be no doubts of its existence and component members.

Now, it will be argued that it would be impossible to disqualify a large class of the membership of the House when the bill is general in its terms. But I submit, Mr. Speaker, that this bill, while at the first glance it may give the impression that it is general, its purpose, I repeat, is so well known and established that there can be no doubt as to the corporations directly affected and benefited. That being so, clearly it brings it within the purview and ruling by the Speaker of the House in 1873.

I want to submit, Mr. Speaker, that when it is argued that the Speaker can not go beyond the bill, that he is limited by the fact that the bill does not mention any particular corporation—such an argument is not in keeping with modern sense of legislative propriety.

The question here is one of propriety, one of public decency. For instance, the attitude of Members of the New Jersey delegation in 1839—when the question of seating the entire New Jersey delegation was under consideration each Member voted to seat his colleagues but did not vote on his own matter—might have been technically proper in those days, but to-day it would not be so accepted. Such action would be considered poor taste and indelicate in our time. There is a new standard of requirement in the exercise of public duty, and the question is not whether by looking at the bill a Member may be involved; the question is whether the Member who votes can turn around and face his 434 colleagues and look them square in the eye.

The Speaker [1] replied:

The Chair is glad to answer the inquiry of the gentleman from New York. The gentleman was kind enough to notify the Chair some days ago that he would probably present a parliamentary inquiry such as he has just made. The Chair has had some opportunity to examine the precedents, and is quite familiar with the precedents, even without this particular examination.

The gentleman from New York raises the question whether any Member of this House who happens to be interested as a stockholder in any of the corporations which may be affected by the legislation provided for in H. R. 8927 is qualified to vote on the bill. The gentleman from New York quoted a decision of Mr. Speaker Blaine, announced in 1873, which hinged upon the question as to whether a Member who was at that time a stockholder in the Central Pacific Railroad had the right to vote on a bill which might directly affect that road. Mr. Speaker Blaine in rendering that decision laid stress upon the proposition that this was one single corporation and not a class of corporations. In section 5955, Hinds' Precedents, the summary of the decision is as follows:

"A bill affecting a particular corporation being before the House the Speaker held that a Member directly interested in that corporation as a shareholder had no right to vote."

A year later the question was raised as to whether Members interested in banks should have the right to vote on legislation which might possibly affect the financial condition of those banks. The summary of the decision on that question as announced in Hinds' Precedents, section 5952, is as follows:

"Where the subject matter before the House affects a class rather than individuals, the personal interest of Members who belong to the class is not such as to disqualify them from voting.

"The power of the House to deprive one of its Members of the right to vote on any question is doubtful."

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[1] Nicholas Longworth, of Ohio, Speaker.

At that time the point was raised by Mr. Speer, of Pennsylvania, that certain Members holding stock in national banks were not entitled to vote, "being personally interested in the pending question," and he referred to three Members of the House who had stock in national banks.

That decision, so far as the Chair knows, stands to-day, and has never been overruled or controverted.

On December 22, 1914, it was quoted with approval by Mr. Speaker Clark. Precisely the same question arose then.

The gentleman from Alabama, Mr. Hobson, raised the question as to whether Members of the House interested in a certain class of corporations had the right to vote, and after quoting the ruling of Mr. Speaker Blaine with approval Speaker Clark said:

"If there was a bill here affecting one institution, if you call it that, the Chair would be inclined to rule that a Member interested in it pecuniarily could not vote, but where it affects a whole class he can vote."

Unquestionably the bill before us affects a very large class. The Chair has no information as to how many stockholders there may be in these various rubber companies. The Chair would be surprised if there were not hundreds of thousands of American citizens who were stockholders in these companies specifically referred to by the gentleman from New York, and possibly there may be a very large number of others who are directly interested in the outcome of this legislation.

Following the decision of Speaker Blaine and Speaker Clark the Chair is very clear upon the question that Members, whether they may be stockholders or not in any of these corporations, have a perfect right to vote. The Chair would be in some doubt as to whether it would be within the power of the Speaker to say whether a Member interested might vote or not in any case. Certainly it would not be within the power of the Chair to deny a Member the right to vote except in the case where the legislation applied to one and only one corporation. In this case it applies to a large class. The Chair is absolutely clear in his mind, and in response to the inquiry of the gentleman from New York holds that in his opinion the Members of the House, whether interested or not, have the right to vote on this particular measure.

3073. The rule prohibiting Members from voting on questions affecting their direct personal or pecuniary interest was held not to apply to votes on propositions increasing the salaries of Members elect.—On February 20, 1925,[1] the previous question was ordered on agreeing to a Senate amendment to the legislative, executive, and judicial appropriation bill reading as follows:

That on and after March 4, 1925, the compensation of the Speaker of the House of Representatives, the Vice President of the United States, and the heads of the executive departments who are members of the President's Cabinet shall be at the rate of $15,000 per annum each, and the compensation of Senators, Representatives in Congress, Delegates from Territories, Resident Commissioner from Porto Rico, and Resident Commissioners from the Philippine Islands shall be at the rate of $10,000 per annum each.

Mr. Clarence Cannon, of Missouri, made the point of order that Members who had been elected to the Sixty-ninth Congress had a direct personal and pecuniary interest in the increase of salaries for that Congress and under Rule VIII were not entitled to vote on the pending question.

The Speaker[2] said:

The Chair thinks that provision is in conflict with the provision of the Constitution which says that the House shall fix its own salaries, and the Chair is of opinion that the universal practice has been to hold it in order. The Chair overrules the point of order.

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[1] Second session, Sixty-eighth Congress, Record, p. 4266.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

3074. Instance wherein a Member submitted his resignation from a committee on grounds of disqualifying personal interest.

The request of a Member that he be relieved from service on a committee is submitted to the House for approval.

On May 17, 1911,[1] the Speaker[2] laid before the House the following communication:

WASHINGTON, D.C., *May 17, 1911.*

Hon. CHAMP CLARK,

Speaker of the House of Representatives.

MY DEAR MR. SPEAKER: Not anticipating that any business would be transacted by the House yesterday beyond the debate upon the resolution providing for the approval of the constitutions of New Mexico and Arizona, I withdrew from the Hall to attend to other matters. During my absence the House paid me the compliment of a unanimous election to membership on the select committee provided for by House Resolution 148, for the investigation of the affairs of the United States Steel Corporation and other corporations. That election, coming without solicitation or suggestion from me, I very much appreciate, but I find that the resolution includes, by name, the Pennsylvania Steel Co. and calls for an inquiry whether it has any relations or affiliations, in violation of law, with the so-called Steel Corporation.

The Pennsylvania Steel Co. is located in my district. I have no financial interest in it of any kind and have never represented it professionally or in any other way. I have, however, a great interest in its welfare because so many of my constituents are dependent upon it for support and some of its officers are my warm personal friends. I do not believe that it has any relations or affiliations in violation of law with the United States Steel Corporation or anybody else, but it will avoid any appearance of partiality if the finding to that effect be made by others than myself. I therefore beg to be excused from service upon the committee.

Very respectfully,

M. E. OLMSTED.

The Speaker having submitted the question to the House and there being no objection, Mr. Olmsted was relieved from further service on the committee.

3075. The Speaker is not required to vote unless his vote would be decisive.

Recaptitulation of a vote by which a bill had been passed by a majority of one having shown the actual vote to be a tie, the Speaker cast the deciding vote.

The Speaker's vote is properly recorded at the end of the roll call.

On December 12, 1908,[3] the vote being taken on the passage of the bill (H. R. 11733) punishing conspiracies to intimidate persons in the exercise of rights under the Constitution, it was announced that the vote was, yeas 101, nays 100, and the bill was passed.

A recapitulation being demanded and had, the Speaker announced that the vote was, yeas 100, nays 100, and thereupon cast his vote in the affirmative.

Mr. David A. De Armond, of Missouri, made the point of order that the Speaker was subject to the requirement applying to other Members and was not entitled to vote after the vote on the question had been announced.

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[1] First session, Sixty-second Congress, Record, p. 1296.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session, Sixtieth Congress, Record, p. 174.

The Speaker [1] overruled the point of order and said:

This is a very plain matter. The Speaker is not required to vote unless his vote would be decisive. The vote as announced by the Speaker showed that the bill passed by a majority of 1. Then the demand for recapitulation was made and the order to recapitulate was also made and recapitulation was had. Now, then, that recapitulation showed that the vote was a tie. The very object of the recapitulation was to see whether or not the announcement of the Speaker was correct, or whether there had been a mistake at the Clerk's desk, and that threw the matter open, so that the Speaker was entitled to vote. And years ago the Chair is informed that there is a precedent of this kind, that where there is a mistake in a vote taken to-day, or, say, on one day and that mistake is corrected on another legislative day so as to make a tie, the Speaker in that case votes the day after. In other words, it is an ascertainment of the vote. Under the rule and under the practice such ascertainment shows that the vote was a tie upon recapitulation, and the Speaker is very clear as to the question of practice as well as the question of right that he is entitled to vote, and therefore votes "aye."

3076. In the early days of the Congress the practice of pairing was the subject of severe adverse criticism.

Discussion of the origin of the practice of pairing in the House and Senate.

On August 1, 1914,[2] on motion of Mr. Jeremiah Donovan, of Connecticut, by unanimous consent, the Clerk read the following excerpt [3] from Thirty Years in the United States Senate, by Thomas Hart Benton:

At this time, and in the House of Representatives, was exhibited for the first time the spectacle of Members "pairing off," as the phrase was; that is to say, two Members of opposite political parties agreeing to absent themselves from the duties of the House, without the consent of the House and without deducting their per diem pay during the time of such voluntary absence. Such agreements were a clear breach of the rules of the House, a disregard of the Constitution, and a practice open to the grossest abuses. An instance of the kind was avowed on the floor by one of the parties to the agreement, by giving as a reason for not voting that he had "paired off" with another Member, whose affairs required him to go home. It was a strange annunciation and called for rebuke; and there was a Member present who had the spirit to administer it; and from whom it came with the greatest propriety on account of his age and dignity and perfect attention to all his duties as a Member, both in his attendance in the House and in the committee rooms. That Member was Mr. John Quincy Adams, who immediately proposed to the House the adoption of this resolution: *"Resolved,* That the practice, first openly avowed at the present session of Congress of pairing off, involves, on the part of the Members resorting to it, the violation of the Constitution of the United States, of an express rule of this House, and of the duties of both parties in the transaction to their immediate constituents, to this House, and to their country." This resolve was placed on the calendar to take its turn, but not being reached during the session was not voted upon. That was the first instance of this reprehensible practice, 50 years after the Government had gone into operation; but since then it has become common, and even inveterate, and is carried to great length. Members pair off, and do as they please—either remain in the city refusing to attend to any duty, or go off together to neighboring cities, or separate, one staying and one going; and the one that remains sometimes standing up in his place and telling the Speaker of the House that he had paired off, and so refusing to vote. There is no justification for such conduct, and it becomes a facile way for shirking duty and evading responsibility. If a Member is under a necessity to go away, the rules of the House require him to ask leave; and the Journals of the early Congresses are full of such applications. If he is compelled to go, it is his misfortune, and should not be communicated to

[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-third Congress, Record, p. 13125.

[3] Thirty Years' View, Vol. II, p. 178.

another. This writer had never seen an instance of it in the Senate during his 30 years of service there; but the practice has since penetrated that body, and "pairing off" has become as common in that House as in the other, in proportion to its numbers, and with an aggravation of the evil, as the absence of a Senator is a loss to his State of half its weight. As a consequence, the two Houses are habitually found voting with deficient numbers—often to the extent of a third—often with a bare quorum.

In the first age of the Government no Member absented himself from the service of the House to which he belonged without first asking and obtaining its leave; or, if called off suddenly, a colleague was engaged to state the circumstances to the House, and ask the leave. In the Journals of the two Houses for the first 30 years of the Government there is in the index a regular head for "absent without leave," and turning to the indicated page every such name will be seen. That head in the index has disappeared in later times. I recollect no instance of leave asked since the last of the early Members—the Macons, Randolphs, Rufus Kings, Samuel Smiths, and John Taylors of Caroline—disappeared from the Halls of Congress.

3077. Pairs are personal contracts the terms of which are determined by the contracting Members who may provide for commencement and termination of the pair on definite dates or for exceptions thereto, and may indicate if desired the attitude of each Member on questions on which paired.—On February 1, 1919,[1] on the vote on the passage of the agricultural appropriation bill the following pairs were announced:

On this vote:
Mr. Tinkham (for) with Mr. Gallivan (against).
Until further notice:
Mr. Scully with Mr. Bacharach.
Mr. Davey with Mr. Griest.
Mr. Sears with Mr. Ramsey.
Mr. Littlepage with Mr. Cooper of West Virginia (commencing January 29, 1919, ending February 3, 1919).
Mr. Saunders of Virginia with Mr. Walsh (except road appropriation).
Mr. Drane with Mr. Husted.
Mr. Godwin of North Carolina with Mr. Kiess of Pennsylvania.

3078. Instance wherein pairs were not published in the Record because of the unanimity of the vote on the question.

Discussion of the practice of the pair clerks in pairing without authorization all Members failing to vote.

On January 15, 1920,[2] Mr. Thetus W. Sims, of Tennessee, rising to a parliamentary inquiry, desired to know why the usual publication of pairs had been omitted in connection with the vote taken several days previous on the exclusion of a Member elect.

The Speaker[3] said:

The Chair has no information on the subject. Has the gentleman inquired of the pair clerk?

Mr. Thomas L. Blanton, of Texas, explained that the vote was on a question on which it was impossible to find a pair on the opposite side, and Mr. Frank W. Mondell,

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[1] Third session Sixty-fifth Congress, Record, p. 2527.

[2] Second session Sixty-third Congress, Record, p. 1575.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

of Wyoming, said that he had considered it wise not to have the pairs appear on the question under the circumstances.

Mr. Sims insisted that regardless of the nature of the question the pairs should have been published in conformity with the custom and the rules.

Mr. John N. Garner, of Texas, criticized the practice of the pair clerks in pairing without their authorization all Members failing to vote and suggested that no member should be paired without expressed instructions in writing.

The Speaker said:

> The Chair was not aware there was any such practice. The Chair thinks that strictly, of course, the pairs should be formally made.
>
> The pairing is done for the convenience of Members. It occurs to the Chair very likely the men who had regular pairs would have preferred not to have them appear on that vote.

A request by Mr. Sims for unanimous consent that the pairs be published in connection with the vote in the permanent Record was, on objection of Mr. Mondell, refused.

3079. Failure of the Congressional Record to record a pair is subject to correction as any other error in the Record.—On January 8, 1910,[1] following the reading of the Journal, Mr. Sereno E. Payne, of New York, said:

> Mr. Speaker, I desire to correct the Record. A pair was filed yesterday with the pair clerk between Mr. Hill of Connecticut and Mr. Randell of Texas. Through some inadvertence it was omitted from the Record. I ask to have the Record corrected so as to show that pair.

The Speaker[2] submitted the question:

> Without objection, the Record will be corrected in accordance with the statement of the gentleman from New York.

There being no objection the request was agreed to.

3080. Correction of errors in the recording of pairs as reported in the Congressional Record are made by Members without action on the part of the House.—On February 11, 1910,[3] Mr. George W. Norris, of Nebraska, rising in his place, stated that an error had been made in the Record of the pairs on the vote taken in the House on the previous day, in that he was recorded[4] as having been paired in the affirmative when as a matter of fact he was paired in the negative.

Thereupon Mr. John A. Moon, of Tennessee, called attention to a similar error in the recording of his pair on the same vote.

The Speaker[2] said:

> Under the rules of the House these corrections could be made without being called to the attention of the House; but in the case of these pairs, the statement of the gentleman from Nebraska will enable any other gentlemen who are not correctly paired in the Record to correct it themselves, and, without objection, that order will be made. The Chair hears no objection.

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[1] Second session Sixty-first Congress, Record, p. 412.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-first Congress, Record, p. 1768.

[4] Record, p. 1752.

3081. Pairs do not excuse from attendance or exempt from arrest under a call of the House.—On March 18, 1910,[1] the House was considering the resolution (H. Res. 502) proposing to amend the rules of the House by taking from the Speaker the appointment of the Committee on Rules and making him ineligible to membership thereon.

A quorum not being present, on motion of Mr. Oscar W. Underwood, of Alabama, a call of the House was ordered.

During the proceedings, Mr. David A. Hollingsworth, of Ohio, appearing on the floor in the custody of the Sergeant at Arms, said:

Mr. Speaker, I desire to state that before I left the Chamber, at about 12 o'clock, I consulted the "whip" and understood if I got a pair it would be all right. I made a pair in the regular way with a live Democrat, the gentleman from Nebraska, Mr. Latta, and then went to my room at the Willard Hotel, and went to bed, just where all good Republicans ought to be at this hour in the morning. I want to know by what right when a Member has taken this precaution and gone to his hotel and retired like a gentleman, the Sergeant at Arms shall be sent to his rooms in a public hotel to announce in the early hours of the morning in loud tones that he is under arrest, and that be must appear, without the usual courtesy of a call by telephone. I am here. If my pair is not good, I will stay here, and if it is good I want to go back to my hotel, where Republicans ought to be at this time in the morning.

The Speaker pro tempore [2] replied:

The gentleman would be liable to arrest if he left the House now. His presence is necessary in order to make a quorum.

3082. On a question requiring a two-thirds vote two Members favoring the affirmative are paired with one Member favoring the negative.

The House exercises no jurisdiction over pairs.

On August 11, 1911,[3] during an interval in the business of the House, Mr. James R. Mann, of Illinois, the minority leader, announced:

I would like to make this observation; it is a matter of interest to the Members of the House: It looks as though we would have one or more veto messages from the President on bills originating in the House. A very common practice, as everyone knows, is for gentlemen going away to make pairs. Pairs on even terms on a veto measure mean two to one, and not one to one. We are giving notice on this side of the House, that we will make no pairs and will ask all pairs to be canceled that are made on the basis of one to one, so far as veto messages are concerned. While I do not object to this request in itself, if the gentleman is paired with some Republican, and only one Democrat to a Republican, I shall ask to have the pair canceled at the proper time and the gentleman recalled, if they desire to recall him from that side of the House.

Mr. Speaker, I thought it was fair to this side of the House to make this statement in reference to the matter, because we do not desire to lose out on a veto proposition by losing on pairs, and we serve notice that two and one will be required, so far as veto messages are concerned.

The Speaker [4] said:

The Chair is of the opinion that the House has nothing to do with this pair business.

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[1] Second session Sixty-first Congress, Record, 3394.

[2] John Dalzell, of Pennsylvania, Speaker pro tempore.

[3] First session Sixty-second Congress, Record, p. 3833.

[4] Champ Clark, of Missouri, Speaker.

3083. On December 17, 1971,[1] on the vote on the passage of the joint resolution (S.J. Res. 17) proposing an amendment to the Constitution, prohibiting the manufacture, sale, or transportation of intoxicating liquor, Members were paired on the question, two in the affirmative to one in the negative as follows:

Mr. Goodwin of Arkansas and Mr. Miller of Washington (for) with Mr. Tague (against).
Mr. Neely and Mr. Stephens of Nebraska (for) with Mr. Gallivan (against).
Mr. Taylor of Colorado and Mr. George W. Fairchild (for) with Mr. Curry of California (against).

3084. Reservations may be appended in signing for a pair and when so made are announced by the Clerk and appear in the Record.— On August 12, 1911,[2] in connection with the record of the yea and nay vote on a motion to lay on the table an appeal by Mr. James R. Mann, of Illinois, from a decision of the Speaker, pairs were published as follows:

Until further notice:
Mr. Hobson with Mr. Fairchild (transferable).
From August 8 to 11:
Mr. Jones with Mr. Slemp (not to apply to vote on vetoes).
From 21st of June to end of session:
Mr. Maher with Mr. Calder.
For the day:
Mr. Peters with Mr. McCall (not to apply to vote on vetoes).
For balance of the session:
Mr. Hensley with Mr. Thistlewood (reserving the right to vote to make a quorum and all questions affecting vetoes of the President).
From August 12 until further notice:
Mr. Hamilton of West Virginia with Mr. Barchfeld (reserving the right to vote to make a quorum and all questions affecting the veto of the President).
From 11th until Tuesday noon:
Mr. Oldfield with Mr. Moon of Pennsylvania.

3085. Unless specifically provided, a pair does not indicate the attitude of a Member on the pending question.

Neither the House nor the Speaker takes cognizance of complaints relating to pairs.

General pairs may be arranged for Members desiring to be recorded as absent without leave, and it is customary for the pair clerks to arrange such pairs without specific authorization from Members.

On April 14, 1917,[3] on the vote taken on the passage of the bill (H. R. 2762) authorizing an emergency bond issue, the yeas were 390 and the nays were 0.

In connection with the vote the Clerk announced a number of general pairs, when Mr. John Q. Tilson, of Connecticut, inquired:

Mr. Speaker, I rise to make an inquiry concerning the propriety of marking up the pairs on a vote of this sort, where there have been no votes in the negative whatsoever, unless there has been some positive request to the contrary. It would appear that these men are one paired against the other, whereas the other Members of the House have voted all one way.

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[1] Second session Sixty-fifth Congress, Record, p. 470.
[2] First session Sixty-second Congress, Record, p. 3873.
[3] First session Sixty-fifth Congress, Record, p. 690.

The Speaker [1] said:

They are only general pairs, the pair clerk informs the Chair. As a matter of fact, neither the Speaker nor the House has anything to do with the pairs. It is a kind of excrescence that has grown up on the body politic.

Mr. James R. Mann, of Illinois, added:

Mr. Speaker, the question was asked me, as everybody was voting for this bill, How about pairs? Members go away and asked to be paired on a bill. A number of such requests were made. It was not possible to pair Members on this bill for and against. I requested the pair clerks to put up general pairs only, which do not indicate how Members would vote on the bill and do not indicate that either of the gentlemen paired would vote against the bill, but which would give some excuse for their being absent. I may say that I was asked by a large number of gentlemen, some of whom are absent on a funeral, some of whom are absent on account of illness, and for various other reasons, that they be paired in favor of the bill. I think everyone is in favor of the bill. They can not be paired in favor of the bill with anyone who is against it, because there is no one who is against the bill.

I think the pairs ought to show in the Record as evidence that Members were attending to business enough to endeavor to secure a pair. I wish to make the statement that all gentlemen on this side who are paired would have voted for the bill if they had been present.

3086. Under a long-established practice the pair clerks, unless otherwise instructed, pair all absent Members.—On September 14, 1917,[2] Mr. William W. Rucker, of Missouri, speaking by unanimous consent, said:

Mr. Speaker, when the bill known as the war-risk insurance bill was voted on yesterday evening I was, just before the vote, called temporarily out of the building, and I was not here to vote. The very efficient and courteous pair clerk, seeking to do me a kindness, no doubt, paired me with an absent Member. I mean no criticism against anyone, but under the circumstances, if the press conveys the truth to us at this particular time, if I had been consulted I would not have consented to the pair that was made by the pair clerk. I simply desire that to go into the Record.

3087. Members favoring the same side of the question having been paired without their authorization under the practice of pairing all Members known to be absent, permission was asked and secured for a correction of the Record in accordance with the facts.

An instance wherein the House declined to interfere with the custom of pairing Members without signed requests from the Members proposed to be paired.

Neither the House nor the Speaker take cognizance of complaints relating to pairs.

On August 24, 1918,[3] Mr. Walter M. Chandler, of New York, rising in his place, said:

Mr. Speaker, I wish to have the Record corrected. Both the gentleman from New York, Mr. Caldwell, and I have discovered that we were paired, seemingly against each other, though we favored the increase in the postal employees' salary. I ask unanimous consent to have the Record corrected to show that Mr. Caldwell and I both favored the increase in salary.

The Speaker having submitted the question to the House there was no objection and it was ordered that the Record be corrected accordingly.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-fifth Congress, Record, p. 7135.

[3] Second session Sixty-fifth Congress, Record, p. 9507.

Thereupon Mr. John N. Garner, of Texas, moved that the pair clerks be instructed to make no pairs for which requests has not been submitted in writing over the signature of both Members proposed to be paired, and said:

Mr. Speaker, that is one of these pairs that go into the Record without the consent of the Members, and I desire to again call the Speaker's attention to the fact that he promised some time ago that he would write a letter or give directions that this should not occur again. Here is one of these universal pairs put up by the gentleman from New York, Mr. Caldwell, and the gentleman from New York, Mr. Chandler, on the opposite side. Now, I insist that this matter ought to be corrected, because it is putting gentlemen in a wrong attitude. It ought to be stopped, and I do hope the Speaker will give directions accordingly. I ask unanimous consent that in the future no pairs be put up unless signed by the Members.

The Speaker [1] said:

The Chair doubts very much whether he has the right to do it or not. I have announced here three or four times, and will announce again, that neither the House nor the Speaker has anything to do with this pair business. It is an excrescence that has grown up on the body politic. If gentlemen want to find out the philosophy of the thing, they ought to read Benton's Thirty Years in Congress. The gentleman asks unanimous consent that in the future no pairs be put up unless actually signed by the Members.

Objection having been made the motion was rejected.

3088. The House takes no cognizance of questions relating to pairs as such.

A Member may discuss questions arising out of a pair by unanimous consent or by raising a question of personal privilege.

Discussion of an alleged violation of a pair made in a statement issued by the pair clerk and printed in the Record.

The pair clerks decline to alter a pair unless authorized to do so by all Members signatory thereto.

On questions requiring a two-thirds majority Members are paired two in the affirmative against one in the negative.

On January 9, 1918,[2] Mr. Thomas A. Chandler, of Oklahoma, was granted leave to extend his remarks in the Record by printing the following statement:

HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D.C., January 8, 1918.

Messrs. THOMAS L. BLANTON, M. C., AND T. A. CHANDLER, M. C.,

House of Representatives, Washington, D.C.

MY DEAR SIRS: On day before yesterday you requested me, as pair clerk of the House of Representatives, to make you a statement in writing as to the facts concerning the pair made between you and Hon. James C. Wilson, giving the reason why the pair was not observed and did not appear in the Congressional Record.

About two weeks before the vote was taken on the constitutional amendment for national prohibition, Hon. Thomas Blanton, Member of Congress from the sixteenth Texas district, came to me and stated that he had a pair upon the votes to be taken upon the constitutional questions of national prohibition and woman suffrage, Mr. Blanton stating that he was for both these propositions and that Mr. Wilson would be against both, and that they would secure some other Member

[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 725.

who would vote as Mr. Blanton would in the matter. (Pairs upon these constitutional questions are in the same proportion as the vote, and as it requires a two-thirds majority for legislation of this character, it would take two Members for either of these amendments to protect one Member voting against.) On the next day Mr. Blanton came to me with Mr. T. A. Chandler, Member of Congress from Oklahoma, and handed to me a pair which was out of the ordinary for the reason that it was a typewritten agreement, with the names of Messrs. Blanton and Chandler voting for the prohibition amendment and Mr. Wilson voting against the prohibition amendment inserted in the pair and duly signed by each of them, and I told them, as pair clerk, that the pair would go into the Record.

Two or three days before the vote was taken on the prohibition amendment Mr. Wilson came to me and said he had expected to leave the city, but that as he had not he desired to have the pair changed to someone else who would vote as he would in order that he might vote.

Now, pairs are simply agreements between Members of Congress, the idea being that one vote will offset the other, and should one or all Members concerned in a pair or an agreement made between Members be absent, these agreements and pairs are observed. After such an agreement is made it is never altered by the pair clerks, except by the consent or permission of those concerned.

Therefore, when Mr. Wilson requested the pair clerks to release him we had nothing to do with it, as the matter was between Messrs. Blanton of Texas, Chandler of Oklahoma, and Mr. Wilson of Texas. I told Mr. Wilson that if he would communicate with Messrs. Blanton and Chandler, and they would agree to do so, of course it would be all right; otherwise I would put the pair up for the Record.

In the meantime Hon. Claude Kitchin, the Democratic floor leader, handed me a telegram from Mr. Blanton, which is as follows:

"Am making three speeches a day in my district, embracing 58 counties, in effort to wipe out all disloyalty and force absolute support behind Government. If Wilson of Texas will support prohibition amendment, then change my pair to benefit cause, or if necessary I will return immediately."

Mr. Wilson came back to see me and said so far as Mr. Blanton was concerned he was willing to release him (Mr. Wilson) from the pair. Mr. Hollingsworth, who represents the minority in the matter of pairs, who was present, asked Mr. Wilson how he expected to protect Mr. Chandler. Mr. Wilson said that he had no agreement with Mr. Chandler, and then we cited Mr. Wilson to the signed agreement, with all names filled in, and which is as follows:

"Mr. SPEAKER: We, the undersigned, have paired on the resolutions for the national prohibition amendment and the national woman suffrage amendment, Thomas L. Blanton, of Texas, and T. A. Chandler, of Oklahoma, each voting both for national prohibition and national woman suffrage and James C. Wilson, of Texas, voting against both of these said resolutions, and we request that this agreement be printed in the Record.

(Signed)

"THOMAS L. BLANTON, of Texas.

"T. A. CHANDLER, of Oklahoma.

"JAMES C. WILSON." (Name later erased.)

Mr. Wilson then said that he intended to vote anyway. I went to Mr. Ferris, of Oklahoma, and although it was late we made an effort to communicate with Mr. Chandler as to whether he wanted to hold Mr. Wilson to the pair, as it was my plain duty as pair clerk to have the pair as made announced for printing in the Record. Mr. Wilson came to the pair clerk's desk again, and with him was Mr. Morgan, of Oklahoma, who stated that he was not willing to state whether or not Mr. Chandler would be willing to release Mr. Wilson from the pair, after the matter had been explained to him. Mr. Wilson then left and returned after a few minutes and said that he was going to vote and asked to see the signed pair, which he took and said as he intended to vote, would not have his name on it, and then erased his name from the agreement, which he had, according to his own statement, signed.

Mr. Blanton's telegram released Mr. Wilson from pair, provided he intended to vote for the prohibition amendment, and on the final vote he voted against the amendment, so that he had no release from Mr. Blanton and did not claim to have any from Mr. Chandler. We, the pair clerks,

could not put the pair into the Record because Mr. Wilson had erased his name and there was nothing to hold him to the agreement, as he had announced his intention of voting.

This is now the matter happened, and no one regrets as much as do the pair clerks that you both were left unprotected on the vote, as we knew when you left the city it was with the under-standing that you would be taken care of.

With highest personal regard, I am,

Very respectfully, yours.

W. E. SMALL, Jr.,
Pair Clerk, House of Representatives.

The Speaker [1] volunteered:

The Chair will take occasion to state that the House has absolutely nothing to do with pairs. It has gone as far as to allow them to be made a matter of record, but it is a private transaction. A good many Members think that the House has something to do with it, but it has not. If any-body wishes to know all about pairs, let him get Benton's Thirty Years in the United States Senate and see what he had to say about it when it was first begun.

On January 31, 1918, [2] Mr. James C. Wilson, of Texas, addressed the Speaker and said:

Mr. Speaker, some weeks ago the gentleman from Texas, Mr. Blanton, and the gentleman from Oklahoma, Mr. Chandler, placed a statement in the Record undertaking to show that I had violated a pair agreement. I do not know that I would have cared to make any reply if it had not been that I now hear—

Mr. Frederick H. Gillett, of Massachusetts, here interposed a point of order.

The Speaker sustained the point of order and said:

The Chair desires to state once more, and hopes that the Members present will convey the statement to others, that the House has nothing on earth to do with pairs.

Thereupon Mr. Wilson asked and secured unanimous consent to extend his remarks in the Record [3] on the subject.

On February 4, 1918, [4] Mr. Thomas L. Blanton, of Texas, being recognized to present a question of personal privilege, discussed the statement made by Mr. Wilson in the extension of his remarks.

3089. **Neither the Speaker nor the House exercises jurisdiction over pairs, and the only cognizance of them taken by the rules is the provision for their announcement and publication.**

The practice requires that pairs be reduced to writing and be signed by the contracting Members.

Unless specifically provided, pairs do not indicate the attitude of Members on questions for which paired.

On August 27, 1918, [5] following the approval of the Journal, the Speaker [6] said:

The Chair wishes to make a statement. Two or three times lately there has been a commotion about pairs. The Chair has stated half a dozen times that the Chair has nothing on earth

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[1] Champ Clark, of Missouri, Speaker.

[2] Record, p. 1567.

[3] Appendix, p. 61.

[4] Record, p. 1655.

[5] Second session Sixty-fifth Congress, Record, p. 9583.

[6] Champ Clark, of Missouri, Speaker.

to do with pairs and neither has the House except as stated in the rules. The other morning the gentleman from Texas, Mr. Gardner, asked unanimous consent that the Speaker inform the pair clerks that they must not pass up any pairs except those signed by the Members. That is precisely what the rule provides now. It is one of those things that the Chair does not have always in mind unless attention is called to it. The rule provides:

"Pairs shall be announced by the clerk after the completion of the second roll call from a written list furnished him and signed by the Member making the statement to the clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting, provided pairs shall be announced but once during the same legislative day."

And then in Rule XV it provides—

"and thereafter the Speaker will not entertain a request to record a vote or announce a pair unless the Member's name has been noted under clause 3 of this rule."

The Chair knows, and everybody else knows, that as a matter of practice a Member will go to the pair clerk and say "Pair me with Representative Jones, Smith, or Brown," or whoever the Member may be. The difficulty comes where the pairs do not indicate which way the Member would vote if he was here. The Chair does not see how a man can tell what is going to come up in the three or four weeks that he may be absent when making a pair for that length of time. He can not go off and expect the pair clerk to know how he would vote.

In old times, when everything was political, Democrats and Republicans, two Members could make a pair, and the clerk would know that the Republicans voted with the Republican and the Democrat with the Democrats, but lately you can not tell "tother from which." And many times they are not very far apart.

3090. **An instance wherein a Member, being unable to secure a pair, explained his attitude on the vote through an extension of remarks in the Record.—**On February 21, 1920,[1] Mr. Fred L. Blackmon, of Alabama, by unanimous consent, extended his remarks in the Record as follows:

Mr. Speaker, I was compelled to go home some days before the vote was reached on the railroad bill, on account of my own illness.

On February 17 I sent the following telegram to one of my colleagues:

ANNISTON, ALA., *February 17, 1920.*

S. H. DENT, Jr.

House of Representatives, Washington, D.C.:

Please pair me against conference report on Cummings-Esch bill. If no record vote, read this message into the Record.

FRED L. BLACKMON.

I am informed by my colleague that on account of an unusually large number of Members present on the occasion of this vote, he was unable to obtain a pair, so that the Record would show that had I been present I would have voted against the conference report.

I therefore take occasion, under leave to extend remarks, granted while this conference report was under discussion, to state my position in the Record.

The conference report as finally drafted contains many objectionable features, and on account of these objectionable features, had I been present my vote would have been cast in the negative.

3091. **An instance in which the record of pairs was revised on a day subsequent to that on which the vote was taken.—**On January 24, 1923,[2] Mr. William R. Green, of Iowa, speaking by consent, said:

Mr. Speaker, I ask unanimous consent to address the House for one minute in reference to a correction that should be made in the Record.

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[1] Second session Sixty-sixth Congress, Record, p. 8849.

[2] Fourth session Sixty-seventh Congress, Record p. 2327.

This morning the gentleman from New York, Mr. Cockran, called me over the telephone and asked me how he came to be paired against the resolution which was voted upon yesterday. I told him I had not looked over the pair list, and he asked me if I had not received his telegram, and I told him that I had not. After I came into the House just a moment ago the following telegram was handed me:

NEW YORK, *January 23, 1923.*

Representative W.R. GREEN,

Washington, D.C.

Regret can not reach Washington in the evening. Please pair me for the resolution.

W. BOURKE COCKRAN.

I regret very much that I did not receive this telegram until today. I knew the gentleman from New York was in favor of the resolution. I had seen him a few days prior to the time it was taken up, and he told me he was in favor of it, and that he expected to be here and vote for it.

Mr. Speaker, I would ask, somewhat in the name of a parliamentary inquiry, whether the pair list can be corrected now?

The Speaker [1] said tentatively:

The Chair at first blush thinks the pair list is like the roll call in that respect.

Mr. John N. Garner, of Texas, argued:

Mr. Speaker, the pair list is a private matter. It is of no concern to the House of Representatives. If the gentleman from New York could find somebody to pair with him, somebody against the resolution, and wanted to ask unanimous consent that it be inserted in the Record, I can see no objection to that.

The Speaker held:

Of course that is true. The Chair thinks it is like correcting the Record; it can be done by unanimous consent. But of course this publicity practically accomplishes the same thing.

The gentleman from New York asks unanimous consent that the pair be canceled. Is there objection?

There being no objection the request was agreed to.

3092. Questions relating to a pair have been discussed in the House under a request for correction of the Record.

Following a long-established custom that pair clerks, unless otherwise instructed, ordinarily pair all Members absent and not voting.

It frequently happens that on account of the large majority vote on the pending question the pair clerks are unable to secure regular pairs and are forced to pair Members favoring the same side of the question. For this reason some Members instruct the clerks not to pair them during their absence without explicit instructions.

A pair may be made "until further notice" and unless abrogated remains in force during the entire session.

The ordinary announcement of pairs in the Record does not indicate the attitude of Members on the question on which paired.

On May 16, 1912, [2] following the approval of the Journal, Mr. Augustus P. Gardner, of Massachusetts, rising to request a correction of the Record, said:

Mr. Speaker, I ask unanimous consent that where may name appears as paired on the Clayton anti-injunction bill on Tuesday, May 14, it may be stricken out of the Journal and the Record.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-second Congress, Record, p. 6564.

I also ask permission to insert two telegrams explanatory of this request. I have standing order that under no circumstances am I to be paired during my absence without my explicit instructions, because I do not think the pairs made up at the Clerk's desk are proper as showing the Member's attitude. On May 6, 1912, I telegraphed the pair clerk, "Please pair me in favor of the Clayton bill for trial by jury in injunction cases. This is the bill that comes up on Thursday." It was then thought that the bill would come up at that time. I telegraphed my secretary in the same way. The pair clerk being unable to get a live pair for me proceeded to make an ordinary party pair between absentees. On the first vote he paired me with the gentleman from South Carolina, Mr. Ellerbe, and on the second vote with the gentleman from Kentucky, Mr. Stanley. Without a doubt both Mr. Ellerbe and Mr. Stanley favored the Clayton bill. As I also was in favor of the Clayton bill, the pair made by the pair clerk not only was absurd, but also was contrary to my instructions. If I had been present, I should have voted for the Clayton bill and against the substitute.

The pairs made up by the pair clerks nowadays mean absolutely nothing. They do not show whether a Member is "for" or "against" a measure. They merely show that one Member of the pair is a Republican and the other a Democrat. The only pair which means anything is a written pair which shows whether a Member is "for" or "against" a measure. That is the kind of pair which I telegraphed for.

Mr. James R. Mann, of Illinois, supplemented:

Mr. Speaker, the matter of pairs is not so easy of solution as one might think. The other day when the pension bill was about to be voted upon one of the pair clerks came to me and said that he had a number of requests to be paired in favor of the bill, but that he had no one to pair against the pension bill. The question, was whether to put in pairs as is usually done, without saying for or against, or whether he should leave the Members unpaired who were absent.

The matter was not free from difficulty. I did not desire to impose the obligation upon the pair clerk of deciding the question, and I said to one of the Republican pair clerks that I would assume the responsibility, and suggested to him that he pair absent Members in the usual way, not being able to secure the pairs that Members desired; and that, if objection was made to it, hereafter we would not be able to pair Members unless the pairs were actually made at the desk.

It is absolutely impossible for many Members of the House to be present upon every roll call, and sometimes it is desirable from their standpoint and from the public standpoint to pair specifically on a bill. On the other hand, it is often very desirable for Members to have what is called a standing pair, a permanent pair, or a pair until further notice, so that Members, if they can not be present at the time, know that they are taken care of by the pair clerk.

Mr. Speaker, I never have had occasion myself to make use of pairs at many times. In my first term in Congress I had a permanent pair with a gentleman on the other side who was called home by illness in his family, and during the entire session of Congress, a long session, I think I never voted at all.

I do not believe publication of pairs should be discontinued. On the contrary, I think at the end of every roll call every Member of the House who had a pair would rise and say that he voted so-and-so, that he was in favor of such-and-such a proposition, but that some gentleman with whom he was paired was absent, who, if present, would voted the other way; and instead of having a short statement of pairs as we do now in the Record, it would cover a page every time we had a roll call, as it does practically every time they have a roll call in the Senate, where there is a much smaller number of Members than in the House. You can not avoid giving that courtesy to Members in some way.

3093. The pairing of a Member without his authorization gives rise to a question of personal privilege.

The House takes no cognizance of complaints arising out of the making or construing of pairs.

The Congressional Record is not subject to correction after the permanent edition has been printed.

On July 23, 1912,[1] Mr. Theron Akin, of New York, rising to a question of personal privilege, said:

Mr. Speaker, I have a matter of personal privilege. I have been recorded for some time past as being paired with different Members of this House. I have never given my permission to be paired with any man in this House. I have never wanted to paired.

It is noted here on May 12, 1911, that I was paired with Mr. Gordon, of Tennessee, who is now dead. That is not so. I never was paired. On May 18, 1911, I am recorded as having been paired with Mr. Aiken, of South Carolina. I never gave permission to be paired with him, or he with me. And so on, through the different items where I have been paired, I want to say it is absolutely false, and I have been misrepresented. I have never asked yet to be paired with any man on the floor of this House, and I ask that the Record be corrected.

The Speaker[2] held:

The gentleman evidently had a right to rise to a question of personal privilege about it, although the chair has absolutely no control whatever over the matter of pairing. That is a private arrangement.

The question of correcting the Record being raised, the Speaker continued:

The Record clerk informs the Chair that the permanent Record has been made up, and it would be a physical impossibility to change the permanent Record of May 12, 1911, or of any date approximating thereto.

Debate on the subject continued until the Speaker interposed:

This whole discussion is out of order. The Chair will state, in justice to the pair clerks, that of course they do not undertake to pair people who do not want to be paired. They must have fallen into some honest error about the matter. The pair clerks have absolutely no right to pair a man unless he wishes to be paired. That is the end of that.

3094. Inadvertent violation of a pair agreement does not give rise to a question of personal privilege.—On March 24, 1908,[3] Mr. Joseph H. Gaines, of West Virginia, submitted as involving a question of personal privilege the following statement:

Mr. Speaker, I think it is a matter of personal privilege, but it is so unimportant that I hardly wish to take the attention of the House to this extent. On yesterday, after the first roll call, I paired with the gentleman from Texas, Mr. Gillespie. When the point of no quorum was made and there was a call of the House I voted. I should instead have answered "present." I have explained the matter to the gentleman from Texas, and he does not care about it. I think however, when one makes such a mistake, mention of it should be made in the House.

The Speaker[4] held that the matter explained did not give rise to a question of privilege but recognized Mr. Gaines to prefer a unanimous-consent request for correction of the Record.

3095. The rules of the Senate do not recognize pairs.—On May 11, 1911,[5] in the Senate, the question being on the election of a President pro tempore, Mr.

[1] Second session Sixty-second Congress, Record, p. 9493.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixtieth Congress, Record, p. 3846.

[4] Joseph G. Cannon, of Illinois, Speaker.

[5] First session Sixty-second Congress, Record, p. 1185.

Joseph M. Dixon, of Montana, announced that he was paired with Mr. Albert Cummins, of Iowa, and declined to vote.

Mr. Porter J. McCumber, of North Dakota, having a pair with Mr. Le Roy Percy, of Mississippi, likewise excused himself from voting.

Mr. Weldon B. Heyburn, of Idaho, entered an objection and submitted that under Rule XII the question of excusing Senators from voting should be decided by the Senate.

Mr. Joseph W. Bailey, of Texas, made the point of order that the rule was not applicable.

The Presiding Officer [1] ruled:

The Chair is of opinion that pairs are not recognized by the rules anywhere, and that they are only a reason for not voting.

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[1] Henry Cabot Lodge, of Massachusetts, Presiding Officer.

Chapter CCLVIII.[1]

VOTING BY TELLERS AND BY BALLOT.

3096. The rules do not specify the manner in which tellers shall count the vote.

In a vote by tellers it is a matter of mutual agreement as to whether each teller shall count his own side or the opposing side.

On June 4, 1929,[2] during the consideration of the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses, and at the close of a vote by tellers on an amendment proposed by Mr. George Holden Tinkham, of Massachusetts, Mr. Robert A. Green, of Florida, inquired.

Mr. Chairman a parliamentary inquiry. I desire to inquire if it is not in order under the rules of the House that when a teller vote is taken the opposing sides count the vote. Is not that true?

The Chairman[3] replied:

There is no rule. The tellers are supposed to agree as to how they count the vote.

3097. A vote on an amendment taken by tellers in the Committee of the Whole having disclosed the lack of a quorum and objections being made for that reason, the vote by tellers is taken anew upon the appearance of a quorum.

Debate on a pending proposition is closed when the question is put on both the affirmative and negative, and the voidance of this vote through lack of a quorum does not open the question to debate when again under consideration.

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[1] Supplementary to Chapter CXXVIII.

[2] First session Seventy-first Congress, Record, p. 2364.

[3] Carl R. Chindblom, of Illinois, Chairman.

On December 21, 1922,[1] the Committee of the Whole House on the state of the Union resumed consideration of the agricultural appropriation bill with the question pending on an amendment offered by Mr. Albert Johnson, of Washington.

Mr. Johnson recalled that on the previous day on which the bill had been under consideration the question had been taken on the amendment and tellers had been ordered when the lack of a quorum developed and the committee had arisen. Mr. Johnson as a parliamentary inquiry desired to know the status of the question.

In response the Chairman[2] said:

The Chair has taken under consideration the situation in which the committee finds itself, due to the inquiry of the gentleman from Washington. Following the precedents and, in the opinion of the Chair, in the interest of orderly procedure, the Chair thinks that the committee should now revert to the point in its procedure where the gentleman from Washington originally offered his amendment, and that the several votes taken on the amendment be considered void. The Chair feels that when a vote is taken to which objection is made, due to the absence of a quorum, and the committee thereupon rises, the matter rests in the same state, so far as voting is concerned, in which it was in before the vote was taken, and must be resumed at this point when the bill is again considered. The Chair fortifies his position by a decision of Chairman Tilson on March 16, 1920, and by one of his own on December 5, 1919. Therefore the Chair will hold that the question now before the committee is on the amendment offered by the gentleman from Washington, which, without objection, the Clerk will again report.

The Clerk read as follows:

Amendment offered by Mr. Johnson of Washington: Page 4, line 14, strike out the figures "85,000" and insert in lieu thereof the figures "$3,500."

Thereupon Mr. Johnson proposed to debate the amendment.

The Chairman said:

The Chair feels that any debate must be had by unanimous consent, and bases this ruling on a decision rendered by Chairman Walsh on January 5, 1921, when the sundry civil bill was under consideration. On the previous day on an amendment offered the question was taken and the result announced. Division was had and the result of this vote announced. Then a point of no quorum was made and sustained. Thereupon the committee rose. The debate on the amendment had not been closed by motion or agreement. On the following day, when the amendment was again considered, a motion to strike out the last two words was made. In denying the right of further debate the Chair said:

"The Chair will state that debate upon this amendment is exhausted. The question had been put, the point of no quorum was raised, and the committee rose."

The Chairman feels that the ruling was correct.

If further debate is to be permitted, is it not competent to ask why any additional time accrues because of the absence of a quorum, which, if a quorum had been present, would have disposed of the amendment without further debate? Why should the absence of a quorum permit additional time when the presence of a quorum would have denied it? The Chair feels that debate has been exhausted and can only proceed by unanimous consent.

3098. On a vote by tellers the Chair announces the vote as reported by the tellers and does not inquire as to the correctness of such report.

The report of the tellers having been announced by the Chair, it is too late to raise a question as to the correctness of the report.

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[1] Fourth session Sixty-seventh Congress, Record, p. 825.

[2] Frederick C. Hicks, of New York, Chairman.

On December 12, 1919,[1] during consideration of the Army appropriation bill in the Committee of the Whole House on the state of the Union, the pending question was on agreeing to an amendment recommended by the committee reporting the bill.

The question being put, on a division, the yeas were 48 and the nays were 50.

Mr. David R. Anthony, Jr., of Kansas, demanded tellers, which were ordered, and the Chairman appointed as tellers Mr. Anthony and Mr. Fiorello H. LaGuardia of New York.

The tellers having reported, the Chairman announced that the yeas were 58 and the nays were 58, and the amendment was rejected.

Following the announcement of the vote by the Chairman, Mr. Anthony said:

Mr. Chairman, we counted General Sherwood's vote wrongly. He voted in the affirmative, and we counted him in the negative.

The Chairman[2] ruled:

The Chair thinks the Chair could do nothing more or less than to announce the vote as reported by the tellers; and, since the Chair has made the announcement, as far as the Chair is concerned, the result will stand.

The Chair has no personal interest upon either side of the question. There is but one thing for the Chair to do, and this is to announce the result as it is handed to him by the tellers.

After the announcement of the result it is impossible to open the case and the Chair refuses to permit it.

Mr. Warren Gard, of Ohio, asked unanimous consent that the Chairman be permitted to restate the vote.

The Chairman said:

Let the Chair state the question. The gentleman from Ohio asks unanimous consent that the Chairman be permitted to state the correct vote. Is there objection?

Objection is heard.

3099. Representation being made before announcement of the result that the count by tellers was incorrect, on a close vote, the Chairman ordered a recount.—On January 12, 1921,[3] during consideration of the legislative, executive, and judicial appropriation bill in the Committee of the Whole House on the State of the Union, Mr. James H. Mays, of Utah, offered an amendment providing for an assay office at Salt Lake City.

The vote being taken by tellers, the tellers reported yeas 42, noes 42.

Mr. Mays said:

Mr. Chairman, I think it proper to have a recount. I ask for a recount because of the fact that I know of one gentleman who voted in the affirmative who was actually counted in the negative.

The Chairman[4] decided:

The Chair presumes that the question of a recount would be within the discretion of the Chair. The vote is so close that the Chair thinks there might well be a recount.

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[1] Second session Sixty-sixth Congress, Record, p. 495.

[2] Martin B. Madden, of Illinois, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 1335.

[4] Nicholas Longworth, of Ohio, Speaker.

3100. On a vote by tellers the Chair may be counted without passing between the tellers.

The Chair may vote to make a tie and so decide the question in the negative as he may vote to break a tie and decide a question in the affirmative.

On Fridays other than the second and fourth Fridays a motion providing for consideration of bills reported from the Committee on Claims or the Committee on War Claims has precedence of a motion to consider other bills on the Private Calendar.

On Friday, February 18, 1921,[1] it being the third Friday and a day on which bills reported from the Committee on Claims were in order, the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. Louis C. Cramton, of Michigan, moved that the Committee of the Whole House proceed to the consideration of bills reported from the Committee on Claims.

Mr. Frank L. Greene, of Vermont, moved as a substitute that the committee proceed to consider the bill (S. 2867) to authorize retirement of Major General Crowder as a lieutenant general.

Mr. Cramton made the point of order that on this day a motion to consider bills reported by the Committee on Claims was preferential.

The Chairman[2] held:

The Chair sustains that point of order. It is clear that the preference is intended to be given to the Committee on Claims to-day, and the gentleman from Michigan has made the preferential motion that bills from that committee be considered, and that motion is not in order.

The question being taken by tellers on the motion to proceed to consideration of bills reported from the Committee on Claims, the Chairman announced:

On this vote the tellers report that the ayes are 110, the noes 109. The Chair votes in the negative; the ayes are 110, the noes, 110, the noes have it, and the motion is lost.

Mr. Cramton made the point of order that the Chairman has not passed between the tellers and was not entitled to vote to make a tie.

Mr. James R. Mann, of Illinois, in discussing the point of order said:

The Chair announced the result of the vote by tellers, and did not declare whether the affirmative or negative had it. But I doubt whether the Chair is authorized to vote without passing between the tellers, except in case of a tie vote. The Chair in case of a tie vote, where he has not passed between the tellers, has the right to vote in the affirmative in order to carry a proposition. But in this case there was no tie vote. I do not recall whether there is any precedent on the subject, but barring a precedent, certainly it seems the Chair could have come down and passed between the tellers by calling somebody else to the chair.

The Chairman ruled:

The Chair thinks, reasoning by analogy, that if the Chair can vote on a tie, he should be permitted to vote to make a tie, which would be equivalent to breaking a tie since it would change the result. But the Chair will examine the precedents, and, if wrong, will recall his vote. The present occupant of the chair wishes to rule and vote only in accordance with the rules of the

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[1] Third session Sixty-sixth Congress, Record, p. 3415.

[2] John Q. Tilson, of Connecticut, Chairman.

House and the precedents. [After a pause.] The only precedent the Chair is able to find in the very brief time at his disposal is the following. It is very brief, and the Chair will read it in full:

"5997. Hinds' Precedents. On February 18, 1904, the fortifications appropriation bill was under consideration in Committee of the Whole House on the state of the Union when Mr. Choice B. Randell, of Texas, proposed an amendment and a vote thereon was ordered by tellers.

"The tellers reported—ayes 79, noes 78.

"Thereupon the Chairman announced that he voted in the negative; that the ayes were 79 and the noes 79, and that the amendment was disagreed to."

This is the precedent that the Chair finds. The Chair overrules the point of order.

3101. The Chairman may be counted on a vote by tellers without passing between the tellers.

It is within the discretion of the Chairman as to whether he will vacate the chair on an appeal from his decision.

On January 12, 1927,[1] while the independent office appropriation bill was being considered in the Committee of the Whole House on the state of the Union, Mr. John McDuffie, of Alabama, offered an amendment authorizing the use of $5,000,000 for expenses of the United States Shipping Board Emergency Fleet Corporation.

The vote being taken on agreeing to the amendment, on a division, the yeas were 62 and the nays were 70.

Mr. Duffie having demanded tellers, the Chairman[2] announced the result of the vote as follows:

On this vote the tellers report, ayes 79, noes 78. The Chair votes "No," making the vote a tie, and the amendment is therefore rejected.

Mr. Tom Connally, of Texas, made the point of order that the Chairman had not passed between the tellers and could not be counted.

The Chairman overruled the point of order and read the following excerpt from section 5996 of Hinds' Precedents:

On February 14, 1901, while the sundry civil appropriation bill was under consideration in Committee of the Whole House on the state of the Union, a vote was taken on an amendment proposed by Mr. James D. Richardson, of Tennessee, and relating to certain payments on account of the old customhouse in New York City.

On a division, there being ayes 75, noes 75, Mr. Richardson demanded tellers, which were ordered.

Before the announcement of the vote by tellers the Chairman announced that he would like to be considered as having gone between the tellers. Thereupon he announced the result, ayes 92, noes 92, and that the amendment was lost.

On appeal from the decision of the Chair, Mr. Connally argued:

I submit that the precedent which the Chair submitted does not cover this case. If the chairman of the committee this afternoon, as was done in the precedent which he cited, had announced prior to the announcement of the vote he desired to be considered as passing between the tellers, I am sure no gentleman on this side of the aisle and none on that side of the aisle would have objected to the Chairman being considered as having passed between the tellers. That is not the case here at all.

After the Members had passed between the tellers and after the tellers had announced the vote by which this amendment was adopted by one vote, after the book had been closed, after the record had been made, the Chairman arbitrarily, without asking the consent of the committee that

[1] Second session, Sixty-ninth Congress, Record, pp. 1528, 1530.

[2] James T. Begg, of Ohio, Chairman.

he be considered as having passed between the tellers and without physically having passed between the tellers, from his place assumed the right to say that he would vote in derogation of the custom of this House, which provides that he must pass between the tellers or have consent of the committee to be considered as having passed between the tellers.

Mr. John Q. Tilson, of Connecticut, said in opposition:

Mr. Chairman, no one has been able to cite a precedent on the other side; but let us for a moment reason by analogy. The Chairman is a Member of this body. He has a right to have his vote cast in case it will be decisive. There would be no occasion for him to cast it, no reason why he should leave the rostrum to vote unless his vote is decisive. Then, why require him to leave his post of duty at all? On this vote taken by tellers the noes were one short. The Chairman, being a Member of this body and entitled to vote, voted in the negative, thereby making a tie which, under the rules of the House, defeats the amendment.

The Chairman is putting the question on the appeal said:

The Chair feels that it is only fair to make a statement as the Chair understands the conditions as they happened. On the vote by tellers after all present had passed between the tellers who cared to pass between them, and the tellers had reported to the Chair, the Chair made the statement—

"On this vote the tellers report—ayes 79, noes 78. The Chair votes in the negative, making the vote a tie, and the amendment is, therefore, rejected."

To that announcement the gentleman from Texas made the point of order. The Chair overruled the point of order. The gentleman from Texas appealed from the decision of the Chair.

The question now, is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. Connally, as a parliamentary inquiry, asked:

Mr. Chairman, a parliamentary inquiry. Do not the rules require that the chairman vacate the chair when there is an appeal from his decision?

The Chairman replied:

They do not.

The question being taken, on a division, the yeas were 113, nays 82, and the decision of the Chair stood as the judgment of the committee.

3102. A Member having requested tellers is not thereby precluded from demanding a division.

On April 11, 1924,[1] during consideration of the bill H. R. 7995, the immigration bill, in the Committee of the Whole House on the state of the Union, the Chairman[2] put the question on agreeing to an amendment offered by Mr. Hamilton Fish, Jr., of New York.

The vote being taken, the Chairman announced that the noes seemed to have it, when Mr. Fish requested tellers.

A sufficient number of Members failing to support the request for tellers, Mr. Fish then demanded a division on the question.

Mr. Albert Johnson, of Washington, made the point of order that the demand for a division came too late after tellers had been requested and refused.

The Chairman said tentatively:

A viva voce vote had been taken on the amendment offered by the gentleman from New York. The Chair declared the amendment lost. Whereupon the gentleman from New York asked for tellers. On a demand for tellers, tellers are not ordered unless the demand is supported by 20

[1] First session, Sixty-eighth Congress, Record, p. 6141.

[2] Everett Sanders, of Indiana, Chairman.

Members. There was not a sufficient number rising to order tellers. The question that is presented here is whether a demand for tellers having been made the proceedings have elapsed so that the gentleman from New York loses his right to demand a division. The Chair is of the opinion that the gentleman from New York at the time that a demand for tellers was made was entitled to a division, and that that request for a division would have had precedence of a demand for tellers. The gentleman from New York not having demanded a division then, and subsequent proceedings having occurred, the Chair is of the opinion that it then is too late to demand a division. The Chair is of that notion, but being a novel question, if any gentleman desires to discuss the matter, the Chair will be very glad to hear him.

Mr. John Q. Tilson, of Connecticut, took issue with this position and said:

Mr. Chairman, this is an important matter, and if the Chair has no precedent that controls, I should like to be heard. It is clear that a viva voce vote having been taken there exists a right to have a division. Any one Member can demand a division, and it must be granted to him. The demand for tellers is a higher demand, or at least it is a more accurate method of taking the vote. Tellers having been asked for and refused, it does not seem to me that a Member should be deprived of his right to demand a division. If it were so that he could be deprived of it by some one demanding tellers and then voting down the demand, the Member would be deprived altogether of his right to a division. It seeks to me that this might lead to a practice of tellers being asked for and refused thereby defeating the right to even a division, with the result that a vote might be decided without an opportunity for determining its accuracy otherwise than by a viva voce vote.

The Chairman ruled:

At first blush the Chair was of opinion that failure by the gentleman from New York to demand a division at the time, and to at least have it pending, was a waiver of his right to later demand it. The precedent in Volume V, section 5998, is not quite in point, but it comes very near it. In that case there was a demand for tellers and another Member demanded the yeas and nays. The yeas and nays were refused. The Chair then held that the pending demand for tellers was not obliterated by the failure to get the yeas and nays. In the present case there was no demand pending for a division. However, this seems to be a novel question, and the Chair is not going to follow his first-blush opinion but is going to follow the suggestions later made and not deprive the Member of the right to a definite division upon his amendment. The Chair overrules the point of order.

3103. A demand for tellers or for a division is not precluded by the fact that the yeas and nays have been demanded and refused.

On March 3, 1937,[1] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, reported the resolution (H. Res. 454) providing for the consideration of the joint resolution (S. J. Res. 152) amending the immigration act of 1924.

During consideration of the resolution Mr. Finis J. Garrett, of Tennessee, made the point of order that there was not a quorum present, and a quorum not being present, a call of the House was ordered.

The roll was called and 289 Members having answered to their names, a quorum, Mr. Snell moved to dispense with further proceedings under the call.

Mr. Garrett demanded the yeas and nays.

The question of ordering the yeas and nays having been submitted to the House, the Speaker[2] announced that not a sufficient number had risen and the request for the yeas and nays was refused.

Mr. Garrett thereupon demanded a division on the question of dispensing with further proceedings under the call of the House.

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[1] Second session Sixty-ninth Congress, Record, p. 56538.

[2] Nicholas Longworth, of Ohio, Speaker.

Mr. Snell made the point of order that the yeas and nays having been requested and refused it was too late to ask for a division on the question.

The Speaker overruled the point of order and said:

The Chair simply announced that not a sufficient number had risen to order the yeas and nays. The Chair thinks that in the absence of any rule stating the order in which division on various questions may be called for, it would still be in order to demand a division.

The House divided, and the yeas were 110, noes 42.

Mr. Garrett asked for tellers.

Mr. Snell submitted the point of order that the request for tellers was not in order.

The Speaker ruled:

The chair thinks that even at this stage one-fifth of those present, a quorum, can demand tellers. As many as favor taking this vote by tellers will rise and stand until they are counted. [After counting.] Forty-eight gentlemen have risen, a sufficient number.

3104. The right to demand tellers is not prejudiced by the fact that a point of no quorum has been made against a division of the question on which tellers are requested.

On December 13, 1917,[1] the post-office appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

On an amendment proposed by Mr. Halvor Steenerson, of Minnesota, limiting salary payments to persons appointed under the civil service, on a division, the yeas were 25 and the nays were 22.

Mr. William E. Cox, of Indiana, made the point of order that there was not a quorum present, but while the Chairman was counting to ascertain the presence of a quorum, withdrew the point of no quorum and requested tellers on the vote.

Mr. William H. Stafford, of Wisconsin, raised the question of order that the point of no quorum was an intervention of such business as would preclude a demand for tellers.

The Chairman[2] overruled the point of order and said:

It is a very common occurrence here that when a point of no quorum is made tellers are demanded, and the Chair understood that was done in this case. The Chair will count. [After counting.] Twenty-five gentlemen have demanded tellers—a sufficient number for tellers on the vote.

3105 There is no appeal from the count by the chair of the number rising to demand tellers.

On April 27, 1933,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5240), providing for loans to home owners, when Mr. Robert L. Bacon, of New York, offered an amendment increasing the limit of valuation of homesteads affected by the bill.

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[1] Second session Sixty-fifth Congress, Record, p. 270.

[2] Scott Ferris, of Oklahoma, Chairman.

[3] First session Seventy-third Congress, Record, p. 2490.

The question being taken on agreeing to the amendment, and tellers being demanded, the Chairman [1] announced:

Twelve Members have risen, not a sufficient number, and tellers are refused.

Mr. John J. Boylan, of New York, rising to a parliamentary inquiry, submitted that a sufficient number had risen to order tellers and proposed to appeal from the count of the Chair.

Mr. Edward W. Goss, of Connecticut, made the point of order that an appeal from the count of the Chair was not in order.

The Chairman sustained the point of order.

3106. The rule provides that on an election by ballot a majority shall be required to elect, and, if necessary, ballots shall be repeated until a majority be obtained.

In balloting in early years of the House there was uncertainty as to treatment of blanks, but later a rule established the principle that they should not be considered as votes.

Recent history and present form of Rule XXXIX.

Rule XXXIX provides:

In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers.

This rule, formerly known as Rule XL, retained the form adopted in 1880 until the revision of 1911,[2] when a provision which it carried at that time excepting its application in the election of committees was omitted to conform to the change in the method of selection of committees. The rule was also transposed at that time, becoming Rule XXXIX.

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[1] Fritz G. Lanham, of Texas, Chairman.

[2] First session Sixty-second Congress, Record, pp. 20, 80.

Chapter CCLIX.[1]

THE VOTE BY YEAS AND NAYS.

3107. The right to demand the yeas and nays is a constitutional privilege which may not be denied or abridged and may not be ruled out as dilatory.—On February,[2] the House was considering a Senate amendment to the Indian appropriation bill still in disagreement between the two Houses.

Mr. Charles C. Carlin, of Virginia, moved to postpone further consideration of the Senate amendment until the next legislative day.

Mr. James R. Mann, of Illinois, demanded the yeas and nays.

Mr. Leonidas F. Livingston, of Georgia, made the point of order that the request for yeas and nays was made for obstructive purposes and was dilatory.

The Speaker[3] held:

> The demand for the yeas and nays is a constitutional privilege that no rule or anything else can dispense with, and has never been ruled as dilatory. The gentleman from Illinois demands the yeas and nays.

3108. The House having adjourned after ordering the yeas and nays and before they could be taken, the order stands when the bill is again taken up for consideration.—On February 21, 1919,[4] the Speaker[5] announced that when the House adjourned on the preceding day the question was pending on the passage

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[1] Supplementary to Chapter CXXIX.

[2] Third session Sixty-first Congress, Record, p. 2797.

[3] Joseph G. Cannon, Illinois, Speaker.

[4] Third session Sixty-fifth Congress, Record, p. 3937.

[5] Champ Clark, of Missouri, Speaker.

of the bill (H. R. 16020) making deficiency appropriations for railroads under Government control, and on which the yeas and nays had been ordered.

Mr. James R. Mann, of Illinois, suggested that the order for the yeas and nays be vacated.

Mr. Swagar Sherley, of Kentucky, having objected, the Speaker said:

The question is on the passage of the bill. The yeas and nays were ordered, and the Clerk will call the roll.

3109. The constitutional right to demand the yeas and nays does not exist as to the vote to second a motion when such second is required by the rules.—On March 3, 1927,[1] Mr. M. Clyde Kelly, of Pennsylvania, moved to suspend the rules and pass the bill (H. R. 4475) to provide for steel cars in the Railway Post Office Service.

Mr. Albert Johnson, of Washington, having demanded a second, and the vote being taken by tellers, the yeas were 37 and the nays were 74.

Mr. Kelly demanded the yeas and nays.

The Speaker[2] read section 6032 of Hinds' Precedents relating to a similar point of order and held that on the question of seconding a motion—

the Chair thinks that the right to demand the yeas and nays does not exist. It is simply a question of whether the yeas and nays can be demanded as a right. The Chair thinks not.

3110. The yeas and nays may be demanded even after the pronouncement of a vote if the House has not passed to other business.

The constitutional provision for ordering the yeas and nays has always been construed liberally in favor of the demand by and any Member.

On March 2, 1910,[3] while the House had under considerations the bill (H. R. 15814) providing for the purchase or erection of embassy, legation, and consular buildings abroad, Mr. Robert B. Macon, of Arkansas, moved to strike out the enacting clause.

Mr. Frank O. Lowden, of Illinois, moved that the House adjourn.

The vote being taken on the motion to adjourn, the House divided and the Speaker[4] announced:

Upon this question the ayes are 62 and the noes are 88 and the House refuses to adjourn.

Mr. Lowden demanded the yeas and nays.

Mr. Ollie M. James, of Kentucky, made the point of order that the result of the vote having been announced the request for the yeas and nays came too late.

The Speaker overrule the point of order and said:

The Chair will read from the Manual:

"The yeas and nays may be demanded while the Speaker is announcing the result of a division, while a vote by tellers is being taken, and even after the announcement of the vote, if the House has not passed to other business."

Now, the matter of unanimous consent, the change of reference which the Chair submitted to the House, the Chair would not consider as "other business," because the whole thing was

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[1] Second session Sixty-ninth Congress, Record, p. 5606.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Sixty-first Congress, Record, p. 2648.

[4] Joseph G. Cannon, of Illinois, Speaker.

done by unanimous consent and as a matter of convenience to fix the calendar. The Chair is of opinion that the gentleman is in time with his demand for the yeas and nays.

The gentleman from Kentucky will recollect until the vote was announced the House could not tell what the vote was.

This is viva voce and there may be a further division, and if it is not demanded of course a further division can not be had; but this is a constitutional provision, and the Chair and all previous Speakers have always construed it liberally, as the Chair read from the Manual.

Section 6040 of Hinds' Precedents reads as follows:

"The yeas and nays may be demanded even after the announcement of a vote if the House has not passed to other business."

There are a number of other precedents to the same effect. This ruling was by Speaker Cobb, of Georgia. The Chair thinks the demand for the yeas and nays is in time.

3111. In ascertaining whether one-fifth of those present support a demand for the yeas and nays the Speaker counts the entire number present and not merely those who rise to be counted.—On February 20, 1915,[1] Mr. Swagar Sherley, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the fortifications appropriation bill.

Pending that motion Mr. Augustus P. Gardner, of Massachusetts, moved that the House adjourn.

Mr. Oscar W. Underwood, of Alabama, asked for the yeas and nays on the motion to adjourn.

The Speaker[2] announced:

The gentleman from Alabama asks for the yeas and nays on the motion to adjourn. All in favor of the motion will rise and stand until they are counted. [After counting.] Thirty-three gentlemen have risen in the affirmative, not a sufficient number.

Upon request of Mr. William C. Adamson, of Georgia, the Speaker decided to call for those opposed to taking the vote by yeas and nays, and announced:

Those opposed to taking this vote by the yeas and nays will rise and stand until they are counted. [After counting.] There does not seem to be anyone rising. Thirty-three gentlemen rose in the affirmative, not a sufficient number.

Mr. John N. Garner, of Texas, made the point of order that 33 having risen in the affirmative and none in the negative, the constitutional requirements had been complied with and the yeas and nays were ordered.

The Speaker held:

The rule of the House is "one-fifth of those present." The Chair will count to see how many there are here. [After counting.] Sixty-three Members are present, and 33 voted to take this vote by the yeas and nays. That is a sufficient number, and the Clerk will call the roll.

3112. In passing on a demand for the yeas and nays the Speaker need determine only whether one-fifth of those present sustain the demand.

The count of the Speaker in ascertaining whether one-fifth of those present support a demand for the yeas and nays is not subject to verification, and a request for a rising vote of those opposed to the demand is not in order.

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[1] Third session Sixty-third Congress, Record, p. 4240.

[2] Champ Clark, of Missouri, Speaker.

On December 15, 1919,[1] immediately following the reading of the Journal, Mr. Thomas L. Blanton, of Texas, made the point of order that there was not a quorum present.

The Speaker having sustained the point of order, Mr. Frank W. Mondell, of Wyoming, moved a call of the House.

The motion was agreed to and the roll was called, when 303 Members answered to their names, a quorum.

Mr. Mondell moved to dispense with further proceedings under the call.

Mr. Blanton demanded the yeas and nays.

The Speaker having submitted the question to the House announced that 45 Members had arisen, not a sufficient number, and the yeas and nays were refused.

Mr. Blanton said:

I ask for the other side.

The Speaker[2] replied:

There is no other side. The question is whether the demand is seconded by one-fifth of the Members present. The Chair can arrive at it by counting the Members. The Chair suggests that it does not follow that all Members present would vote. It very frequently happens that Members do not rise. The Chair will count.

3113. On January 30, 1924,[3] while the bill (S. 794) to equip the penitentiary at Leavenworth for the manufacture of Government supplies was under consideration in the House Mr. Thomas L. Blanton, of Texas, moved to recommit the bill to the Committee on the Judiciary, and on that motion demanded the yeas and nays.

The Speaker on submitting the demand to the House announced that 41 Members had arisen, not a sufficient number, and the yeas and nays were refused.

Mr. Blanton requested that the Speaker call for a rising vote of those opposed to ordering the yeas and nays.

The Speaker[4] rules:

No; it is not necessary. Two hundred and eighty-eight Members are present; there was not a sufficient number, and the yeas and nays are refused.

3114. In ascertaining whether one-fifth of the Members present support a demand for the yeas and nays the Speaker is not required to take a rising vote of those opposing but counts all present.

On a demand for the yeas and nays it is not in order to request a rising vote in the negative and the count of the Chair is not subject to verification.

On March 1, 1929,[5] the House divided on the question of agreeing to the conference report on the bill (H. R. 349) amending the naturalization law.

A demand for the yeas and nays having been refused, Mr. Charles R. Crisp, of Georgia, as a parliamentary inquiry, inquired:

As the Speaker well knows, the Constitution of the United States provides that one-fifth of the Members present have the right to have the yeas and nays. There has not been a rollcall or

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[1] Second session Sixty-sixth Congress, Record, p. 597.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-eighth Congress, Record, p. 1714.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Seventieth Congress, Record, p. 4951.

any count of the House, so far as I know, since we convened at 8 o'clock. On a request here for the yeas and nays, 52 rose. The Chair stated that that was not one-fifth of those present, and when the other side was asked to be counted to see if 52 was one-fifth of those present, the Chair did not count, and, therefore, I appeal to the Speaker. Under the Constitution, one-fifth of those present in the House being entitled to the yeas and nays, I asked the Speaker to ascertain if 52 is not one-fifth of those present in the House.

The Speaker [1] responded:

The present occupant of the chair announced not very long ago, after having carefully counted, that 287 Members were present. The Chair assumes there are still 287 Members present. So there was not a sufficient number.

The Chair has before him this precedent: [2]

"Such count (meaning such count as the present occupant of the chair made long since) is not subject to verification and a request for a rising vote of those opposed to the demand is not in order."

Now, if the gentleman makes the point of order there is not a quorum present, the Chair will be delighted to count.

3115. In passing on a demand for the yeas and nays the Speaker need determine only whether one-fifth of those present sustain the demand.

While the count of the Speaker in determining whether a requisite number of Members has sustained a demand for the yeas and nays is not subject to verification, and a call for those opposed may not be demanded as a matter of right, in exceptional instances requests for tellers have been entertained.

The integrity of the Speaker in counting a vote has never been questioned in the House.

On March 7, 1914,[3] the Speaker,[4] having asked and secured unanimous consent to address the House, requested the Clerk to read the following excerpt from an article appearing in a Washington newspaper:

Application of commission and manager forms of government to states and even of the Nation was advocated last night by Charles Zueblin, former professor of sociology at the University of Chicago. His address was delivered under the auspices of the Congressional Union.

"The House of Representatives," he said, "is too unwieldy to accomplish anything, and will never grow less so. The situation is such that any majority Member must go to Representative Underwood or Speaker Clark to find out what he himself thinks."

As an instance of control by the minority Doctor Zueblin cited the vote in the House on the report of the Mulhall investigation, asserting that the Speaker announced the number voting for a roll call was 23, whereas 50 men, he said, have signed a statement that they rose to their feet. "I am not blaming all this on the Speaker," said Mr. Zueblin. "He is only one of the ring up there."

At the conclusion of the reading the Speaker said:

I am now serving my twentieth year in the House, and never yet rose to a question of personal privilege and would not do so now, if it were simply a personal question involved, but the words of Professor Zueblin of Winchester, Mass., as reported in the Washington Post, go far beyond that.

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[1] Nicholas Longworth, Speaker.

[2] Sec. 3112 of this work.

[3] Second session Sixty-third Congress,

[4] Champ Clark, of Missouri, Speaker. Record, p. 4470.

His words involve the integrity of the proceedings of the House as well as the courage, intelligence, patriotism, vigilance, and fidelity of at least 165 Members, for that many were here in the Hall by actual count. This is too serious a thing to permit to go unchallenged. What this man wanted his hearers to believe, though he did not say so in so many words, is this: That on the demand by Mr. MacDonald of Michigan, for the yeas and nays, on the motion of Mr. Garrett, of Tennessee, to refer the matter to the Committee on the Judiciary, 50 Members rose in the affirmative and that I reported only 23, and that 165 Members sat here dumb and made no protest against my action. It is absolutely unthinkable that any Speaker would do such a brazen, outrageous, and corrupt thing, and it is equally incredible if any Speaker should be so unworthy of his high responsibility as to do such a thing, that 165 Members should be so forgetful of their duty to themselves, their constituents, their country, and the cause of representative government as to sit mute and motionless. All any Member had to do to expose such a performance on my part, if there had been any such performance, was either to raise the point of no quorum, which would have been well taken, because there were only 165 Members present, while it takes 218 to constitute a quorum, or any Member could have demanded tellers.

The custom of the Chair, is, if there is a very large vote on each side, to count by fives, and in the shuffling around that takes place in the House, if there is anything like a full vote, it would not be anything strange if he was out of plumb 5 or 6, or even 10 votes. But when a few gentlemen stand up and try to get the yeas and nays, or do anything else which they have a right to do, the Chair counts with the greatest accuracy possible.

Mr. James R. Mann, of Illinois, said:

Mr. Speaker, it would be an error which ought not to be permitted to go forth for the people to believe that the Speaker has the power to defraud the House by a wrong count. If there had been 50 gentlemen who rose at that time, it would have been an easy matter to have asked for tellers on that proposition, and thus take the count out of the hands of the Speaker and place it in the hands of two gentlemen representing each side of the proposition. We frequently resort to tellers, not because we doubt the count of the Speaker or of the Chair, but because we wish to have gentlemen pass between the tellers so everyone can see them, and give those who do not happen to be in the Hall when the first vote was taken on a division an opportunity of voting.

It is undoubtedly true that many persons throughout the country believe that at least in some of the State legislatures the speaker exercises the gavel to do what they call "gaveling things through" regardless of the vote. I have served in this House for quite a number of years, and I never yet have seen any Speaker attempt to override the House by the exercise of autocratic power in refusing a fair count or a fair vote. In many places, especially in conventions outside or congresses outside of legislative bodies, people take advantage of certain situations to declare that the demand for a division or the demand for a roll call comes too late. That is seldom exercised in the House of Representatives. Here the Speaker attempts to preserve the rights of every Member to have an actual count of the real vote, and no Speaker would be permitted to remain as Speaker 48 hours who attempted to defraud the House of its right to a square vote upon a proposition.

3116. On November 16, 1921,[1] the House was considering the bill (S. 843) providing for relief in contracts connected with the prosecution of the war.

The question being on the passage of the bill, Mr. Eugene Black, of Texas, demanded the yeas and nays.

The Speaker on submitting the request to the House announced that 48 Members had risen to sustain the request, not a sufficient number, and the yeas and nays were refused.

Mr. William H. Stafford, of Wisconsin, asked for tellers.

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[1] First session Sixty-seventh Congress, Record, p. 7816.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the Speaker's count was not subject to verification and the demand for tellers was not in order.

After debate the Speaker pro tempore [1] ruled:

In the judgment of the Chair a sufficient number not having arisen to support the demand for the yea and nay vote, if a sufficient number arises in support of the demand for tellers, the Chair's count is subject to verification by the House, if it so desires, and the Chair overrules the point of order. As many as are in favor of seconding the demand for tellers on the question of ordering the yeas and nays will rise. The Chair will count all gentlemen standing. (After counting.) Sixty-seven gentlemen have risen, a sufficient number:

Tellers were ordered.

3117. On June 3, 1926,[2] Mr. S. Wallace Dempsey, of New York, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill.

The question being submitted to the House, on a division, the yeas were 230 and the nays were 55.

Mr. Louis C. Cramton, of Michigan, demanded the yeas and nays.

The Speaker [3] announced:

The gentleman from Michigan asks for the yeas and nays. Forty-four gentlemen have arisen, not a sufficient number.

Mr. Cramton asked for tellers.

Mr. John McDuffie, of Alabama, submitted a parliamentary inquiry as to the propriety of demanding tellers on the Speaker's count.

The Speaker decided that tellers might be ordered and directed that the vote be taken by tellers.

3118. On March 21, 1928,[4] the House resumed consideration of the bill (H. R. 8141) authorizing additional employees for the Federal Power Commission, on which the previous question had been ordered on the previous day.

The Speaker having put the question on agreeing to the amendment to the bill reported by the Committee of the Whole House on the state of the Union, Mr. James S. Parker demanded the yeas and nays.

After counting, the Speaker [3] announced that 60 Members had arisen, not a sufficient number.

Mr. Parker requested that the number of Members announced as supporting the demand for the yeas and nays be verified by tellers.

Mr. Carl E. Mapes, of Michigan, questioned the right to demand a verification of the Speaker's count by tellers.

The Speaker overruled the point of order and submitted the request for tellers.

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[1] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[2] First session Sixty-ninth Congress, Record, p. 10636.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Seventieth Congress, Record, p. 5111.

3119. A Member failing to respond when his name is called may not be recorded as voting, even by unanimous consent.—On July 17, 1919,[1] Mr. William B. Bankhead, of Alabama, submitted the following request:

Mr. Speaker, I desire to make a request for unanimous consent. The gentleman from Texas, Mr. Parrish, was called out while we were taking the vote on the passage of the sundry civil bill, but is now present. Inasmuch as there is no opposition to the bill, I ask unanimous consent that he may be recorded in the affirmative.

The Speaker[2] said:

The Chair thinks that can not be done by unanimous consent.

3120. In counting to ascertain the presence of a quorum or whether a sufficient number have voted to order yeas and nays, the Chair counts all Members visible, including those in lobbies and cloakrooms.—On June 10, 1921,[3] Mr. Oscar E. Bland, of Indiana, moved to recommit the bill (H. R. 6611) to establish a Veterans' Bureau in the Treasury Department to the Committee on Interstate and Foreign Commerce with instructions.

The question being taken, Mr. Bland, demanded the yeas and nays. The demand being put, the Speaker pro tempore[4] announced that 44 Members had arisen, not a sufficient number, and the yeas and nays were refused.

Mr. Bland submitted that 44 constituted one-fifth of the Members present, and asked that those present be counted.

The Speaker pro tempore proceeded to count, when Mr. Sam Rayburn, of Texas, asked that members retiring from the Hall be counted.

The Speaker pro tempore said:

Under the precedents the House is not considered as limited merely to the Hall of the House, but also includes the cloak rooms and the lobby adjacent to the Chamber. The Chair included in his count 193 members on the floor of the Chamber, 11 who had left the Chamber after the demand for the other side had been made—a sufficient number, and the Clerk will call the roll.

3121. The Clerk in calling the roll calls Members by surnames only, omitting the prefix "Mr."—Formerly the Clerk in calling the roll called the full names of Members. In 1879,[5] in the interest of brevity, the House adopted a recommendation reported by the Committee on Rules directing that Members be called by surnames with the prefix "Mr." The increase in the membership of the House in the Sixty-second Congress rendered imperative further economy of time in calling the roll, and by common consent the prefix "Mr." was dropped and Members are called by surnames only.

In the Senate with its smaller membership the practice of using the prefix "Mr." still obtains.

3122. Members who have not taken the oath of office are not entitled to vote.—On May 9, 1913,[6] the House was considering the resolution (H. Res. 99)

[1] First session Sixty-sixth Congress, Record, p. 2775.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-seventh Congress, Record, p. 2426.

[4] William H. Stafford, of Wisconsin, Speaker pro tempore.

[5] First session Forty-sixth Congress, Record, pp. 471, 1017.

[6] First session Sixty-third Congress, Record, p. 1457.

directing the Sergeant at Arms to take in custody one Charles C. Glover, when finding itself without a quorum a call of the House was ordered.

In response to a parliamentary inquiry by Mr. James R. Mann, of Illinois, the Speaker held that 216 Members constituted a quorum.

Mr. Mann submitted that the membership consisted of 434 Members and therefore 218 Members were required to constitute a quorum.

The Speaker [1] said:

Four hundred and thirty-five Members constitute the whole membership of the House; but one is dead and three have never been sworn in. The Chair does not know whether their names are carried on the roll or not. They ought not to be. This matter was in a good deal of doubt for a long time until Speaker Henderson rendered a very elaborate written opinion in which he defined what constitutes a quorum as being one more than a majority of Members elect sworn in and living who have neither resigned nor been expelled.

3123. Under the more recent practice recapitulation of a vote may be had either before or after the announcement of the result of the vote.

A Member may change his vote at any time before its announcement—

On June 1, 1920,[2] a yea-and-nay vote was had on agreeing to the resolution (H. Res. 324) to amend the rules of the House in connection with the establishment of a national budget.

Prior to the announcement of the result of the vote a recapitulation was ordered.

Mr. Charles Pope Caldwell, of New York, as a parliamentary inquiry desired to know if it would be in order for a Member to change his vote on recapitulation.

The Speaker [3] held that it would be in order for members to change their votes at any time prior to announcement.

3124. Under the more recent practice recapitulation of a vote may be had either before or after the announcement of the result of the vote.

A Member may not change his vote on recapitulation if the result of the vote has been announced prior to recapitulation.

On May 29, 1920,[4] the Speaker in announcing the result of the vote on an appeal taken by Mr. Finis J. Garrett, of Tennessee, from a decision of the Chair, said:

On this vote the yeas are 192 and the nays 189. The result is so close that the Chair thinks there ought to be a recapitulation. The Chair will ask the Clerk to recapitulate the vote.

The vote having been recapitulated, Mr. Warren Gard, of Ohio, asked if the vote of Mr. Peter E. Costello, of Philadelphia, had been recorded, and being informed that it had not, said:

Mr. Speaker, the arrangement I had with the gentleman from Pennsylvania I do not think contemplated the roll call which has just been had.

The Speaker [3] said:

The Chair thinks that it would be too late to change the vote in any event.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 8108.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Second session Sixty-sixth Congress, Record, p. 7924.

3125. Under the more recent practice recapitulation of a vote may be had either before or after the announcement of the result of the vote.

Errors in the record of votes are corrected on recapitulation at the close of the reading of the votes in the affirmative, in the negative, and those answering present, respectively.

On March 1, 1919,[1] the House was considering the contested-election case of Britt against Weaver.

The question being taken by yeas and nays on agreeing to a substitute proposed by Mr. Cassius C. Dowell, of Iowa, for the resolution reported by the Committee on Elections, the Speaker[2] announced that there were 180 yeas and 177 nays.

Subsequent to the announcement of the vote Mr. James R. Mann, of Illinois, demanded a recapitulation.

The Speaker directed the Clerk to recapitulate the vote, and the names of those voting in the affirmative having been called, Mr. Leonidas Dyer, of Missouri, asked when it would be in order to correct a vote inaccurately reported.

The Speaker said:

Now or never.

Mr. Dyer thereupon called attention to an error in the Record of those voting in the affirmative.

The Clerk then read the list of Members voting in the negative.

Mr. Richard N. Elliott, of Indiana, having addressed the Speaker, was recognized to make a correction.

The list of names of those answering "present" was then read by the Clerk, and Mr. James R. Mann, of Illinois, called attention to inaccuracies, which were corrected.

3126. The motion that a vote be recapitulated is not privileged.

A Member may not, as a right, demand the recapitulation of a yea-and-nay vote, but if the vote is close the Speaker usually orders it.

Discovery of error in the count of a vote subsequent to the announcement of the vote, even on another day, vitiates the proceedings.

On March 1, 1909,[3] the yeas and nays being ordered on the question of agreeing to the resolution (H. Res. 607) amending the rules, the yeas were 168, nays 163, answering present 2, and the Speaker[4] announced that the resolution was agreed to.

Mr. William P. Hepburn, of Iowa, moved that the vote be recapitulated.

The Speaker declined to entertain the motion.

Mr. Champ Clark, of Missouri, requested a recapitulation of the vote.

The Speaker held:

There is no necessity for a recapitulation. The gentleman has no right to demand a recapitulation of the vote. But if the gentleman from Missouri has reason to believe that a recapitulation of the roll may show a different result that would change the vote, the Chair will take that statement into consideration, it being discretionary with the Chair, as is shown by all the precedents.

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[1] Third session, Sixty-fifth Congress, Record, p. 4802.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session, Sixtieth Congress, Record, p. 3572.

[4] Joseph G. Cannon, of Illinois, Speaker.

But the Chair, in the discretion of the Chair, will order a recapitulation of the vote, although if it should appear to-morrow that there was an error that would change the result all the proceeding would fall.

The Chair will read:

"A Member may not, as a right, demand the recapitulation of a yea-and-nay vote, but if the vote be close the Speaker usually orders it.

"The usage as to a recapitulation of a yea-and-nay vote does not permit it to be done after the announcement of the result except by unanimous consent. There is no rule or practice requiring a recapitulation of the names of those who appeared on a call of the House after their names have been called."

There is the matter in a nutshell, and now the Chair, sooner than have a shadow cast upon the use of the discretion that is lodged in the Chair under the rules of the House and the uniform practices of the House, will direct the Clerk to recapitulate the vote.

3127. On June 27, 1918,[1] the pending question was on agreeing to the conference report on the post-office appropriation bill.

The vote being taken by yeas and nays, the yeas were 149 and the nays were 150, and the Speaker[2] announced that the conference report was rejected.

Mr. Robert Y. Thomas, jr., of Kentucky, offered a motion that the roll be again called by way of recapitulation.

The Speaker refused recognition and said:

You can not do that.

3128. Recapitulation of a vote is within the discretion of the Speaker and may not be demanded as a matter of right.

The Speaker declined to entertain an appeal from his decision refusing recapitulation of a vote.

On February 28, 1919,[3] the question being taken on agreeing to the conference report on the bill (S. 1419) to regulate the construction of dams across navigable waters, the Speaker announced there were on the roll call 263 yeas and 65 nays, and the conference report was agreed to.

Mr. William E. Mason, of Illinois, requested a recapitulation of the vote.

The Speaker[2] held:

A verification of the vote rests entirely in the judgment of the Speaker. If it were a close vote, so close that mistakes enough might have been made to change it, the Chair would have no hesitancy in granting that request, but the Chair declines to order a verification of the vote.

Mr. Mason having appealed from the decision of the Chair the Speaker declined recognition for the purpose and said:

The gentleman from Illinois appeals from the decision of the Chair. The gentleman from Illinois has no right to appeal from the decision of the Chair on that particular point, as it is a matter that is entirely within the discretion of the Speaker.

3129. On July 13, 1932,[4] the Committee of the Whole House on the state of the Union reported the bill H. R. 12946, the relief bill, to relieve destitution and expedite

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[1] Second session Sixty-fifth Congress, Record, p. 8388.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 4641.

[4] First session Seventy-second Congress, Record, p. 15231.

employment, to broaden the lending powers of the Reconstruction Finance Corporation and to create employment by providing for a public works program with amendments, and with favorable recommendation.

Mr. Willis C. Hawley, of Oregon, having demanded a separate vote on the amendment providing for publicity of loans made by the Reconstruction Finance Corporation, and the yeas and nays being ordered, there were 170 yeas and 169 nays.

Mr. Bertrand H. Snell, of New York, requested a recapitulation of the vote.

The Speaker [1] said:

The gentleman from New York asks for a recapitulation of the vote. That question is entirely within the discretion of the Chair. The Chair believes, however, in the interest of fairness and correctness the vote ought to be recapitulated. Therefore he will order a recapitulation of the vote.

3130. On January 26, 1921,[2] at the conclusion of a yea-and-nay vote on agreeing to an amendment to the agricultural appropriation bill providing for congressional distribution of valuable seeds, the Speaker [3] announced that the yeas were 141 and the nays were 142, and the amendment was rejected.

By direction of the Speaker the vote was recapitulated, when Mr. Leonidas C. Dyer, of Missouri, stated that he had voted in the negative and desired to change his vote from "no" to "aye."

The Speaker ruled.

The Chair does not think so, after the vote has been announced. The recapitulation, of course, is simply for the purpose of verifying the vote, and the Chair does not think it could be used as an engine for changing the vote.

3131. A roll call may not be interrupted even by a point of order.— On Friday, February 17, 1911,[4] Mr. James R. Mann, of Illinois, moved to dispense with the proceedings in order on that day on the Private Calendar.

The question being taken, the yeas were 38, and the nays were 120, when Mr. Mann made the point of order that there was not a quorum present.

The Speaker pro tempore,[5] after counting, announced that a quorum was not present and directed a call of the House under the rule.

During the roll call Mr. Finis J. Garrett, of Tennessee, requested recognition to present a point of order and said:

Mr. Speaker, I make the point of order that this roll call is not in order. I venture to call the attention of the Chair to section 2968, volume 4, of Hinds' Precedents. It read thus:

"When a Committee of the Whole rises and reports the lack of a quorum, the sitting of the committee is resumed upon the appearance of a quorum."

Now, I understand the situation to be this: The Committee of the Whole rose and reported to the House the lack of a quorum.

The Speaker pro tempore ruled:

The Chair thinks it is not in order to interrupt a roll call for the making of a point of order. The Chair thinks it is too late to make that point of order after the roll call has been begun, or that

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[1] John N. Garner, of Texas, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 2099.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Third session Sixty-first Congress, Record, p. 2809.

[5] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

it can not be entertained until after the roll is completed. The Chair declines to entertain the point of order in the midst of a roll call. The Chair does not pass upon it, but declines to entertain it in the midst of a roll call.

3132. The roll call may not be interrupted for a parliamentary inquiry.—On January 26, 1921,[1] the House was considering the agricultural appropriation bill with the question pending on a motion to lay on the table a motion to reconsider the vote by which the House had rejected an amendment providing for the free distribution of seeds.

The yeas and nays being ordered, the Clerk was calling the roll when Mr. Frank Clark, of Florida, addressed the Speaker and desired to submit a parliamentary inquiry.

The Speaker[2] in declining to entertain the inquiry said:

The gentleman can not interrupt the roll call. The gentleman knows that during a roll call nothing else is in order. Nobody can make a parliamentary inquiry during a roll call.

3133. A roll call was held not to be subject to interruption by the arrival of the hour at which the House and previously agreed to recess.— On February 24, 1921,[3] on motion of Mr. Frank W. Mondell, of Wyoming, by unanimous consent, it was ordered that at 6 o'clock p.m. of that day the House stand in recess for two hours.

Subsequently, during the consideration of Senate amendments to the post-office appropriation bill, Mr. John Jacob Rogers, of Massachusetts, moved to concur in Senate amendment No. 33 providing for continuing in force the existing law relating to passports for aliens seeking admission to the United States.

The question being taken on the motion to concur, Mr. William L. Igoe, of Missouri, raised the questin of order that there was not a quorum present, pending which Mr. Finis J. Garrett, of Tennessee, inquired:

It has already been agreed to that the House will recess at 6 o'clock. Now an automatic roll call will come. If 6 o'clock should come before the roll call is completed, would the roll call be interrupted?

The Speaker[2] held:

The roll call would not be interrupted. The House would not adjourn until after the roll call.

3134. A Member is permitted to vote after the roll call has been concluded on a yea-and-nay vote only on the theory that the Clerk inadvertently failed to call his name.

Although a Member may have been present during roll call, unless he was listening when his name should have been called he does not qualify to vote at the end of the roll.

On December 12, 1908,[4] the House was considering the bill (H. R. 11733) punishing conspiracies to intimidate persons in the exercise of a right under the Constitution.

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[1] Third session Sixty-sixth Congress, Record, p. 2100.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 3814

[4] Second session Sixtieth Congress, Record, p. 173.

The roll call on the passage of the bill having been concluded Mr. Richmond P. Hobson, of Alabama, submitted:

Mr. Speaker, I was mistaken as to the call. I had voted on the previous question, and was under the impression that this was another call on that vote. I was ready to vote, but did not hear my name. I was giving general attention, but did not expect my name to be called. Within two numbers, the name after mine or the next after that, they told my the Clerk had just passed my name, and I did not know it. I was here, was giving attention, and was anxious to vote.

The Speaker [1] ruled:

The gentleman hardly brings himself within the rule. The meaning of the rule is the supposition that the gentleman's name was not called. Therefore, under the rule, the gentleman should have been present giving attention when his name should have been called, and did not hear it. The gentleman says that he was not expecting to vote, but others heard his name called, and his attention was called to it one or two names further along. The rule forbids the Chair to entertain the request, unless the gentleman brings himself within the rule.

This is the rule:

"Upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State the whole name shall be called; and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting; and thereafter the Speaker shall not entertain a request to record a vote or announce a pair unless the Member's name has been noted under clause 3 of this rule."

That is where a quorum fails, and is not this case. The Speaker has been accustomed, in the construction of this rule, where it appears that a gentleman was present giving attention, expecting to vote, and failed to vote because he failed to hear his name called to allow the Member's name to be called again. This is as far as the construction of the rule had gone, and so far as the Chair knows or is informed, it has been the uniform construction of the rule by the Chair. Now, except for the construction of the rule by the Chair, the letter of the rule would not even cover that case.

The rule was adopted by the House, and under the strict interpretation of the rule the gentleman would not be entitled to vote even if he was giving attention when his name should have been called and did not hear it called. But the construction of the rule by former Speakers, adhered to by the Chair, has been that where a gentleman states that he was giving attention when his name should have been called, and that he failed to hear his name called, to allow him to vote. Now, if the Chair should enlarge this construction of the rule, it would practically nullify the rule. It is quite in the power of the House to change the rule. The Chair does not think the gentleman has brought himself within the rule.

3135. On May 20, 1932,[2] the yeas and nays were ordered on agreeing to the resolution (H. Res. 167) providing a special order for the consideration of the bill (H. R. 4668) amending the flood control act of 1928.

At the conclusion of the second roll call, Mr. Hampton P. Fulmer, of South Carolina, addressed the Chair and asked to be recorded.

The Speaker [3] inquired if the gentleman was present in the Chamber and listening when his name was called.

Mr. Fulmer replied:

Mr. Speaker, just as I entered the Chamber I heard my name called, but I was unable to answer.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Seventy-second Congress, Record, p. 10822.

[3] John N. Garner, of Texas, Speaker.

The Speaker held:

The gentleman does not qualify.

3136. On August 7, 1911,[1] the bill H. R. 8768, the pawnbroker's bill, regulating the loaning of money in the District of Columbia, was being considered in the House, when Mr. James Hay, of Virginia, moved that the House adjourn.

The vote being taken by yeas and nays and the roll call having been concluded, Mr. Samuel W. McCall, of Massachusetts, requested that his vote be recorded.

In response to an inquiry from the Speaker pro tempore,[2] Mr. McCall said:

Mr. Speaker, I was present in the Hall, but was not giving attention.

The Speaker pro tempore held:

The gentleman does not bring himself within the rule.

3137. The practice does not contemplate that a Member shall be permitted to vote simply because he does not hear his name called, but is on the theory that through inadvertence on the part of the Clerk the name was not called at all, and therefore only those Members qualify who are present and listening when their names should have been called.—On June 4, 1919,[3] the House was considering the agricultural appropriation bill.

The roll call on the passage of the bill having been completed, Mr. Charles C. Kearns, of Ohio, who had not responded on the roll call, asked that his vote be recorded.

The Speaker[4] propounded the usual inquiry as to whether the gentleman had been present and listening when his name should have been called.

Mr. Kearns said:

I was in the Hall, but I did not hear my name called. I could not hear my name if it had been called—there was so much confusion in the room. I was present.

The Speaker explained:

The Chair would like to say that the rule does not contemplate that a Member can vote simply because he did not hear his name called. It is on the theory that the gentleman's name was not called at all, and therefore the only way that a Member can properly qualify is that he was present and listening, did not hear his name called, and therefore is allowed to vote on the theory that his name was not called. Unless gentlemen can state that they were present and listening when their names should have been called, they do not qualify. Unless the gentleman will state that he was present and listening to hear his name called, the gentleman can not qualify.

Mr. Kearns submitted:

I think I was; I was doing nothing but watching the roll call, and did not hear my name called. There was much confusion in the Hall.

The Speaker held:

The Chair does not think the gentleman has qualified.

3138. On May 2, 1921,[5] during consideration of a motion to suspend the rules and pass the joint resolution (S. J. Res. 30) authorizing the President to appoint a

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[1] First session sixty-second Congress, Record, p. 3708.

[2] John J. Fitzgerald, of New York, Speaker pro tempore.

[3] First session Sixty-sixth Congress, Record, p. 639.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] First session Sixty-seventh Congress, Record, p. 940.

representative to cooperate with the Joint Committee on Reorganization, the House found itself without a quorum, and a call of the House was ordered.

After a yea-and-nay vote had been concluded on a motion to dispense with further proceedings under this call, and before the result of the vote had been announced, Mr. J. C. Pringey, of Oklahoma, asked to be permitted to vote.

The Speaker [1] said:

The Chair will state, inasmuch as a part of the Members may not be familiar with the rule, that there is one to the effect that unless a Member votes when his name is called he can not vote on the roll call. But the theory being that the Clerk may have neglected to call a Member's name, and, of course, in that case he having had no opportunity to vote ought to be allowed a further opportunity. So, if a man was listening and did not hear his name called, he can vote. Was the gentleman from Oklahoma present and listening when his name was called?

Mr. Pringey having answered in the affirmative, the Speaker directed that he be recorded.

3139. It is the duty of the Speaker to qualify a Member asking to vote at the end of the roll, but it is for the Member and not the Speaker to say whether he was in the Hall and listening and unless he answers categorically in the affirmative he may not vote.—On August 13, 1912,[2] the House voted on reconsideration of the bill H. R. 22195, a tariff bill reducing the woolen schedule, returned by the President without his approval.

At the conclusion of the roll call Mr. David J. Lewis, of Maryland, asked to be permitted to vote, and in response to the usual inquiry by the Speaker said:

I was at the door of the cloakroom, if that embraces the Hall. I do not know what the interpretation of the word "Hall" is, whether it embraces the cloakroom or not, I can not answer otherwise than that I was standing in the door of the cloakroom waiting, and did not hear my name called, owing to the noise and other interruptions. I was listening for it and waiting.

The Speaker [3] said tentatively:

The gentleman knows whether it is inside the door or not. The only question the Chair has a right to ask is whether the gentleman was in the Hall, listening, when his name was called.

The chair is not entertaining arguments on the subject. The question is, Was the gentleman: in the Hall, listening, when his name was called?

The chair thinks the gentleman brings himself within the rule, although it is a close shave.

Mr. James R. Mann, of Illinois, submitted that it was not a question for the Speaker to decide and that in order to qualify the Member must himself answer and answer unequivocally in the affirmative.

The Speaker ruled:

The Chair thinks that the gentleman from Illinois states the rule correctly; and really the only question that the chair is expected to ask of a Member is whether he was in the Hall listening. It rests entirely with the gentleman from Maryland. If he says he was in the Hall listening, the Chair will have his name recorded. If he was not, he is not entitled to have it recorded.

3140. On December 3, 1918,[4] Mr. Frank Clark, of Florida, moved that the House resolve itself into the Committee of the Whole House on the state of the Union

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-second Congress, Record, p. 10847.

[3] Champ Clark, of Missouri, Speaker.

[4] Third session Sixty-fifth Congress, Record, p. 51

for the consideration of the bill (H. R. 12917) to provide for the establishment of a sanatorium for discharged soldiers and sailors.

The roll call on agreeing to the motion having been concluded, Mr. Henry D. Flood, of Virginia, Mr. Robert Crosser, of Ohio, and Mr. Carter Glass, of Virginia, addressed the Speaker and asked to vote.

In reply to the inquiry of the Speaker as to whether they were in the Hall and listening at the time their names should have been called Mr. Flood said:

I reckon not.

The Speaker [1] held that he was not entitled to vote.

Mr. Crosser said:

Mr. Speaker, I do not know whether I was here when my name was called or not. I have been here a good part of the time. I do know.

The Speaker ruled adversely and said:

The gentleman has to qualify and say whether he was in the Hall listening or not.

Mr. Glass said:

Mr. Speaker, I was in the Hall engaged in conversation and did not hear my name when it was called. Whether that is a qualification or not, the Speaker will have to decide. I shall be very glad to state, Mr. Speaker, I had intended voting. I missed my name on the first roll call and hoped to hear it on the second roll call, but I was engaged in conversation with a colleague and did not hear it.

Mr. James R. Mann, of Illinois, submitted that he ought to state that he was in the Hall expecting to vote and listening "as Members usually listen."

Mr. Glass agreed:

Well, I do state that. I was listening, just about as we are in the habit of listening.

The Speaker held:

I think the gentleman is entitled to vote.

3141. On October 27, 1919,[2] the Speaker laid before the House the message of the President returning with his objections the bill (H. R. 6810) to prohibit intoxicating beverages and to regulate the use of spirits for other than beverage purposes.

The question being taken on the passage of the bill, on reconsideration, the Speaker [3] announced that the yeas were 175, the nays were 55, and two-thirds having voted in the affirmative, the bill was passed, the objections of the President to the contrary notwithstanding.

Thereupon Mr. Nicholas Longworth, of Ohio, addressed the Speaker and desired to be recorded as voting "nay."

The Speaker inquired if the gentleman was present and listening when his name was called.

Mr. Longworth said:

Practically.

The Speaker held that the gentleman failed to qualify.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-sixth Congress. Record, p. 7611.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Longworth inquired if he might be recorded as voting "present."

The Speaker ruled:

The Chair has no discretion to allow the gentleman to vote at all.

3142. On July 26, 1921,[1] at the conclusion of a roll call, Mr. Thomas U. Sisson, of Mississippi, announced that he desired to vote.

In reply to the interrogation of the Speaker[2] as to whether he was present and listening when his name should have been called, Mr. Sisson said:

I was present. I do not know whether I was listening at the time or not, but I did my best to listen. I can not positively state whether or not I was listening at the time my name was called. I do not know.

The Speaker said:

The gentleman must decide that question for himself. Can the gentleman state that he was listening when is name was called?

Mr. Sisson failing to answer in the affirmative, the Speaker ruled that he did not qualify to be recorded.

3143. When the Clerk in calling the roll call fails to note a Member's vote, the Member may, at any time, before the approval of the Journal, demand as a matter of right that it be recorded.—On January 7, 1910,[3] the House had under consideration the joint resolution (H. J. Res. 103) for the investigation of the Interior Department and the Bureau of Forestry of the Department of Agriculture.

The yeas and nays being demanded and had on an amendment striking out language providing for investigation of the Bureau of Forestry, the Speaker[4] announced that the yeas were 65, the nays were 225, and the amendment was rejected.

Mr. George E. Foss, of Illinois, asked if his vote has been recorded, and being informed that it had not, demanded that he be permitted to vote.

Mr. John J. Fitzgerald, of New York, made the point of order that the request came too late after the result of the vote had been finally pronounced.

The Speaker ruled:

This is the general practice of the House:

"When a vote actually given fails to be recorded, the Member may, before the approval of the Journal, demand as a matter of right that correction be made."

This is not a correction of the Journal. The vote can be recorded, if the gentleman voted, at any time before the approval of the Journal. The practice is well settled. While the vote does not change the result, even if it did it could be recorded under the well-settled practice of the House.

The Chair reads from Hinds' Precedents, volume 5, section 5970:

"On July 19, 1882, during the consideration of the contested-election case of Smalls against Tillman, the question was taken on the resolution declaring that Tillman was not elected, etc., and the announcement is made that there were—yeas 145, nays 1, not voting 145.

"The vote was next taken on the resolution declaring that Smalls was elected, etc., and there were—yeas 140, nays 5, not voting 145. The Speaker thereupon voted, making—yeas 141 nays 5, a total of 146, just a quorum.

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[1] First session Sixty-seventh Congress, Record, p. 4324.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-first Congress, Record, p. 406.

[4] Joseph G. Cannon, of Illinois, Speaker.

"The Speaker thereupon announced that on the vote preceding the last there had been an error in the tabulation and that in reality the result on the resolution declaring Tillman not elected had been—yeas 144, nays 1, a total of 145, 1 less than a quorum.

"The Speaker declared that he would vote, and did so, making the result 145 yeas and 1 nay—a quorum voting."

That is, in principle, the same as the present situation. The Clerk will call the gentleman's name.

3144. In order to qualify to vote at the end of the roll, a Member must have been within the Hall proper at the time his name should have been called.

A Member in the lobby, cloakroom, or gallery is not entitled to vote even though he hear his name called.

On February 27, 1915,[1] the House was considering Senate amendment No. 1 to the District of Columbia appropriation bill, authorizing appointment of a joint select committee to determine the proper proportion of the expenses of the District of Columbia to be borne by the United States.

Mr. Oscar W. Underwood, of Alabama, moved to concur in the Senate amendment with an amendment providing that the joint committee be instructed to report not later than January 1, 1916.

The roll call on agreeing to the motion to concur having been completed, Mr. Henry W. Temple, of Pennsylvania, asked to have his vote recorded.

In response to an inquiry from the Speaker pro tempore as to whether he had been in the Hall and listening when his name should have been called, Mr. Temple said:

I was in the lobby.

The Speaker pro tempore[2] held:

The gentleman does not bring himself within the rule.

3145. On June 27, 1918,[3] at the conclusion of the roll call on agreeing to the conference report on the post-office appropriation bill, Mr. William Gordon, of Ohio, addressed the Speaker and desired to have his vote recorded.

In response to the usual inquiry from the Speaker as to whether he had been in the Hall and listening when his name should have been called, Mr. Gordon replied:

I was in the smoking room. I heard my name called, but I did not get in in time to answer.

The Speaker[4] ruled:

Nobody can vote who was outside of the Hall when his name was called. If the gentleman was in the smoking room, he cannot vote. The gentleman must be present and listening. He might be in the gallery listening, but that would not be sufficient.

3146. A Member failing to qualify as entitled to vote after the roll has been called may not be recorded as "present," although present before the pronouncement of the vote.—On December 21, 1920,[5] at the conclusion of the

[1] Third session Sixty-third Congress, Record, p. 4865.

[2] Finis J. Garrett, of Tennessee, Speaker pro tempore.

[3] Second session Sixty-fifth Congress, record, p. 8387.

[4] Champ Clark, of Missouri, Speaker.

[5] Third session Sixty-sixth Congress, Record, p. 607.

roll call on the passage of the resolution (H. Res. 544) providing for the consideration of the bill (S. 3477) to increase the opportunities of the people to acquire rural homes, Mr. James W. Dunbar, of Indiana, and Mr. Edward B. Almon, of Alabama, appeared in the well of the House and asked to be permitted to answer "present."

Both submitted that although absent at the time their names were reached on the roll they had come into the House before the vote was concluded and were entitled to be recorded as present.

The Speaker pro tempore [1] held that not being entitled to vote they were not entitled to be recorded as present.

3147. In order for a Member to qualify as being entitled to vote, he must not only state that he was present when his name should have been called but that he was listening at that time.—On March 3, 1919,[2] at the conclusion of the roll call on the motion to strike from the Record certain remarks made by Mr. Otis Wingo, of Arkansas, Mr. C. Frank Reavis, of Nebraska, who had failed to vote when the roll was called, asked to have his vote recorded.

In response to an inquiry from the Speaker [3] as to whether he had been in the Hall listening when his name should have been called, Mr. Reavis replied:

I was in the Hall, but I was talking.

The Speaker held:

The gentleman does not bring himself within the rule.

3148. In order to qualify as entitled to vote after the second calling of the roll, it is not sufficient that a Member be in the Hall when his name should have been called but he must be listening at the time.—On June 4, 1919,[4] at the close of the vote on the agreeing to the resolution (H. Res. 78) for the appointment of a select committee on war expenditures, and before the announcement of the result, Mr. John F. Miller, of Washington, addressed the Speaker [5] and stated that he desired to vote "yea."

The Speaker having inquired if he was present and listening, Mr. Miller replied that he "was present."

The Speaker said:

That is not sufficient.

3149. It is not sufficient that a Member be present but he must also be listening when his name was called in order to qualify on a yea-and-nay vote.

Instance wherein a bill with Senate amendments was taken from the Speaker's table and the Senate amendment agreed to by resolution from the Committee on Rules.

Form of special order providing for summary agreement to Senate amendment.

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[1] Martin B. Madden, of Illinois, Speaker pro tempore.

[2] Third session, Sixty-fifth Congress, Record, p. 4914.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 647.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

On April 28, 1932,[1] Mr. John J. O'Connor, of New York, from the Committee on Rules, by direction of that committee, called up the following resolution:

Resolved, That immediately upon the adoption of this resolution the bill H.R. 6662, with the amendment of the Senate thereto, be, and the same is hereby, taken from the Speaker's table to the end that the amendment of the Senate be, and the same is hereby, concurred in.

Debate on the resolution having been concluded, the yeas and nays were ordered on agreeing to the resolution.

At the close of the second roll call, Mr. John M. Nelson, of Wisconsin, said:

Mr. Speaker, I was in the Hall talking to my colleague and did not hear my name called.

The Speaker[2] ruled:

The Chair does not think the gentleman qualifies.

Mr. Nelson explained:

I was here listening, except temporarily when I was talking to my colleague.

The Speaker said:

If the gentleman will say he was in the Hall listening when his name was called, the gentleman will qualify.

The Member in order to quality must answer the question: "Was the gentleman in the Hall listening when his name was called" in the affirmative. The gentleman made the statement that he was in the Hall, but that he was talking to his colleague when his named was called.

The Chair wants to be absolutely fair. When he asked the gentleman if he was in the Hall listening when his name was called he must answer "yes"; otherwise he does not qualify.

3150. On April 21, 1933,[3] on a yea-and-nay vote in agreeing to the motion to recommit the bill H. R. 4606, the unemployment relief bill, Mr. James P. Bushanan, of Texas, rose at the conclusion of the second roll call and desired to be recorded.

In response to the Speaker's inquiry as to the gentleman's qualification, Mr. Buchanan said:

I was present, but listening to one of my colleagues talk.

The Speaker[4] ruled:

The gentleman does not quality.

3151. It is not in order after a record vote on which he failed to vote for a Member to announce how he would have voted if present.[5]—On February 6, 1915,[6] Mr. John E. Raker, of California, rising in his place said:

Mr. Speaker, I want to ask unanimous consent to make a statement for a minute. I was here yesterday afternoon, but on account of sickness in my family I was called out and could not get back in time to vote on the motion to recommit the naval appropriation bill. I returned, but too late to have my vote recorded. If I had been here, I would have voted against the motion to recommit.

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[1] First session Seventy-second Congress, Record, p. 9156.

[2] John N. Garner, of Texas, Speaker.

[3] First session Seventy-third Congress, Record, p. 9129.

[4] Henry T. Rainey, of Illinois, Speaker.

[5] Similar decisions were rendered by Speaker Henry T. Rainey, of Illinois, First session Seventy-third Congress, Record, pp. 2587, 3834.

[6] Third session Sixty-third Congress, Record, p. 3155.

Mr. James R. Mann, of Illinois, made the point of order that the statement was "wholly improper."

The Speaker [1] sustained the point of order and said:

The statement is out of order.

3152. At the end of a yea-and-nay vote on a motion to adjourn, pending a call of the House, Members appearing prior to the announcement of the vote were recorded without the qualification.—On October 8, 1913,[2] during consideration of the joint resolution (S. J. Res. 5) providing for the appointment of a commission to report on vocational education, the House found itself without a quorum, and on motion of Mr. John J. Fitzgerald, of New York, a call of the House was ordered.

During the proceedings incident to securing a quorum Mr. Fitzgerald moved that the House adjourn.

The yeas and nays having been ordered on the motion to adjourn, the roll was called, twice, when Mr. Ezekiel S. Candler, jr., of Mississippi, and Mr. Thetus W. Sims, of Tennessee, appeared on the floor and desired to be recorded as voting.

Mr. James R. Mann, of Illinois, made the point of order that it was necessary for the gentleman to qualify in order to vote.

After debate the Speaker pro tempore [3] held:

The Chair thinks a motion to adjourn, pending the obtaining of a quorum, is such a proceeding as entitles anyone appearing, prior to the announcement by the Chair of the vote, to the right to vote.

The question that is worrying the Chair is whether under a proceeding to obtain a quorum the ordinary rule to which the gentleman from Illinois has referred would apply, and whether the exception stated in clause 3 of Rule XV does not apply. The language of clause 3 is not limited to questions requiring a quorum to decide. Manifestly, if there has been no call of the House, it would not have been the right of any gentleman to have himself recorded on a motion to adjourn or on any other roll call, unless he qualified under the rule by stating that he had been present when his name was called, giving attention, and had failed to hear it. The question that raises the doubt in the mind of the Chair is whether, there being a proceeding pending to ascertain the presence of a quorum, even though not arising by an automatic call of the House, and any Member having the right to come in and have himself recorded, a subsidiary motion like the motion to adjourn would not also carry with it the right of the Member to be recorded prior to the announcement of the vote.

Prior to the announcement of the vote upon the motion to adjourn, would it not be within the power of the Chair to note the presence of a Member, the House then being without a quorum and desiring to obtain one? And that being so, would not the Member have the right to have his name recorded?

The Chair appreciates the importance, as a precedent, of a ruling of this kind, although of no importance in its bearing upon the present situation. Not having had an opportunity to examine the precedents, and as far as the Chair is aware, the point not having been raised heretofore, the Chair would prefer not to have to make such a precedent.

The Chair is aware of the fact that many matters of this kind are arranged by unanimous consent. If the gentleman insists upon his point of order, which is equal to an objection, the Chair will hold that the gentleman whose names have been called and have been permitted to vote have the right so to vote.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-third Congress, p. 5506.

[3] Swagar Sherley, of Kentucky, Speaker pro tempore.

3153. Failure of the signal bells to announce a vote does not warrant repetition of the roll call.

Exceptional instances in which the Speaker has entertained requests for unanimous consent that the roll be called a third time because of failure of the bells to signal the beginning of the vote.

On February 21, 1919,[1] the roll was called on the passage of the bill (H. R. 16020) making deficiency appropriations for transportation systems under Government control.

At the close of the roll call many Members reported that the bells had failed to signal the commencement of the vote.

Mr. Henry D. Flood, of Virginia, asked unanimous consent that the roll be called a third time in order to afford an opportunity for Members not apprised of the vote to be recorded.

Mr. James R. Mann, of Illinois, submitted that it was not in order fro the Speaker to entertain the motion.

The Speaker pro tempore[2] having put the question by consent, there was no objection and the roll was called a third time.

On resuming the chair, the Speaker[3] said:

The Chair wants to make one remark to the House in the interest of order. That was a very dangerous precedent that was set down here a little while ago in calling these names. All the effect that will have will be to induce Members to stay in their rooms two or three minutes longer when the signals are sounded on a roll call. The most important days of the session have come, and Members ought to be here until late in the evening.

Mr. Mann said:

Mr. Speaker, in that connection will the Speaker permit me to say that I should not have been willing to grant the request that was made except that various Members stated that there was something the matter with the bells making the call.

The Speaker concluded:

That was excusable; but to attempt to get down here and force a third roll call is dangerous.

3154. On April 15, 1921,[4] the House having under consideration the bill H. R. 2435, the emergency tariff bill, Mr. John N. Garner, of Texas, moved to recommit the bill to the Committee on Ways and Means with instructions.

The question being taken and the roll having been called twice, Mr. George M. Young, of North Dakota, proposed.

Mr. Speaker, I am informed that the bells over in the House Office Building were not in working condition this afternoon and did not ring for this roll call; and in view of that fact I ask unanimous consent that all who are now present desiring to vote may be permitted to do so.

Mr. Finis J. Garrett, of Tennessee, said:

Mr. Speaker, in view of the peculiar situation I am very reluctant to make objection. My recollection is that this question arose before and that the Speaker decided that this could not be done.

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[1] Third session Sixty-fifth Congress, Record, p. 3938.

[2] George R. Lunn, of New York, Speaker pro tempore.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 354.

Mr. Sam Rayburn, of Texas, said:

I am not going to object this time, but I shall not allow another request like this to be agreed to if I am here.

The Speaker,[1] after further debate, decided to entertain the request, and, the question being submitted, there was no objection and the roll was called the third time.

3155. The signal bells having failed to ring announcing a vote, the House ordered that they be tested.—On May 2, 1918,[2] immediately following the approval of the Journal, Mr. Joseph Walsh, of Massachusetts, being recognized, said:

Mr. Speaker, I desire to inquire, in view of the happening yesterday, when the signal bells were rung and did not sound in the other building, whether it might not be well that the bells might be tested again this morning to see if they are in working order without the necessity of making the point of no quorum?

The Speaker[3] replied that the Doorkeeper had already tested the bells.

Thereupon, on motion of Mr. Walsh, by unanimous consent, it was offered that the bells be tested a third time.[4]

3156. The failure of the bells to signal the beginning of a roll call is not taken into consideration by the Speaker in qualifying Members desiring to vote after their names have been passed.—On July 26, 1921,[5] the House was considering the resolution (H. Res. 151) providing for payment of expenses of the Joint Committee on Reorganization from the contingent fund.

Mr. Finis J. Garrett, of Tennessee, moved that the House adjourn.

At the conclusion of the vote on the motion to adjourn and before the result had been announced, Mr. Theodore E. Burton, of Ohio, Mr. Charles H. Brand, of Georgia, Mr. Louis W. Fairfield, of Indiana, and others requested that their votes be recorded, as the failure of the bells to signal the beginning of the roll call properly had caused them to reach the Hall after their names had been called.

The Speaker[1] held that the failure of the bells to ring might not be taken into consideration and that the gentlemen failed to qualify.

3157. Failure of the bells to function properly in announcing a vote does not waive the rule requiring Members to be in the Hall and listening when their names are called.

Although a Member may not come within the rule permitting him to vote on roll call, the Speaker may count him as present to make a quorum.

On July 8, 1914,[6] at the conclusion of the vote on the motion by Mr. John E. Raker, of California, to recommit the bill (H. R. 8428) providing for publicity of campaign expenditures, Mr. Henry T. Helgesen, of North Dakota, who had failed to

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-fifth, Congress, Record, p. 5951.

[3] Champ Clark, of Missouri, Speaker.

[4] The practice has since been established of testing the signal bells each legislative day at 9 o'clock a.m.

[5] First session Sixty-seventh Congress, Record, p. 4324.

[6] Second session Sixty-third Congress, Record, p. 11836.

respond when his name was called, explained that the bells had rung but once, and asked to have his vote recorded.

The Speaker[1] said:

Was the gentleman in the Hall, listening, at the time when his name was called?
The gentleman does not qualify. The Clerk will note the gentleman, Mr. Helgesen, "present."

Mr. Helgesen protested against being noted as present without being permitted to vote.

The Speaker ruled:

The rule prescribes when the gentleman may vote; that is, if he was in the Hall, listening, when his name should have been called and did not hear it, he is allowed to vote afterwards; otherwise he may not vote; but, strange to say, under the rule, although the Speaker refuses to allow a Member to vote, he may count him "present." Voting "present" helps to make a quorum. That is exactly what the gentleman is going to do, because the chair is going to count the gentleman.

3158. An unusual instance in which, by unanimous consent, the signal bells were rung as if for a call of the House.

An occasion of the introduction of distinguished visitors informally to the House.

On May 28, 1926,[2] pending a motion by Mr. S. Wallace Dempsey, of New York, to resolve into the Committee of the Whole, Mr. Tom Connally, of Texas, rising to a parliamentary inquiry, said:

Mr. Speaker, I have been advised that visiting royalty is going to be present in the gallery at 12 o'clock. Is it expected that the House will be in Committee of the Whole House on the state of the Union at that time, or has any arrangement been made for any ceremony?

The Speaker[3] responded:

No arrangement has been made for any ceremony so far as the House is concerned. Before putting the motion of the gentleman from New York, without objection, the bells will be rung as for a call of the House. Is there objection? [After a pause.] The Chair hears none. The question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill.

Following the ringing of the bells, Mr. J. Charles Linthicum, of Maryland, protested:

I rise to ask why the bells were rung when the point of no quorum was not made?
Mr. Chairman, I am opposed to the ringing of these bells and bringing Members over here unless it means something. I do not think we should begin ringing the bells and fooling Members. I heard no point of no quorum made.

Subsequently Mr. Carl R. Chindblom, of Illinois, speaking by unanimous consent, said in part:

Mr. Chairman, ladies, and gentlemen of the House and of the committee: In the Executive gallery, by courtesy of the President, there have just arrived, as has been shown by the spontaneous applause of the House, some very distinguished visitors from across the sea. [Applause, the Mem-

[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 10300.

[3] Nicholas Longworth, of Ohio, Speaker.

bers rising.] Our distinguished visitors come from a country with which our Republic has always had the most amicable relations; in fact, they are natives of a land that has made valuable contributions to the early beginnings of our national history.

On the morrow there will be dedicated at this Capital a monument erected to the memory of the greatest man of Swedish blood who ever came to the United States, Capt. John Ericsson, the designer and builder of the *Monitor,* who in the Nation's greatest trial met an actual emergency, a great crisis, an impending danger to the cause of the Union. Happily, we are all united today in the great cause for which John Ericsson and the *Monitor* fought in 1862.

The Government of Sweden, His Majesty the King of Sweden, and the people of Sweden, responded to our request, at first informally and subsequently more formally made, that at the dedication of this memorial tomorrow there might be present these distinguished visitors from abroad.

I wish to say to our visitors that the American people, the Government of the United States, as they already know by reason of the assurances of the President, the Secretary of State, and many others, and the Congress of the United States, bid them welcome to America. These noted guests in the Executive gallery are His Royal Highness Gustaf Adolf, the Crown Prince, and Her Royal Highness Louise Alexandra, the Crown Princess of the Kingdom of Sweden. [Applause, the membership standing.]

3159. On undisputed evidence that a Member recorded as voting was not present at the roll call, the Speaker ordered the vote stricken from the tally.

On December 5, 1932,[1] Mr. Henry T. Rainey, of Illinois, moved to suspend the rules and pass the joint resolution (H. J. Res. 480) proposing an amendment to the Constitution repealing the eighteenth amendment.

The question being taken on agreeing to the motion and the yeas and nays being ordered, the vote was reported as yeas 273, nays 144. Mr. Bertrand H. Snell, of New York, inquired if Mr. Francis Seiberling, of Ohio, was recorded as voting.

The Speaker[2] replied that Mr. Seiberling was recorded as voting in the affirmative.

Mr. Snell said:

Mr. Speaker, I have a letter from the gentleman from Ohio, Mr. Seiberling, asking to be paired and stating that he would not be here to-day. The pair has just been read. I am just informed that the gentleman from Minnesota, Mr. Selvig, answered to Mr. Seiberling's name by mistake and did not answer to his own name until the second roll call.

The Speaker directed:

Inasmuch as the gentleman from Ohio, Mr. Seiberling, is not here and did not answer to his name, the Chair will order his name stricken from the list.

The vote was then recorded as yeas 272, nays 144.

3160. A Member who has voted on a roll call may change his vote before the announcement of the result.—On November 3, 1919,[3] the yeas and nays were ordered on a motion to adjourn. At the close of the roll call and before the announcement of the result of the vote, Mr. Clay Stone Briggs, of Texas, asked, as a parliamentary inquiry, if it would be in order for him to change his vote on the pending question.

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[1] Second session Seventy-second Congress, Record, p. 13.

[2] John N. Garner, of Texas, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 7906.

The Speaker pro tempore [1] held that the roll call had not been complete until the announcement of the result and that it was in order to change a vote at any time prior to the announcement.

Thereupon Mr. Briggs changed his vote from "no" to "aye."

3161. It having been erroneously announced that a quorum had voted when the roll later disclosed the absence of a quorum on the vote, the Speaker declared subsequent proceedings in connection therewith vacated, and the Journal was amended accordingly.—On July 9, 1911,[2] when the journal of the preceding day was read, Mr. Henry D. Clayton, of Alabama, called attention to a discrepancy in the Journal between the roll call and the announcement by the Speaker [3] of the vote by which the previous question had been ordered on the resolution (H. Res. 597) providing for consideration of the bill (H. R. 22591) amending the Judicial Code.

It was explained that the Clerk in reporting the vote to the Speaker had reported 198 as voting on the bill, a quorum, when the roll later disclosed that only 190 had voted, not a quorum.

Mr. Clayton, asked unanimous consent that the previous question on the passage of the resolution on which a quorum had failed to vote be considered as adopted, and that the record of subsequent proceedings relating there to be approved.

Mr. James R. Mann, of Illinois, took the position that the failure of a quorum to vote on ordering the previous question vacated all subsequent proceedings connected therewith.

The Speaker said:

The Chair has no doubt about the method of procedure; he may be entirely wrong about it, but in his own mind he thinks that the vote on the previous question and all subsequent proceedings must be vacated.

Mr. Clayton moved that the vote on ordering the previous question on the preceding day and proceedings subsequent thereto be vacated.

Mr. Oscara W. Underwood, of Alabama, contended:

Mr. Speaker, if the Chair will pardon me, the first rule of this House and of the Constitution is that the House can not transact business unless a quorum is present. An error was made in announcing that a quorum was present, because of the fact that the tally clerk wrongly added the score. A quorum was not present. Therefore, that roll call was void. The role call itself disclosed that a quorum was not present, and, therefore, all subsequent proceedings in the day's work would be void until a quorum was found to be present. That must be clear, because the House can not do business unless a quorum is present. It seems to me, therefore, that when the question is raised, and unanimous consent can not be had to correct the error, it is in order for the Chair to declare that a quorum was not present during those proceedings and therefore they are void, and thus, by the order and direction of the Chair, bring the House back to the point where this roll call was originally entered.

Mr. James R. Mann, of Illinois, supplemented:

While I have not the precedent before me, Mr. Speaker, I have no doubt that the Speaker has the authority to declare the proceedings vacated. On the other hand, I have no doubt that the House has the authority to do the same thing by motion. That is the proposition now pending.

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[1] John Q. Tilson, of Connecticut, Speaker pro tempore.

[2] Second session Sixty-second Congress, Record, p. 8775.

[3] Champ Clark, of Missouri, Speaker.

The Journal has been read. This is a matter of correcting the Journal. The Journal has, theoretically been approved by the Speaker before being read, and whatever action is taken should be in connection with the approval of the Journal. If the proceedings are vacated by a motion, I assume that carried with it that the Journal shall be corrected accordingly, because the matter now comes up upon the approval of the Journal.

Mr. Mann then asked to have read the following excerpt from the Journal for December 19, 1903:[1]

The Speaker announced that by error a different result has been reported from the actual result on the vote on the motion for the previous question on the resolution of the House (H. Res. 76) by the gentleman from Pennsylvania, Mr. Wanger.

The Speaker announced that, therefore, all proceedings relating to the erroneous announcement would fall, and that if there be no objection the Journal will be amended to show the fact.

The Speaker announced:

The Journal shows the fact, except it shows that the Speaker made an erroneous declaration. The way it came about is this: There was great confusion in the House and some of the clerks got the figures wrong and handed up the slip to the Speaker. Of course, the Speaker did not count the vote on roll call and the Speaker announced the vote as handed to him. The Chair wants that declaration of the Chair changed. The Journal shows the correct vote, and the Record shows the correct vote, and shows that there was no quorum present. If the gentleman will withdraw his motion, the Speaker will declare the vote vacated.

Mr. Clayton having withdrawn his motion, the Speaker continued:

The Chair declares the Journal agreed to and the proceedings on that roll call and the subsequent proceedings vacated.

3162. Where by an error of the Clerk in reporting the yeas and nays the Speaker announces a result different from that shown by the roll, the status of the question must be determined by the vote as actually recorded.

A vote having been incorrectly announced through error on the part of the Clerk, it is in order to move that the Journal and Record be amended to conform to the facts, or the Speaker may of his own initiative announce the correction and direct that the Journal be corrected.

On June 28, 1918,[2] immediately following the reading of Journal, Mr. Claude Kitchin, of North Caroline, referring to the vote taken on previous day on agreeing to the conference report on the post office appropriation bill, said:

Mr. Speaker, as everybody in the House knows, I am very much opposed to the conference report. I voted against it. In the quiet discussion, after vote was taken and the decision announced by the Chair as to whether the figures of the tally clerk were correct as he announced it to the Speaker after the recapitulation of the vote, I went myself and examined the original sheets of the roll call. I found there were 150 votes for the conference report and 149 votes against it. The Chair, upon the tally clerk's figures, announced that there were 149 votes for the conference report and 150 votes against, and declared the report was rejected.

The Constitution requires that upon demand a yea-and-nay vote shall be recorded in the Journal. The Journal shows, according to the record of the vote, that there were 150 votes for the conference report and 149 votes against it, and that therefore, the tabulation or addition of the tally clerk was wrong. I think the Journal and Record ought to be corrected to show the actual fact that the conference report was adopted and not rejected. Any court in the world would correct its own judgment under the circumstances. It is not fair, it is not right, for us who opposed the conference report to insist that the report was rejected.

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[1] Second session Fifth-eighth Congress, Record, p. 80.

[2] Second session Sixty-fifth Congress, Record, p. 8422.

Mr. Kitchin then moved that the Journal be corrected to show that the conference report had been agreed to.

The question being taken, the motion was agreed to and the Journal was amended as indicated.

The Speaker [1] said:

The Chair, with the consent of the House, would like to make a few remarks about this matter.

This is the first time for a long while that this has been done, and perhaps not a dozen men in the House ever saw the thing done before. But it is not unprecedented.

Now, the way the Chair arrives at a yea-and-nay vote in the House is by these tally clerks handling up the figures. Of course the Chair cannot go down there and count the votes, and would not know how to do it if he did go down there. They have some system of their own whereby when they get through with the roll they know the number of the yeas and nays and those present. And then these clerks at the desk take the tally sheet out and go over it, one of them a Democrat and one a Republican, and I never heard of anybody that disputed the integrity of either.

Everybody will recollect that yesterday was a very hard, disagreeable day in this House. Everybody was worn out and it is not the first time in the history of this House that clerks have made a mistake in arithmetic. I know of a good many that Members never hear of at all in the counting, and there is nothing unreasonable about it. The clerks are not perfect.

Now, it has so turned out, I suppose, a dozen times since I have been Speaker. I do not read the Record every morning unless there is something particular about it that I want to see. At least a dozen times since I have been Speaker I have happened to remember the vote taken here, and then I would see it next morning showing a difference of two or three; but it did not make any difference, because the corrections they made did not change the result. It is only when it changes the result that the "tug of war" comes.

Now, I want to show you a sample of what happened here. I cite a case on page 566, section 6085, of Hinds' Precedents, volume 5:

"Where, by an error of the Clerk in reporting the yeas and nays, the Speaker announces a result different from that shown by the roll the status of the question must be determined by the vote as actually recorded."

I will read Speaker Carlisle's opinion. It is short. The Speaker said:

"The Chair desires to state, as a matter of justice to the tally clerk, that in recording the affirmative vote in the column assigned for that purpose upon the sheet, when that vote had reached 49 he put down the figures 49 and called two or three more names before there was any other vote in the affirmative. When the next gentleman voted in the affirmative the tally clerk, looking back to his previous figures, took the 9 for a 4—and it looks very much like a 4, as the gentleman from Alabama will see if he examines it—and therefore recorded the next vote as 45, when it should have been 50"—

That is five times as bad as these clerks did—

"and that error was continued until the close of the roll call, and the footings were made accordingly. It was a mistake made simply by the tally clerk on account of mistaking the figure. The Chair, therefore, thinks the Journal should be corrected to show the previous question was ordered."

In conformity with Mr. Kitchin's motion, the Chair announces that the vote stood 150 yeas, 149 nays, and the conference report is agreed to.

Mr. Simeon D. Fess, of Ohio, as a parliamentary inquiry, asked if an error in the Journal could be corrected only by order of the House.

The Speaker replied:

The Chair does not think so; but the gentleman from North Carolina had already made his motion, and the Chair thought the House would be better satisfied to settle the matter itself.

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[1] Champ Clark, of Missouri, Speaker.

Chapter CCLX.[1]

DIVISION OF THE QUESTION FOR VOTING.

3163. A resolution may be divided if it contains more than one section which standing alone would constitute a substantive proposition.

Instance wherein references to a colleague in an extension of remarks were held to give rise to a question of privilege.

Language not used in debate and inserted without leave was by resolution stricken from the Record.

On September 11, 1919,[2] Mr. Otis Wingo, of Arkansas, rising to a question of privilege offered the following resolution:

Where as in the record of the proceedings of the House of Representatives of September 5, 1919, as the same appears in the Congressional Record, on pages 4942 and 4943, there appears in the remarks of the gentleman from Pennsylvania, Mr. Dewalt, what purport to be statements made by the gentleman from Texas, Mr. Blanton, as follows, to wit:

"He is mad because I will not permit him to ruthlessly waste and misappropriate the people's money from the Treasury.

"I ask the Chair to keep the gentleman in order without forcing me to continually interrupt him. If he were not protected under the rules of this House, as construed by the present occupant of the chair, he would not dare to thus abuse me. He is now applauded by Members who have in their pockets private bills seeking to take public money out of the Treasury and put it into the pockets of private individuals and corporations without argument and without proper consideration, and they are all mad because I blocked the proceedings. The gentleman from Pennsylvania, Mr. Dewalt, imagines that he will injure me with my constituents. He does not know west Texas. They will size up his bunk, and in the next election I will get 10 votes to very 1 he gets.

"The gentleman's statement is untrue. He is mad because I have forced him to come to the House of Representatives occasionally.

"Against such childish abuse repeatedly continued in violation of the chair's ruling and the rules of this House. The gentleman knows he is not stating the truth, for it was only by such objections that I prevented numerous pernicious and unmeritorious measures from passing, which angered certain friends of such legislation.

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[1] Supplementary of chapter CXXX.

[2] First session Sixty-sixth Congress, Record, p. 5259.

"Falsely and wrongly. When he knows he is not stating the truth.

"The gentleman is maliciously and willfully abusing me personally, when he would not dare do it off the floor of the House, and is willfully violating the rules of the House."

And

Whereas the said statements were not, as a matter of fact, made by the gentleman from Texas, Mr. Blanton, upon the floor but were by him without the knowledge of the gentleman from Pennsylvania, Mr. Dewalt, and without the leave of the House, inserted by interlining the typewritten copy of the stenographer's notes furnished to the Government Printing Office; and

Whereas the greater part of said statements so injected were unparliamentary, out of order, and a violation of the privileges of the House; and if the same had been uttered upon the floor of the House would have been subject to a point of order: Now, therefore, be it

Resolved by the House of Representatives—

First. That it condemns the said falsification of the records of its proceedings;

and Second. That the said remarks of the gentleman from Texas, Mr. Blanton, be stricken from the Record.

The Speaker [1] held the resolution to present a matter of privilege and recognized Mr. Wingo for debate.

Debate having been concluded, and the previous question being ordered, Mr. Warren Gard, of Ohio, demanded a separate vote on the subdivisions of the resolution. Mr. Nicholas Longworth, of Ohio, made the point of order that the resolution was not divisible.

The Speaker overruled the point of order and held:

This resolution is fairly divisible. It presents two separate questions, each of which by itself would offer a distinct subject on which the House could vote, and that the House can properly have a division. Therefore the vote will come on the first proposition, which, without objection, the Clerk will report.

The question being taken severally on the two branches of the resolution, both were agreed to without division.

So the language was ordered stricken from the Record.

3164. A question may be divided for the vote if it contains more than one substantive proposition.

A question that is divisible may be divided for the vote on the demand of any Member.

Propositions to elect members of standing committees and special orders reported by the Committee on Rules are exceptions and are not divisible.

Form and history of section 6 of Rule XVI.[2]

Section 6 of Rule XVI provides:

On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: *Provided,* That any motion or resolution to elect members of any portion of the members of the standing committees of the House, and the joint standing committees, shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business, be divisible.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Hind's Precedents, V. 6107.

The first clause of this rule is the form agreed to in the revision of 1980.[1] It was taken with no material change from the old rule, No. 46, which existed at that time.

The rule for the division of the question is older than the House itself. The Continental Congress had this rule:[2]

If a question in debate contain several points, any Member may have the same divided.

When the first rules of the House were adopted, on April 7, 1789,[3] the rule took this form:

Any Member may call for a division of the question where the sense will admit of it.

As this rule was construed, its working was not wholly satisfactory, as a division of the question would be made in cases where, if the first portion should be decided in the negative, the second portion would have to be abandoned because it would not be, alone, a substitute proposition. Thus on March 27, 1792,[4] on a resolution calling for an inquiry into the defeat of General St. Clair, a division of the question was called for, and it was put first on the first clause, which was—

Resolved, That the President of the United States be requested to institute an inquiry into the causes of the late defeat of the Army under the command of major General St. Clair.

This was decided in the negative. Then of course there would be no object in voting on the remainder: "and also into the causes of the detentions or delays which are suggested to have attended," etc.; and the House simply abandoned the latter portion.

Undoubtedly to remedy this awkward practice, the House on March 13, 1822,[5] adopted this rule:

Any Member may call for a division of the question, which shall be divided if it comprehends questions so distinct that one being taken away the rest may stand entire for the decision of the House.

On September 15, 1837,[6] the House discarded this rule and adopted the form which, with no material change, became in 1880 the first clause of the present rule. The rule was continued in this form until April 2, 1917,[7] when the first clause of the proviso was added to supplement the change in the rules providing for the election of committees.

The last clause of the proviso was adopted, May 3, 1933,[3] to facilitate the consideration of special orders reported from the Committee on Rules.

3165. Although a question presents two propositions grammatically, it is not divisible if either does not constitute a substantive proposition when considered alone.

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[1] Second session Forty-sixth Congress, Record, p. 206.
[2] See Journal of Continental Congress, May 26, 1778.
[3] First session First Congress, Journal, p. 9.
[4] First session Second Congress, Journal, p. 551.
[5] First session Seventeenth Congress, Journal, p. 350.
[6] First session Twenty-fifth Congress, Congressional Globe, p. 34
[7] First session Sixty-fifth Congress, Record, p. 113.
[8] First session Seventy-third Congress, Record p. 2816.

On January 18, 1919,[1] the Committee of the Whole House on the state of the Union reported to the House the legislative, executive, and judicial appropriation bill with certain amendments.

Mr. Martin B. Madden, of Illinois, requested a separate vote on the following amendment reported by the Committee of the Whole:

Clerk hire, Members and Delegates: For clerk hire each Member, Delegate, and Resident Commissioner for clerk hire necessarily employed by him in the discharge of his official and representative duties, $3,200 per annum, in monthly installments $1,408,000, or so much thereof as may be necessary: *Provided,* That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner.

Mr. Thomas U. Sisson, of Mississippi, demanded a separate vote on the proviso.

Mr. James R. Mann, of Illinois, submitted that the proposition was not susceptible of division and said:

Mr. Speaker, the rule is that on demand of any Member before the question is put the question shall be divided if it includes propositions so distinct in substance that if one be taken away a substantive proposition shall remain. My recollection is that this must apply to each of the propositions, that either one being taken away a substantive proposition must remain upon which action can be taken by the House. In other words, where an amendment is proposed containing two propositions where the House may reject one of them and then might agree to the other having a substantive proposition, the amendment is divisible, but that is plainly not this case. The House can not adopt this provision which the gentleman seeks to have voted upon separately and make any sense, *"Provided,* That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner." *Provided,* That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner." I will not say can not, because the House could agree to it; but it means nothing. It is not a substantive proposition by itself. It must, if agreed to by the House, come in with the main proposition making an appropriation and instead of being a substantive proposition it is a subsidiary proposition to the main proposition.

The Speaker[2] said:

Suppose the House were to vote down the first proposition and vote in the last proposition . Would there be any sense at all in the amendment? It is not divisible.

3166. A proposition to strike out various unrelated phrases may be resolved into a separate question for each proposed elision.

On February 13, 1918,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5667) to provide for the deportation of certain aliens, known as the alien slacker bill.

Mr. Richard Wayne Parker, of New Jersey, offered this amendment.

Page 1, line 3, after the words "that any alien," strike out the words "eligible by existing law to become a naturalized citizen"; also all of lines 4, 5, 6, 7, 8, and 9; and also the word "said," in line 11 after the words "exemption from"; also on page 2, line 3, strike out "and shall as soon as practicable be deported"; also strike out all of line 4 and the words "and deportation" in line 11, so that as amended the paragraph will read:

"That any alien who by himself or by anyone else has heretofore claimed, or shall hereafter claim, exemption from selective draft on account of being an alien, shall forever be denied the right of becoming a citizen of the United States or of any of its possessions.

"Any alien who may have been exempted from said selective draft on account of his alienage prior to the passage of this act may, within 60 days after the passage of this act, withdraw such

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[1] Third session Sixty-fifth Congress, Record, p. 1697.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 2071.

exemption and submit himself to the operation of said selective draft, and in that event shall not be held to be within the operations of this section as to the forfeiture of citizenship."

Mr. John E. Raker, of California, called for a separate vote on each proposed elision.

The Chairman [1] sustained the demand for a division and ruled.

The Chair has looked into this in the limited time that he has had, and he is satisfied that the amendment is division. It strikes out language in four different places. One might be agreed to by the House and another defeated and still not interfere with the sense of the section. I see no reason why it should be held to be individuals when it is to strike out language in four places.

3167. Formerly a separate vote might be demanded on each substantive proposition reported by the Committee on Rules.

To warrant division of a question the propositions presented must be substantive and not merely grammatical.

On April 8, 1908, Mr. John Dalzell,[2] of Pennsylvania, from the Committee on Rules, submitted a report from that committee providing for the consideration of the naval appropriation bill.

The resolution provided that on the following Thursday the House should recess until the next calendar day; that on Friday the Speaker should declare the House in the Committee of the Whole House on the state of the Union for the consideration of the bill; that on Saturday and Monday, respectively, the Chairman of the Committee of the Whole should declare the Committee in recess until the succeeding legislative day; that general debate should close Saturday.

Consideration of the resolution having been concluded, Mr. John J. Fitzgerald, of New York, demanded a separate vote of five proposition in the resolution.

The Speaker [3] directed the Clerk to read the resolution and announced there were but three substantive propositions on which a separate vote could be taken.

Mr. Fitzgerald submitted that the provisions for recess were distinct provisions and should be voted on separately.

The Speaker ruled:

Seemingly so, but in fact not so.

The Chair, on reexamination of the rule, is inclined to think that there are only three substantive propositions. The Chair is willing to admit that the question is somewhat close and that several clauses may be segregated, each of which makes a grammatical proposition but not a substantial proposition in the sense that it makes a substantive rule for action of the House. Thus, one or two clauses in what may fairly be considered the second portion make, it is true, grammatical propositions, but they do not make substantive propositions within the intent of the resolution which is to provide a rule of action. Thus those clauses provide for the Committee of the Whole to take a recess, but hardly make a substantive rule without the other clause, which provides that there shall be a Committee of the Whole at the time the recess is to be taken.

3168. Substitute resolutions offered as an amendment are not divible.

On September 16, 1918,[4] the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 12863, the revenue bill.

Mr. Joseph Walsh, of Massachusetts, proposed an amendment in the nature of a substitute.

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[1] Joseph J. Russell, of Missouri, Chairman.

[2] First session Sixtieth Congress, Record, p. 4510.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 10370.

Mr. Charles R. Crisp, of Georgia, demanded a division of the substitute.

The Chairman [1] held that the substitute must be voted on as a whole and said:

The Chair will state that there would appear to be two substantive proposition possibly more, is his substitute; but the precedents of the House are that a substitute in the nature of an amendment to an amendment is not divisible. The Chair will not undertake to argue the reasons underlying these precedents, but will simply refer to the ruling found in section 6127, Volume V, of Hinds' Precedents to the following effect:

"Substitute resolutions offered as an amendment are not divisible."

This would to be decisive of the request for a division of the substitute. The question is on the substitute in the nature of an amendment offered by the gentleman from Massachusetts.

3169. A motion to strike out and insert is indivisible either as to the two branches of the motion or the language proposed for insertion.

On May 27, 1929,[2] the bill H. R. 2667, the tariff bill, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Frank Crowther, of New York, offered a committee amendment proposing to strike out a paragraph in the leather schedule and insert in lieu thereof a paragraph embracing numerous sections and subsections.

Mr. William B. Bankhead, of Alabama, proposed a division of the matter to be inserted.

The Chairman [3] reminded:

Under the rules of the House a motion to strike out and insert is indivisible.

Mr. Charles R. Crisp, of Georgia, raised the issue that while, under the rules, the two branches of a motion to strike out and insert were indivisible, the matter proposed to be inserted was subject to division.

The Chairman dissented and said:

Under the interpretation of the rule stated by the Chair, a motion to strike out and insert is indivisible, and the decisions sustain the plan language of the rule. The Chair has examined the decision of Speaker Orr, found in Hinda' Precedents, Volume V, section 6125, and the decision of Speaker pro tempore Dalzell, Volume V, section 6128, and they bear out the construction the Chair has given to the first part of clause 7 of Rule XVI. Of course there is a way by which the result which the gentleman is seeking may be obtained, and that would be to proceed to amend the committee amendment.

The Chair thinks the gentleman would be within the rule if he made the motion to amend any part of the committee amendment at any time, provided he was recognized for that purpose.

3170. A division of the question is not in order on a motion to recommit with instructions or on the different branches of the instructions.

On April 26, 1924,[4] the joint resolution (H. J. Res. 184) proposing an amendment to the Constitution of the United States relating to the regulation of child labor was read a third time.

Mr. Andrew J. Montague, of Virginia, offered a motion to recommit the joint resolution to the Committee on the Judiciary with instructions to report it back forthwith with three unrelated amendments.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] First session Seventy-first Congress, Record, p. 2014.

[3] Earl C. Michener, of Michigan, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 7294.

Mr. C. William Ramseyer, of Iowa, submitted that the amendments presented three distinct substantive propositions and requested a separate vote on each of the three.

The Speaker [1] ruled:

The Chair does not think it is subject to a division.

That might be plausible if that were a new question, but it has been decided. Section 6134, Hinds' Precedents, volume 5, says:

"A division of the question is not in order on a motion to commit with instructions or on the different branches of the instructions."

3171. On a motion to suspend the rules and pass a bill with amendments it is not in order to demand a separate vote on the amendments.

On February 26, 1909,[2] Mr. Mames A. Tawney, of Minnesota, moved to suspend the rules and pass the sundry civil appropriation bill with certain amendments.

Mr. John Sharp Williams, of Mississippi, proposed a division of the question on the amendments.

The Speaker [3] held that the question should be taken on the motion in its entirety and a demand for a separate vote on the amendments was not in order.

3172. In voting on the engrossment and third reading and passage of a bill, a separate vote on the various propositions of the bill may not be demanded.

On May 21, 1930,[4] the House was considering the joint resolution (H. J. Res. 331) reading as follows:

Resolved, etc., That the Congress of the United States of America expresses its approval of the action of the United States delegation at The Hague Conference on the Codification of International Law in voting against the "convention on certain questions relating to the conflict of nationality law."

Resolved further, That it is hereby declared to be the policy of the United States of America that there should be absolute equality for both sexes in nationality, and that in the treaties, law, and practice of the United States relating to nationality there should be no distinction based on sex.

Mr. William H. Stafford, of Wisconsin, being recognized to propound a parliamentary inquiry, called attention to the difference in the propositions presented by the two branches of the resolution and asked if under clause 6 of Rule XVI a separate vote on the respective questions presented could be had on the passage of the resolution.

The Speaker [5] ruled:

The Chair is familiar with that rule, but he doubts if it applies to a case like this. The Chair is of opinion that this resolution can not be divided. The Chair finds in the Manual, section 775, this:

"In voting on the engrossment or passage of a bill or joint resolution a separate vote on the various portions may not be demanded."

These decisions before the Chair are very old, as old as 1856.

The Chair thinks you can not divide the question here.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixtieth Congress, Record, p. 3312.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Seventy-first Congress, Record, p. 9321.

[5] Nicholas Longworth, of Ohio, Speaker.

3173. An order for the previous question does not preclude the demand for a separate vote on component substantive propositions.

Under the former provisions of the rule a separate vote could be demanded on each substantive proposition reported by the Committee on Rules. [1]

On April 18, 1912,[2] the House was considering the resolution (H. Res. 444) reported from the Committee on Rules, as follows:

Resolved, That after the adoption of this rule it shall be in order in the consideration of H.R. 21279, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes, to consider the new legislation on said bill hereinafter mentioned notwithstanding the general rules of the House.

The resolution then quoted all sections of the bill carrying legislation subject to a point or order.

The previous question having been ordered on the resolution, Mr. James R. Mann, of Illinois, demanded a separate vote on various substantive propositions incorporated in the resolution.

Mr. Robert L. Henry, of Texas, raised a question of order and argued that the request for a division could not be entertained—first, because a report from the Committee on Rules was not susceptible to division; second, because a separate vote could not be requested after an order for the previous question was operating; and, third, because a division was not in order on the final passage of a bill or resolution.

Controverting the argument that a division was not in order after the previous question had been ordered on a report from the Committee on Rules, Mr. Mann said:

The question is whether after the previous question has been ordered on the report from the Committee on Rules, or a resolution providing that certain things shall be in order, the substantive propositions in that resolution shall be separated and voted upon separately.

The matter is not without precedents in the House. The Speaker will remember that at the first session of the Sixtieth Congress the Democratic side of the House, under the able leadership of Mr. Williams, of Mississippi, was conducting and open and avowed filibuster.

The Committee on Rules, on April 8, 1908, page 4505 of the Record, reported this rule as a privileged report, the report being made by the gentleman from Pennsylvania, Mr. Dalzell:

"Resolved, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for the consideration of H.R. 20471, the naval appropriation bill; that at 5 o'clock p.m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a.m. on Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a.m. on Monday, April 13.

"That general debate on the naval appropriation bill shall close not later than at 5 o'clock p.m., Saturday, April 11; the time to be equally divided between the majority and minority and controlled by the chairman of the Naval Committee and by the senior member of the minority: *Provided,* That if general debate shall be concluded prior to 5 p.m. on Saturday the 11th, the Chairman of the committee of the Whole shall at once declare the committee in recess until Monday, April 13, at 11.30 a.m."

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[1] The rule as amended, May 3, 1933, now specifically excepts reports from the Committee on Rules from the provisions of the section.

[2] Second session Sixty-second Congress, Record, p. 5006.

On that report the gentleman from Pennsylvania demanded the previous question. The previous question was ordered. Twenty minutes' debate was had upon a side, precisely as has been the case in the present instance, with the exception that here the debate, by unanimous consent has been a little longer, and the Speaker will notice that that entire resolution which I have just read related to the same general subject matter, namely, the meeting of the Committee of the Whole House on the state of the Union on the consideration of the naval appropriation bill. When debate had concluded under the twenty-minutes-a-side rule, the gentleman from New York, Mr. Fitzgerald the most distinguished parliamentarian upon that side of the House, if not in the country, rose and said:

"Mr. Speaker, I ask for a division of the resolution."

And he called attention to the rule which I have just read. He was asked by the Speaker to state the different substantive propositions, which he proceeded to do. The gentleman from Pennsylvania made this statement:

"The resolution is nothing more nor less than a program of legislative proceeding, and it is absolutely impossible to make any distinction and take away a part of it."

But the Speaker, Mr. Cannon, who has at different times in the country, by different people, been accused of being a czar and of not giving the minority that fair treatment which they sometime insisted they should have—and I think I have heard the gentleman from Texas make such remarks—said:

"The Chair is prepared to rule. On a careful examination of this rule the Chair finds that there are five substantive propositions, and five only, so that if the gentleman demands a separate vote upon either or all of them a separate vote will be taken."

And a separate vote was taken.

In answer to the contention that a division was not in order on the final passage of the resolution, Mr. Mann argued:

Mr. Speaker, the gentleman from Texas first claimed that a division of this question is not in order, because on the final passage of a bill or resolution a division is not in order. No one on this side, I think, supposes that you can divide a bill into different parts on the final passage of the bill on a roll call. The gentleman then says that the proposition we now make is not applicable because it can only be applied when there are various resolving clauses in the resolution, and that if there were different resolving clauses in the resolution, then each of those resolving clauses would have a separate vote. First, Mr. Speaker, in the case which I have cited to you where the rule was made by Mr. Speaker Cannon there was but one resolving clause; and second, if the gentleman from Texas were familiar with the provisions of the Revised Statutes which are applicable to this subject he would know that a resolution which has more than one resolving clause was out of order, because the statutes adopted by this House and Senate jointly provided:

"No enacting or resolving words shall be used in any section of any act or resolution of Congress except in the first."

The gentleman's proposition seems to be now that you can not have a separate vote upon anything unless in the preparation of it you have violated the statutes. Now, Mr. Speaker, the case which the gentleman stated does not bear out his contention. In the resolution which was offered referred to by the gentleman there was a proposition to adopt the rules of the previous Congress as the rules of the Fifty-sixth Congress. Mr. Speaker Henderson then held that the different propositions in that resolution were separable, and that one could have a separate vote upon each proposition involved, but he held, and held properly, that a resolution to adopt the rules of a previous Congress by itself was not subject to be considered as containing different substantive propositions and did not authorize a separate vote upon each of the rules of the previous Congress. No one seriously ever claimed that a proposition in this Congress to adopt the rules of previous Congresses would authorize a separate vote upon each rule, but when there was coupled with that proposition another resolution expressly providing another rule, the Speaker held that they were subject to separation, because each was a substantive proposition. I hope and I believe that the present Speaker of this House will without question on this subject follow the ruling of Mr. Speaker Cannon, made in fairness at a time when the House was under great stress of feeling

and excitement, on the request of the gentleman from New York, at that time representing the Democratic side of the House, in his request. Then the Speaker divided into substantive propositions a resolution wholly relating to the question of meeting and adjournment. There is the resolution, the different parts of which have no relation whatever to each other. I contend that the House is entitled, in voting, to vote upon the separate propositions and is not compelled to carry out any bargain which may have been made by the supporters of the different propositions, of "you tickle me and I will tickle you," all at one time.

The Speaker [1] ruled:

There are not very many precedents on this subject, one way or the other.

The two precedents cited from Speaker Henderson are really parts and parcels of one precedent. A division was demanded on a resolution. His first decision was that there should be a separate vote taken on each resolve. When that was through with, somebody undertook to divide the first resolve, and he held that could not be done.

The most elaborate precedent, and the last one, is that on page 4509, Congressional Record, first session of the Sixtieth Congress. The gentleman from Pennsylvania, Mr. Dalzell, reported a rule from the Committee on Rules. The gentleman from New York, Mr. Fitzgerald, demanded a division, claiming that there were seven substantive propositions in the rule. The gentleman from Pennsylvania took identically the same position then that the gentleman from Texas, Mr. Henry, takes to-day, and the gentleman from New York, took precisely the same position then that the gentleman from Illinois takes to-day. The gentleman from Illinois was himself mixed up in that debate. He seems to have agreed with the gentleman from New York on the proposition that a division could be had, but he differed from the gentleman from New York as to how many substantive propositions there were involved.

Mr. Speaker Cannon, after listening to the debate, decided that the division could be had.

So it seems to the Chair that the precedents are in favor of the contention of the gentleman from Illinois and against the point of order of the gentleman from Texas.

In addition to that, it seems to the Chair that the reason of the thing is the same way. There are several substantive legislative propositions embraced in this rule that have no connection whatever with one another. A Member might, and most probably would, be in favor of some and against others. He has a right to vote his sentiments on each, which he can not do if they are bunched together. Therefore the point of order is overruled, and the Clerk will report the first proposition.

3174. On April 27, 1932,[2] Mr. William B. Bankhead, of Alabama, from the Committee on Rules, called up the following resolution:

Resolved, That after the adoption of this resolution it shall be in order in the consideration of H.R. 11267, the legislative appropriation bill, for the chairman of the Economy Committee or any member of the Economy Committee acting for him, by direction of that committee, to offer an amendment to said bill, any rule of the House to the contrary notwithstanding. On said amendment there shall be two hours of general debate, one-half to be controlled by the chairman of the Economy Committee and one-half by the ranking member of that committee. At the termination of such debate the amendment shall be considered under the 5-minute rule as an original bill and shall be considered by titles. Each title as it is read shall be open to four amendments, said amendments not being subject to amendment, and no further amendments shall be entertained by the Chair. The provisions of clause 7, Rule XVI, or clause 2, Rule XXI, shall not apply to the substitute amendment offered to Title I of the Economy Committee amendment. At the conclusion of the consideration of the bill in the Committee of the Whole House on the state of the Union the committee shall rise and report the bill to the House with the amendments, including the amendment offered by the Economy Committee as amended, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the

[1] Champ Clark, of Missouri, Speaker.

[2] First session, Seventy-second Congress, Record, p. 9056.

Whole to the Economy Committee amendment. The previous question shall be considered as ordered on the bill and Economy Committee amendment, including the amendments to the Economy Committee amendment to final passage without intervening motion except two motions to recommit, and such motions to recommit shall be in order, any rule of the House to the contrary notwithstanding.

Debate having been concluded, the previous question was ordered on the resolution, when Mr. Clarence Cannon, of Missouri, requested a separate vote on the following paragraph:

Each title as it is read shall be open to four amendments, said amendments not being subject to amendment, and no further amendments shall be entertained by the Chair.

Mr. John Q. Tilson, of Connecticut, raised the question of order that the resolution was not divisible.

The Speaker [1] ruled:

The gentleman from Missouri has asked for a division of the resolution. It occurs to the Chair that if the provision that the gentleman from Missouri has suggested is voted out there will be a complete special rule remaining. So it seems to the Chair it comes within the spirit of the rule.

An examination of this particular rule shows that it contains a number of substantive propositions. In a ruling made by Mr. Speaker Cannon on April 8, 1908 (Record, p. 4509), he said:

"The Chair is prepared to rule. On a careful examination of this rule, the Chair finds that there are five substantive propositions and five only, so that if the gentleman demands a separate vote upon either or all of them, a separate vote will be taken."

The rule is quite specific. It provides that if there is a substantive proposition left a Member is entitled to a division.

The Chair overrules the point of order.

3175. On the question of agreeing or disagreeing to a Senate amendment it is not in order to demand a division so as to vote separately on different portion of the amendment.

On February 25, 1919,[2] Mr. S. Hubert Dent, of Alabama, called up the conference report on the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law.

The committee of conference having reported that they were unable to agree, Mr. Dent moved that the House further insist on its disagreement to the pending Senate amendment.

Mr. Thomas W. Harrison, of Virginia, as a parliament inquiry, asked if it would be in order to move to concur in a portion of the Senate amendment and disagree to the remainder.

Mr. James R. Mann, of Illinois the inquiry, said:

Mr. Speaker, it is not in order to concur in a part of the Senate amendment with an amendment. The House must by its action in the end dispose of the Senate amendment. The House can concur in the Senate amendment with an amendment, or it can insist upon its disagreement to the Senate amendment, but it can not concur in a part of the Senate amendment with an amendment. It must act upon the whole amendment.

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[1] John N. Garner, of Texas, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 4257.

The gentleman's suggestion was with reference to section 7 of the Senate amendment. The Senate made one amendment to the entire bill. The action taken by the House, whatever it may be, must be upon the entire amendment. Of course we can concur in the Senate amendment, with an amendment striking out all of the Senate amendment and inserting what the House thinks should be inserted, but you can not concur in a part of the Senate amendment.

The Speaker [1] said:

The gentleman from Illinois has answered the inquiry of the gentleman from Virginia, and the Chair concurs in his answer.

3176. Before the stage of disagreement is reached the motion to concur with an amendment is not divisible.

On June 10, 1912,[2] the House had under consideration Senate amendments to the bill H. R. 18642, a tariff bill fixing the metal schedule.

Mr. George W. Norris, of Nebraska, moved to concur in the Senate amendment to section 2, repealing certain clauses in existing law and placing a duty of $2 a ton on a paper with an amendment striking out the duty of $2.

Mr. Joseph G. Cannon, of Illinois, requested a division of the question with separate votes on concurrence and on agreeing to the proposed amendment.

Mr. Oscar W. Underwood, of Alabama, made the point of order that prior to disagreement the motion to concur with an amendment was not divisible.

The Speaker [1] held:

The proposition to concur with an amendment is the first proposition to be voted on.

The feature of the proposition of the gentleman from Nebraska that makes his motion preferential, and also the other motion, is the feature of concurring with an amendment. The Chair sustains the point of order made by the gentleman from Alabama. The question is on the motion of the gentleman from Nebraska to concur with an amendment.

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[1] Champ Clerk, of Missouri, Speaker.

[2] Second session Sixty-second Congress, Record, P. 7937.

Chapter CCLXI.[1]

AMENDMENTS BETWEEN THE HOUSES.

3177. Where one House recedes from its amendment to a bill after the other has concurred in the amendment with an amendment, agreement has not been reached and the bill is not passed.

On October 3, 1913,[2] on motion of Mr. Oscar W. Underwood, of Alabama, the Speaker laid before the House the bill (H. R. 3321) to revise the tariff, with Senate amendment No. 609, from which the Senate had receded after the House had returned it to the Senate with a House amendment.

Mr. Underwood moved that the House recede from its amendment to Senate amendment No. 609 and agree to the action of the Senate in receding from said Senate amendment.

Mr. Asher C. Hinds, of Maine, characterized the motion as unnecessary and raised a question of order against it.

After debate, the Speaker[3] held:

The gentleman from Alabama moves to concur in the action of the Senate relating to Senate amendment No. 609 to House bill 3321. The gentleman from Maine makes the point of order against the motion. The history of the transaction stated in brief is that the conferees agreed to this entire bill except the so-called Clarke cotton-futures amendment. The gentleman from Alabama offered an amendment in the nature of a substitute to the Clarke amendment, which passed the House, and the Underwood amendment went to the Senate. The Senate disagreed to

[1] Supplementary to Chapter CXXXI.

[2] First session Sixty-third Congress, Journal, p. 373; Record, p. 5437.

[3] Champ Clark, of Missouri, Speaker.

the Underwood amendment, and also receded from the Clarke amendment. The only question in issue is whether the two Houses have ever come to an agreement—to the same state of mind.

What is the situation: did the Senate by disagreeing to the Underwood amendment and receding from its own amendment clear up the whole matter? If so, where is the Underwood amendment? What is its status? The House passed it; the House has never receded from it; the two Houses have never come to an agreement on this proposition, and therefore the Chair overrules the point of order. The question is on concurring in the action of the Senate relating to Senate amendment 609.

3178. A negative vote on a motion to concur in a Senate amendment was held equivalent to an affirmative vote to disagree.

A two-thirds vote is required on motions disposing of Senate amendments to propositions requiring a two-thirds vote for passage.

On June 21, 1991,[1] the Speaker laid before the House the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing for election of Senators, with a Senate amendment in the nature of a substitute.

mr. Marlin E. Olmsted, of Pennsylvania, moved that the House concur in the Senate amendment.

After debate, the ayes and noes were ordered and the vote being yeas 111, noes 171, the Speaker[2] announced that two-thirds having failed to vote in the affirmative, the House had disagreed to the Senate amendments.

Mr. William H. Rucker, of Missouri, rising to a parliamentary inquiry, asked if it was not in order to vote on a motion to disagree.

The Speaker ruled:

At first the Chair was inclined to take the gentleman's view of it, but after consultation with the parliamentary clerk and the gentleman form Illinois, Mr. Mann, and finally with the great authority on parliamentary law, Mr. Hinds, of Maine, we all agreed that the failure of the motion to concur was equivalent to a motion to disagree.

The House refuses to concur in the Senate amendment.

3179. A negative vote on the motion to concur is tantamount to a vote to nonconcur and disposes of Senate amendments without further motion.

The motion to concur in a Senate amendment takes precedence of the motion to disagree.

On August 3, 1911,[3] on motion of Mr. Oscar W. Underwood, of Alabama, the bill (H. R. 4413), to place agricultural implements and certain other commodities on the free list, was taken from the Speaker's table with Senate amendments.

Mr. Underwood moved that the House disagree to Senate amendments Nos. 1 to 7, inclusive.

Mr. Burton L. French, of Idaho, offered, as preferential, a motion to concur in the first seven amendments of the Senate.

The Speaker recognized Mr. French and put the question on the motion to concur.

The vote being taken and being decided in the negative, the Speaker[2] said:

That is equivalent to nonconcurrence in the Senate Amendments.

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[1] First session Sixty-second Congress, Record, p. 2434.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-second Congress, Record, p. 3585.

3180. On June 10, 1912,[1] on motion of Mr. Oscar W. Underwood, of Alabama, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 18642) to revise the metal schedule, with Senate amendments.

Mr. Underwood moved that the house disagree to Senate amendment No. 3, relating to the Canadian reciprocity act.

Mr. Irvine L. Lenroot, of Wisconsin, interposed a motion that the House agree to the Senate amendment.

The Speaker[2] recognized the motion to agree as preferential. Thereupon, Mr. Underwood inquired if a negative vote on the motion to concur would be equivalent to affirmative action on a motion to disagree.

The Speaker replied in the affirmative, and the vote being taken on the motion to concur the yeas were 101, the nays were 145, and the House disagreed to the Senate amendment.

3181. On December 20, 1913,[3] on motion of Mr. Carter Glass, of Virginia, by unanimous consent, the bill (H. R. 8737) to provide for the establishment of Federal reserve banks, was taken from the Speaker's table for the consideration of the Senate amendment thereto.

Mr. William H. Murray, of Oklahoma, moved that the House concur in the Senate amendment.

Mr. Asbury F. Lever, of South Carolina, submitted a parliamentary inquiry as to whether it would be in order for the House to instruct conferees if the motion to concur was rejected.

The Speaker[2] said:

> The Chair will state the parliamentary situation. If this motion is voted down, that is equivalent to a disagreement, and then a motion to instruct the conferees will be in order.

3182. In the Committee of the Whole, as in the House, a negative vote on the motion to concur is equivalent to an affirmative vote to disagree.

On September 23, 1918,[4] the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of Senate amendments to the bill (H. R. 11945) to stimulate the production of food.

Mr. William H. Stafford, of Wisconsin, moved to concur in Senate amendment No. 3, providing an appropriation for the dissemination of information on the manufacture of cottage cheese.

The question being taken and being decided in the negative, Mr. Charles Pope Caldwell, of New York, proposed to offer a motion to disagree to the amendment.

The Chairman[5] declined to entertain the motion and said:

> The motion is lost, which was equivalent to a motion to disagree.

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[1] Second session Sixty-second Congress, Record, p. 7937.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-third Congress, Record, p. 1307.

[4] Second session Sixty-fifth Congress, Record, p. 10687.

[5] Ben Johnson, of Kentucky, Chairman.

3183. A motion to insist on disagreement to a Senate amendment yields to a motion to agree and is not acted on in event of rejection of the latter motion.

Instance wherein the Senate receded from its own amendment to a House bill with an amendment.

A Member proposing a preferential motion is entitled to recognition prior to disposition of the pending motion, but may not by offering such motion deprive another of the floor.

On February 21, 1929,[1] Mr. Louis C. Cramton, of Michigan, called up the Department of the Interior appropriation bill with Senate amendment No. 39, exempting privately owned lands occupied for religious purposes from condemnation for park purposes, still in disagreement between the two Houses, but from which the Senate had receded with an amendment.

Mr. Cramton having offered a motion that the House insist on its disagreement to the amendment of the Senate, Mr. John M. Evans, of Montana, proposed that the House recede from its disagreement and concur in the amendment.

In response to a parliamentary inquiry by Mr. Evans, the Speaker pro tempore[2] held that the motion to agree was preferential to the motion to insist and was in order notwithstanding another Member had the floor, but could not deprive such other Member of the floor for debate.

The Speaker pro tempore continued:

> The Chair is confronted with a somewhat puzzling problem in this connection, owing to the very peculiar parliamentary situation. It seems that the Senate has taken a most unusual course, to say the least, in receding from its own amendment and amending the same. In view of this situation the motion of the gentleman from Montana now is that the House agree to the Senate amendment as amended, and the question is on this motion.

The motion having been rejected, the Speaker pro tempore in response to an inquiry from Mr. Cramton, held:

> The exact opposite of the gentleman's motion having been disagreed to, the Chair thinks it equivalent to an affirmative vote on the gentleman's motion, and therefore will not put the question.

3184. A motion proposing a substitute for a Senate amendment yields to a motion for a perfecting amendment.

On February 26, 1921,[3] during the consideration of Senate amendments to the legislature, executive and judicial appropriation bill, the House voted to recede from its disagreement to Senate amendment No. 113.

Whereupon Mr. William R. Wood, of Indiana, proposed an amendment in the nature of a substitute for the Senate amendment.

Mr. Eugene Black, of Texas offered an amendment proposing to perfect the Senate amendment.

Mr. Carl R. Chindblom, of Illinois, made the point of order that a substitute proposed by Mr. Wood was pending and the amendment offered by Mr. Black was not in order.

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[1] Second session Seventieth Congress, Record, p. 3990.

[2] John Q. Tilson, of Connecticut, Speaker pro tempore.

[3] Third session Sixty-sixth Congress, Record, p. 4005.

The Speaker pro tempore [1] overruled the point of order and said:

The Chair thinks that the motion offered by the gentleman from Texas is a motion to amend the Senate amendment. The Chair will state that the amendment of the gentleman from Indiana was one offered apparently as a substitute for the Senate amendment. The amendment offered by the gentleman from Texas is an amendment which apparently seeks to perfect the text of the Senate amendment, and therefore would be in order. The question is upon the motion of the gentleman from Texas.

3185. The Senate having proposed an amendment to a Senate bill which had passed both Houses, the House declined to entertain the amendment and by message informed the Senate that it could not act on a matter not in disagreement between the two Houses.

On February 6, 1924,[2] the House disagreed to the amendment of the Senate to the bill (S. 876) to provide for the disposition of bonuses, rentals and royalties received from the mining of coal, phosphate, oil, gas, and sodium on the public domain and in requesting conference with the Senate made the following order:

Ordered, That the Clerk notify the Senate thereof; and that in respect to the proposed amendment of the Senate to the original text of the bill, not in disagreement between the two Houses, having already been agreed upon, the House can not now act.

Subsequently, on March 3, when Mr. Carl Hayden, of Arizona, called up the conference report on the bill, Mr. Frederick W. Dallinger, of Massachusetts, made the point of order that the conferees had exceeded their authority by reporting amendments to the text of the bill to which both Houses had agreed.

In controverting the point of order, Mr. Hayden explained that the change in that portion of the text of the bill not in disagreement had not been made by the managers in conference but had been made by the Senate after the bill was returned from the House and before conferees had been appointed, and that the matter objected was therefore properly before the conferees.

The Speaker pro tempore [3] ruled:

The bill as passed in the House and the bill as passed in the Senate contain the same text which has been amended in conference. That matter was not the subject matter of the conference, because in that respect there was no disagreement between the two Houses, and the amendment is not to that portion of the bill or to that subject matter which was in disagreement between the two Houses, and which was properly the subject matter of the conference.

The conferees changed the text of the bill in the particular in which there was no disagreement between the House and the Senate; therefore that report of the conferees comes squarely within the rules, which provide that the managers of the conference must confine themselves to the differences submitted to them, and, more specifically, the managers of a conference may not change the text to which both Houses have agreed.

The House took no action on the amendment that the Senate put on the bill after it had passed the House and had gone back to the Senate with House amendments.

It was not in disagreement between the two Houses, the House not having acted upon the Senate amendment. The Chair sustains that point of order.

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[1] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[2] Second session Sixty-eighth Congress, Journal p. 210; Record, p. 3142.

[3] Frederick R. Lehlbach, of New Jersey, Speaker pro tempore.

3186. Items agreed to in a partial conference report are no longer in dispute and are not subject to modification in the consideration of amendments remaining in disagreement.

On March 19, 1930,[1] the Senate resumed consideration of amendments on which the two Houses are still in disagreement, to the bill (H. R. 9979) the urgent deficiency appropriation bill, differences on the remaining amendments having been composed in a conference report previously adopted.

Mr. William Henry McMaster, of South Dakota, offered a motion relating to items disposed of in the conference report.

Mr. Carl Hayden, of Arizona, interposed a question of order.

The President pro tempore [1][2] held:

The House and the Senate both having approved the conference report upon these items, they are no longer in dispute between the two bodies, and that is not in order. The Chair holds the point of order to be well taken.

3187. A House bill messaged from the Senate with amendments requiring consideration in Committee of the Whole goes to the Speaker's table, and if not disposed of by unanimous consent is referred by the Speaker to its appropriate committee.

General appropriation bills with Senate amendments reported back to the House from the Committee on Appropriations are privileged and are subject to motions authorized by the Committee.

When a bill with Senate amendments is taken from the calendar for consideration, only the amendments are before the House, and the remainder of the bill, having been agreed to by both Houses, is not subject to further consideration.

Amendments may not be offered in time yielded for debate only, and a Member yielding to another to propose an amendment loses the floor.

Form of unanimous-consent agreement for the consideration of a Senate amendment.

A motion to amend an amendment from the other House takes precedence of a motion to agree or disagree.

On January 23, 1931 [3] following the disposition of business on the Speaker's table, the Speaker [4] announced:

The Chair desires to make a statement at this time:

The Interior Department appropriation bill with Senate amendments is on the Speaker's table. It is entirely within the discretion of the Chair what course should be taken with regard to the disposition of this bill. Ordinarily a request is made for unanimous consent to send such bills to conference at once. The other course is that the Speaker himself shall refer the bill to the appropriate committee. In view of the tremendous importance of the question arising under the Senate amendment providing for a $25,000,000 appropriation to the Red Cross, in view of the request of the members of the Appropriations Committee that hearings should be had and that the Red Cross may have the opportunity of stating its position, the Chair is going to take the course of referring

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[1] Second session Seventy-first Congress, Record, p. 5608; Senate Journal, p. 222.

[2] George H. Moses, of New Hampshire, President pro tempore.

[3] Third session Seventy-first Congress, Record, p. 2975.

[4] Nicholas Longworth, of Ohio, Speaker.

this bill to the Appropriations Committee, and refers the bill with Senate amendments to the Appropriations Committee and orders it printed.

On January 29,[1] Mr. Louis C. Cramton, of Michigan, by direction of the Committee on Appropriations, reported the bill back to the House with the recommendation that the amendments of the Senate be disagreed to and the bill be sent to conference.

The bill having been referred to the Union Calendar and ordered to be printed, Mr. Joseph W. Byrns, of Tennessee, submitted a parliamentary inquiry as to the privilege of the bill and as to whether it would be in order for any Member to move that the House resolve itself into the Committee of the Whole on the state of the Union for its consideration.

The Speaker replied:

The bill has just been ordered reported, but the report has not been printed, and any motion to be privileged would require the direction of the Committee on Appropriations. Therefore nothing would be in order at this stage except by unanimous consent.

To-morrow, the bill being on the calendar, the Chair thinks that if the committee authorized any gentleman to take any appropriate action, it being a privileged bill, it would be proper.

In response to a further inquiry from Mr. Robert G. Simmons, of Nebraska, the Speaker held that a member yielding to another to offer an amendment yielded the floor,

The Speaker further held:

It is not a bill that the House would be considering. It is simply a report from the Committee on Appropriations and the House will be considering only Senate amendments and not the bill itself. In view of the agreement between the House and the Senate on all matters, except the Senate amendments, nothing is under consideration except the Senate amendments.

Thereupon, on motion of Mr. Cramton, by unanimous consent, it was ordered that all amendments, except amendment No. 144, providing an appropriation of $25,000,000 to be disbursed by the Red Cross in the drouth areas, be disagreed to; that debate on amendment No. 144 be limited to two hours, to be equally divided between Mr. Cramton and Mr. Edward T. Taylor, of Colorado; that any Member yielded time to be permitted to offer amendments on motions relating to the disposition of amendment No. 144; that at the expiration of the two hours the previous question be considered as ordered; and Senate amendment No. 144 being disposed of, the House should ask conference and the Speaker appoint conferees.

Debate on Senate amendment No. 144 having been concluded, Mr. Cramton moved that the House disagree to the amendment.

As a preferential motion, Mr. Taylor moved that the House concur in the amendment with an amendment providing that the $25,000,000 be administered by the President instead of by the Red Cross.

Mr. William H. Stafford, of Wisconsin, made the point of order that at this stage of disagreement a motion to concur would take precedence of a motion to concur with an amendment.

The Speaker held that a motion to amend or to concur with an amendment took precedence over the motion to agree or disagree, and put the question on the motion of Mr. Taylor to concur with an amendment.

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[1] Third session Seventy-first Congress, Record, p. 3445.

3188. On June 28, 1932,[1] the House had agreed to the conference report on the naval appropriation bill and was considering the amendments remaining in disagreement between the two Houses.

The Clerk read a Senate amendment proposing to substitute the amount of $1,191,850 for the amount of $1,014,250 provided by the House bill for increased pay of Navy officers.

Mr. William A. Ayres, of Kansas, moved that the House recede and concur in the Senate amendment with an amendment substituting the amount of $1,157,535 for the amounts indicated, and proposing additional legislation.

Mr. Fiorello H. LaGuardia, of New York, interposed the point of order that the only disagreement between the two Houses was a matter of amounts and the proposal of additional legislation was not in order.

The Speaker[2] held that the House was not circumscribed in consideration of Senate amendments by previous action taken by either the House or the Senate, and said:

On the grounds the gentleman makes his point of order the Chair will overrule it. The question is on the motion to concur with an amendment.

The question was taken and the motion was agreed to, when the Speaker added:

Let the Chair say in connection with that point of order that if the gentleman from New York had made the point of order that the proposed amendment was not germane to the Senate amendment, the Chair thinks it would have been sufficient, but the gentleman from New York said it was beyond the jurisdiction of the conferees, and the motion to concur with an amendment is not subject to that point of order.

3189. In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment.

On June 20, 1932,[3] the House agreed to the conference report on the legislative appropriation bill, and the Clerk reported the Senate amendment remaining in disagreement, in part as follows:

During the fiscal year ending June 30, 1933, the compensation for each civilian and noncivilian office, position, employment, or enlistment in any branch or service of the United States Government or the government of the District of Columbia is hereby reduced as follows: Compensation at an annual rate of $2,500 or less shall be exempt from reduction; and compensation at an annual rate in excess of $2,500 shall be reduced by 11 percent of the amount thereof in excess of $2,500.

Mr. John McDuffie, of Alabama, moved that the House recede from its disagreement to the Senate amendment and concur in it with an amendment in part as follows:

During the fiscal year ending June 30, 1933, the rate of compensation for each civilian or noncivilian office, position, or employment in any branch or service of the United States Government or the government of the District of Columbia, is reduced as follows: If more than $1,200 per annum, but less than $12,000 per annum, 10 percent; if $12,000 per annum or more, but

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[1] First session Seventy-second Congress, Record, p. 14208.

[2] John N. Garner, of Texas, Speaker.

[3] First session Seventy-second Congress, Record, p. 13525.

less than $15,000 per annum, 12 per cent; if $15,000 per annum or more, but less than $20,000 per annum, 15 per cent; if $20,000 per annum or more, 20 per cent.

Mr. John C. Schafer, of Wisconsin, made the point of order that the proposed amendment was not within the range between the original bill and the Senate amendment, neither providing for a reduction of salaries below $2,500.

The Speaker pro tempore [1] overruled the point of order and said:

The gentleman from Wisconsin interposes a point of order against the amendment offered by the gentleman from Alabama to the Senate proposal, upon the ground that the provisions embodied in the motion of the gentleman from Alabama to recede and concur with an amendment to the Senate amendment was beyond the limits fixed in either the House bill or the Senate amendment. A syllabus of an opinion by Chairman Hepburn, of Iowa, made on February 26, 1992, which may be found in Hinds' Precedents (vol. 5, sec. 6187) is as follows: "In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment." The Chair thinks that that decision disposes of the point of order raised by the gentleman from Wisconsin. The Chair desires to say in passing upon these points of order that in cases of this kind the only requirement is that the amendment proposed in the motion to recede and concur with an amendment must be germane to the Senate amendment. This question arose on May 3, 1922, when Mr. Speaker Gillett, in overruling a point of order similar to this, held that to a Senate amendment providing a new method of taxation in the District of Columbia and revising the fiscal relationship of the District of Columbia and the United States with other incidental propositions and an amendment proposing a different scheme is germane, although different in detail.

The Chair thinks that these decisions fully cover point of order raised by the gentleman from Wisconsin, and therefore overrules the point of order.

3190. Where the Senate had amended a House bill by striking out a section, it was held in order in the House to concur with an amendment inserting a new text in lieu of that stricken out.

On February 21, 1923,[2] the House was considering the War Department appropriation bill which has been returned from conference with certain Senate amendments still in disagreement.

The Clerk read the following:

Amendment No. 38: Page 23 of the bill, after line 16, strike out the following: "None of the funds appropriated in this act shall be used for payment of any officer of the Army on the active or retired list while such officer is engaged in the business of selling supplies or services to the United States or is employed by any individual, partnership, or corporation which engages in such business.

Mr. Daniel R. Anthony, jr., of Kansas, moved that the House recede from its disagreement to the Senate amendment and concur with an amendment as follows:

Amendment No. 38: None of the money appropriated in this act shall be used to pay any officer on the retired list of the Army who is employed by any individual, partnership, corporation, or association as a sales or contract agent or as the manager or directing head of sales or contracts for the purpose of selling, contracting for the sale of, negotiating for the sale of, or furnishing to the Army or the War Department any supplies, materials, equipment, lands, buildings, plants, vessels, or munitions. And none of the money appropriated shall be used to pay any officer on the retired list of any of the services hereinbefore enumerated who is employed by any individual, partnership, corporation, or association regularly or frequently engaged in making direct sales of any merchan-

[1] William B. Bankhead, of Alabama, Speaker pro tempore.

[2] Fourth session Sixty-seventh Congress, Record, p. 4200.

dise or material to the particular service hereinbefore enumerated from which such officer was retired.

Mr. Tom Connally, of Texas, made the point of order that the amendment with which it was proposed to concur involved legislation which neither House had submitted to the conferees.

Mr. Anthony submitted that any germane amendment to the language which the Senate amendment proposed to strike from the House bill was in order, and that the additional language in the amendment which he proposed was in the nature of a limitation.

The Speaker [1] overruled the point of order and said:

The difference between the two Houses is the House amendment that was stricken out by the Senate, so the House amendment is before the House. The Senate amendment is to strike out the House provision, which brings the subject before the House. The Chair overrules the point of order.

3191. Under the later practice, Senate amendments when reported from the Committee of the Whole are voted on en bloc and only those amendments are voted on severally on which a separate vote is demanded.

On September 23, 1918,[2] the Committee of the Whole House on the state of the Union reported back to the House the Senate amendments to the bill (H. R. 11945) to stimulate the production of food, with the recommendation that Senate amendment No. 13 be agreed to with an amendment and that the remaining Senate amendments be disagreed to.

The previous question having been ordered, the Speaker [3] put the question on agreeing to the recommendation of the Committee of the Whole.

Mr. Frank W. Mondell, of Wyoming, raised the question of order that each amendment should be voted on severally and cited section 6193 of Hinds' Precedents in support of his contention.

The Speaker dissented and said:

The procedure is exactly like that in any other case, and the business of the Chair is to ask if a separate vote is desired on any amendment.

The Chair was starting to put the question whether a separate vote was desired on any amendment when the gentleman intervened.

There is nothing more sacred about these amendments than the amendments to any ordinary bill.

Mr. Julius Kahn, of California, having requested a separate vote on Senate amendment No. 13, the Speaker put the question as follows:

The gentleman from California has demanded a separate vote on amendment No. 13. Is a separate vote demanded on any other? If not, the Chair will put them en gross.

The question is on the recommendation of the Committee of the Whole House on the state of the Union to disagree to all the amendments except to Senate amendment No. 13.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 10693.

[2] Champ Clark, of Missouri, Speaker.

3192. **When a Senate amendment is reported back to the House from Committee of the Whole with an amendment and with the recommendation that the Senate amendment as amended be concurred in, the vote is taken first on the proposed amendment and then on concurrence.**

On September 23, 1918,[1] Mr. Ben Johnson, of Kentucky, Chairman of the Committee of the Whole House on the state of the Union, reported to the House that the Committee had had under consideration Senate amendments to the bill (H. R. 11945) the food stimulation bill, and had directed him to report them back to the House with the recommendation that Senate amendment No. 13 be agreed to with an amendment and the remaining Senate amendments be disagreed to.

The Speaker[2] was proceeding to put a question on agreeing to the amendment to Senate amendment No. 13 recommended by the Committee of the Whole when Mr. William L. Igoe, of Missouri, made the point of order that it was not necessary to vote on the amendment to the Senate amendment, but that the vote should be taken on the Senate amendment as amended.

The Speaker ruled that the vote came first on the amendment proposed by the Committee of the Whole to the Senate amendment and then on the recommendation of the Committee of the Whole for disposition of the Senate amendment as amended.

3193. **The motion to recede from disagreement and concur in a Senate amendment has precedence of a motion to insist further, but a Member by offering such motion may not deprive the Member in charge of the floor.**

On March 10, 1930,[3] the house having agreed to the conference report on the first deficiency appropriation bill, proceeded to the consideration of Senate amendments still in disagreement between the two Houses.

Senate amendment No. 27, having been read, Mr. William R. Wood, of Indiana, moved that the House insist on its disagreement to the amendment.

Mr. Edward H. Wason, of New Hampshire, proposed, as preferential, a motion that the House recede from its disagreement and concur in the amendment.

In response to a point of order raised by Mr. Louis C. Cramton, of Michigan, the Speaker pro tempore[4] held that while the motion to recede and concur was preferential, it did not take the floor from the Member in charge of the bill.

3194. **A bill with amendments of the other House is privileged after the stage of disagreement has been reached.**

The motion to recede and concur takes precedence of the motion to further assist.

On July 16, 1932,[5] Mr. Henry B. Steagall, of Alabama, called up from the Speaker's table, as privileged, the bill (H. R. 12280) to create Federal home loan banks, returned from the Senate with amendments, and moved that the House *further insist* on its disagreement to the amendments of the Senate.

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[1] Second session Sixty-fifth Congress, Record, p. 10694.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Seventy-first Congress, Record, p. 5638.

[4] Bertrand H. Snell, of New York, Speaker pro tempre.

[5] First session Seventy-second Congress, Record, p. 15746.

Mr. C. William Ramseyer, of Iowa, objected that the proposal was not privileged.

The Speaker [1] overruled the point of order and said:

This is a House bill with Senate amendments on which there is a disagreement between the two Houses, and it has been uniformly held that this is a privileged motion.

Thereupon, Mr. Ramseyer offered, as preferential, a motion that the House recede from its disagreement and concur in the Senate amendments.

The Speaker held that the motion to recede and concur took precedence over the motion to further insist and put the question:

The gentleman from Iowa moves that the House recede and concur in Senate amendments No. 46 and No. 47. The question is on the motion of the gentleman from Iowa to recede and concur in the Senate amendments.

3195. The rejection of a motion to recede from disagreement to a Senate amendment and concur therein is equivalent to further disagreement to the amendment.

On April 15, 1926,[2] the House was considering Senate amendments to the independent offices appropriation bill remaining in disagreement after the adoption of the conference report.

Mr. William R. Wood, of Indiana, moved that the House recede from its disagreement to Senate amendment No. 1, and agree thereto. The question being taken on the motion, it was decided in the negative.

Whereupon, Mr. Tom Connally, of Texas, inquired as to the effect of the rejection by the House of the motion to recede and concur.

The Speaker [3] held that the effect of the vote was to further disagree to the Senate amendment.

3196. The stage of disagreement having been reached, the motion to recede and concur takes precedence over the motion to recede and concur with an amendment, but the motion to recede and concur having been divided, and the House having receded, the motion to concur is first voted on and if rejected then the motion to concur with an amendment.

On June 17, 1921,[4] the House having agreed to the conference report of the army appropriation bill, was considering the Senate amendments still in disagreement.

The Clerk read Senate amendment No. 10, increasing the appropriation for the Army from $72,678,659 to $81,000,000.

Mr. Daniel R. Anthony, jr., of Kansas, moved that the House recede from its disagreement and concur in the amendment with an amendment increasing the amount from $72,678,659 to $77,741,370.

Mr. Julius Kahn, of California, offered, as a preferential, a motion to recede from disagreement and concur in the Senate amendment.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the motion was not preferential.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 7543.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] First session Sixty-seventh Congress, Record, p. 2727.

The Speaker pro tempore [1] overruled the point of order and said:

The Chair would state that the rulings are to the effect that the stage of disagreement having been reached, as would appear to be the case here in this instance, a motion to recede and concur takes precedence over a motion to recede and concur with an amendment. The Chair, following that precedent, will overrule the gentleman's point of order.

After debate, on motion of Mr. Anthony, the previous question was ordered on the pending motions.

Mr. Garrett demanded a division of the question.

The question being divided and the ayes and noes being ordered on the motion to recede, it was decided in the affirmative, yeas 154, nays 135; and being taken on the motion to concur, was decided in the negative without division.

The question then recurring on the motion to concur with an amendment, and being taken, it was decided in the affirmative, yeas 158, nays 128. So the motion to concur with an amendment was agreed to.

3197. A motion to recede is preferential as tending to bring the Houses to agreement.

The motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.

A Member having control of time for debate can not exclude the preferential motion to recede and concur, but may not be deprived of the floor by such motion.

On June 31, 1909,[2] the House was considering the bill (H. R. 1033) to provide for the thirteenth and subsequent decennial censuses, with Senate amendments, the Senate having rejected a conference report and asked for further conference.

During debate relating to Senate amendment No. 15, in time allotted to Mr. Edgar D. Crumpacker, of Indiana, the Speaker [3] in response to a parliamentary inquiry from Mr. Thetus W. Sims, of Tennessee, ruled:

A motion that the House recede from its disagreement to the Senate amendment would tend to bring the two bodies together and would be a preferential motion. Ordinarily the motion is made that the House do recede and concur. That motion, however, is divisible, and if the House should recede from its disagreement then it could concur in the Senate amendment with an amendment.

Thereupon, Mr. Sims moved that the House recede from its disagreement to Senate amendment No. 15 and concur therein.

Mr. Crumpacker raised the point of order that he had the floor and had declined to yield for the motion.

The Speaker held:

It occurs to the Chair that at the proper time, under the circumstances, the gentleman from Tennessee ought to be recognized to make the motion.

Of course he could not take the gentleman from Indiana from the floor in his hour.

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[1] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[2] First session Sixty-first Congress, Record, p. 3618.

[3] Joseph C. Cannon, Illinois, Speaker.

3198. The stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

A motion to recede and concur is divisible, and being divided and the House having receded, a motion to amend has precedence of the motion to concur.

On September 30, 1913,[1] the House agreed to the conference report on the tariff bill and proceeded to the consideration of Senate amendment No. 609, relating to cotton futures, still in disagreement.

Mr. Oscar W. Underwood, of Alabama, moved that the House recede from its disagreement to the amendment and agree to the same with an amendment providing for a tax on transactions in cotton for future delivery.

Mr. Otis Wingo, of Arkansas, proposed a preferential motion that the House recede from its disagreement and concur in the amendment as received from the Senate.

Mr. Thomas W. Hardwick, of Georgia, announced that if the motion to recede and concur was entertained, he proposed to demand a division of the question.

Mr. Underwood, as a parliamentary inquiry, requested that the Speaker rule as to which motion had precedence.

The Speaker[2] ruled:

The gentleman from Alabama moves to recede from the disagreement of the House to the Senate amendment No. 609 and concur in that amendment with the amendment that has just been read. The gentleman from Arkansas moves that the House recede from its disagreement and concur in the Senate amendment. The gentleman from Alabama asks for a ruling as to which motion is preferential.

The whole subject has been somewhat complicated by a misunderstanding which exists as to the practices of the House in slightly different parliamentary situations. When the House passes a bill and it goes over to the Senate and comes back with a Senate amendment, the regular course is for the Senate amendment to be considered in the House. Three motions are then in order—to disagree, to concur, or to concur with an amendment. It has always been held that a motion to concur in the Senate amendment takes precedence of a motion to disagree. This grows out of the fact that it is the business of the House to do business and not to retard business. The motion to concur tending to dispose of the matter in issue without further negotiations is held preferential on the ground that it expedites the business of the House. However, a motion to concur with an amendment takes precedence of the simple motion to concur. The practice is well established, and if this were the situation to-day, the Chair would hold the motion to concur with an amendment preferential, but this is not the situation before us. The House has taken up this amendment together with all the other Senate amendments to the tariff bill and disagreed to them en bloc and sent the bill to conference. We now have a conference report settling all the other amendments and leaving only this amendment in disagreement between the two Houses. The practice of the House has always been, apparently, that when a state of disagreement has been reached between the two Houses, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment. Sections 6219, 6220, 6221, and 6222 of Hinds' Precedents contain precedents to this effect.

The Speaker then read section 6219 of Hinds' Precedents and continued:

This decision follows the logical rule in such matters and is directly in point. It is precisely the situation that is before us. The Chair therefore holds that the motion of the gentleman from

[1] First session Sixty-third Congress, Record, p. 5276.

[2] Champ Clark, of Missouri, Speaker.

Arkansas has precedence. The Chair will go a little further in explanation of the situation, inasmuch as he is informed that the gentleman from Georgia proposes to demand a division of the motion of the gentleman from Arkansas. A motion to recede and concur is divisible. If a division should be demanded, the motion to recede would first be put; if that were carried, the situation would be exactly the same as if the amendment had just been received from the Senate and no action ever taken upon it. The question would then recur upon the motion to concur; but here the anomalous rule referred to a moment ago would again interfere, and if any gentleman desired to offer a motion to concur with an amendment this would take precedence over the simple motion to concur. This exact situation was passed on by Mr. Speaker Cannon in 1907 in an exhaustive opinion contained in section 6209 of Hinds' Precedents. Mr. Speaker Cannon there reached the conclusion which the Chair has indicated, and that conclusion the present occupant of the Chair believes to be the correct one and if the situation should arise will so hold.

3199. By receding from an amendment with which it agreed to a Senate amendment, the House does not thereby agree to the Senate amendment.

The question on a motion to recede from an amendment to a Senate amendment and concur in the Senate amendment may be divided on the demand of any Member.

On February 21, 1910,[1] the House was considering Senate amendments to the urgent deficiency appropriation bill still in disagreement after the adoption of the conference report.

The Clerk read Senate amendment No. 39 making appropriation for the expenses of the immigration commission, which the House had agreed to previously with an amendment prohibiting the use of any part of the appropriation for field work.

Mr. Augustus P. Gardner, of Massachusetts, moved that the House recede from its amendment to Senate amendment No. 39 *and agree* to the Senate amendment, and inquired if an affirmative vote on his motion would amount to concurrence in the Senate amendment.

The Speaker[2] held:

It seems to the Chair that the point made by the gentleman from Minnesota, although the Chair was inclined to take the other view of it, is well taken, namely, that the motion to recede and concur in the Senate amendment was conditional with the House amendment; and it seems to the Chair that if the House should recede from its former action when it agreed to the House amendment, that would leave the proposition open either for concurring in the Senate amendment unconditionally or to a House amendment.

Mr. Swagar Sherley, of Kentucky, submitted a parliamentary inquiry as to whether the motion to recede from the amendment and concur in the Senate amendment was divisible.

The Speaker said:

The Chair thinks that on demand it would be divisable.

3200. When first taken from the Speaker's table for consideration, the motion to amend, usually presented in the form of a motion to concur with an amendment, takes precedence of the motion to concur, and the

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[1] Second session Sixty-first Congress, Record, p. 2180.

[2] Joseph G. Cannon, of Illinois, Speaker.

latter motion may not be made while the former is pending, but the stage of disagreement having been reached, the motion to concur is in order and is preferential.

On August 17, 1912,[1] the House proceeded to the consideration of the conference report on the naval appropriation bill which had been submitted with several Senate amendments still in disagreement.

The conference report having been agreed to, Mr. Lemuel P. Padgett, of Tennessee, moved to disagree to the remaining Senate amendments and ask for a conference.

Mr. George E. Foss, of Illinois, offered a motion to agree to Senate amendment No. 102, one of the amendments still in disagreement, authorizing the construction of two battleships.

Debate having been concluded, Mr. John A. Thayer, of Massachusetts, offered, in the nature of a substitute for the pending motion to concur, a motion to concur with an amendment substituting cruisers for battleships.

Mr. Padgett made the point of order that after conference a motion to concur with an amendment could not be made while a motion to concur was pending.

The Speaker[2] sustained the point of order and said:

> The two Houses have attempted to get together by going into conference. They have been in conference, and under the precedents the preferential motion is to concur. Before going to conference the preferential motion is to concur with an amendment.
>
> The Chair had occasion to go into that question very carefully a little time ago. The amendment of the gentleman from Massachusetts is out of order. The question is on agreeing to the motion of the gentleman from Illinois to agree to the Senate amendment.

3201. A motion to concur in a Senate amendment with an amendment is not in order while a motion to concur with another amendment is pending, but may be offered as an amendment or as a substitute for the pending motion.

On February 21, 1917,[3] the House was considering Senate amendments to the Post Office appropriation bill when the Clerk read Senate amendment No. 34, prohibiting the transmission of mail matter advertising intoxicating liquor and providing a penalty.

Mr. Swagar Sherley, of Kentucky, moved that the House concur in the amendment with an amendment making the provision effective one year from the date of its approval.

Mr. John H. Small, of North Carolina, proposed a motion that the House concur with an amendment omitting the penalty.

Mr. James R. Mann, of Illinois, made the point of order that a motion to concur with an amendment was not in order while motion to concur with another amendment was pending.

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[1] Second session Sixty-second Congress, Record, p. 11189.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-fourth Congress, Record, p. 3795.

The Speaker [1] sustained the point of order:

You can not offer another motion to concur with an amendment while a motion to concur is pending. The proper construction to put on the motion of the gentleman from North Carolina is that it is an amendment to the Sherley amendment or a substitute for the Sherley amendment.

3202. The stage of disagreement not being reached, the motion to concur in an amendment of the other House with an amendment has precedence of the simple motion to concur, but, the stage of disagreement having been reached, the motion to recede and concur takes precedence of the motion to recede and concur with an amendment.

Instance wherein, under a unanimous consent agreement, a Senate amendment was taken up after the bill had been sent to conference and agreed to by the House without recommendation or report from the conferees.

On January 31, 1919,[2] on the motion of Mr. Claude Kitchin, of North Carolina, by unanimous consent, the House agreed to entertain a motion to instruct conferees on the revenue bill, with reference to Senate amendment No. 222 relating to taxation of campaign contributions.

Mr. William W. Rucker, of Missouri, moved that the House instruct its conferees to concur in the Senate amendment with an amendment making it effective on passage.

Mr. John N. Garner, of Texas, offered, as preferential, a motion to concur.

A question of order having been raised as to which motion was entitled to preference, Mr. James R. Mann, of Illinois, said in debating the question:

Mr. Speaker, the rule is perfectly patent, and I called attention to it when the gentleman asked to send this bill to conference. When the Senate amendment first comes before the House the preferential motion is to concur with an amendment, but after the Senate has insisted on the amendment and it comes before the House again, the preferential motion is to concur in the Senate amendment, which takes precedence over a motion to concur with an amendment, the design in each case being to bring the two bodies together in the easiest way. By analogy, the motion of the gentleman from Texas takes precedence.

The Speaker [1] acquiesced and said:

The gentleman has stated the case precisely as it is.

3203. When the Senate amendments are taken up for the first time, the motion to concur with an amendment takes precedence over the simple motion to concur, but after the House has disagreed the order is reversed and subsequently the motion to recede and concur takes precedence over the motion to recede and concur with an amendment.

The motion to recede and concur is divisible and being divided and the House having voted to recede, the motion to amend takes precedence over the motion to concur.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-fifth Congress, Record, p. 2455.

On July 12, 1932,[1] the House agreed to a conference report on the Army appropriation bill, and the Clerk read the first amendment remaining in disagreement between the two Houses.

Mr. Ross A. Collins, of Mississippi, moved that the House recede from its disagreement to the Senate amendment and concur with an amendment.

Mr. Henry E. Barbour, of California, offered as preferential a motion to recede from disagreement and concur in the Senate amendment.

Mr. Collins submitted the point of order that the motion to recede and concur with an amendment was of the higher privilege.

The Speaker pro tempore [2] held:

The motion of the gentleman from California to recede and concur is a preferential motion.

Whereupon, Mr. William H. Stafford, of Wisconsin, demanded that the question be divided and the vote taken first on the motion to recede.

The Speaker pro tempore held that the question was divisible and put the question on the motion to recede.

The question having been decided in the affirmative and the House having receded, Mr. Collins moved that the House concur in the Senate amendment with an amendment.

Mr. Barbour demanded recognition to move that the House concur in the Senate amendment.

The Speaker pro tempore denied recognition and said:

The motion of the gentleman from Mississippi to concur with an amendment is a preferential motion at this stage. The gentleman from Mississippi is recognized.

3204. The stage of disagreement having been reached, that motion which tends most quickly to bring the House into agreement is preferential.

In the consideration of Senate amendments to a House bill the motion to concur takes precedence over the motion to disagree further.

A demand for the previous question by the Member in charge of a bill does not preclude consideration of a preferential motion.

On January 12, 1917,[3] the conference report on the bill H. R. 10384, the immigration bill, had been ruled out of order and the House had again taken up consideration of the Senate amendments to the bill.

Mr. John L. Burnett, of Alabama, moved that the House further disagree to the amendments of the Senate and ask for further conference, and on that motion demanded the previous question.

Mr. Williams S. Bennett, of New York, offered, as preferential, a motion to agree to Senate amendment numbered 6.

Mr. Burnett made the point of order that the motion to agree was not preferential and was not in order after the previous question had been demanded.

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[1] First session Seventy-second Congress, Record, p. 15138.

[2] Clifton A. Woodrum, of Virginia, Speaker pro tempore.

[3] Second session Sixty-fourth Congress, Record, p. 1295.

The Speaker [1] overruled the point of order and said:

The gentleman from New York makes a preferential motion to agree to Senate amendment numbered 6, which the Clerk will report.

3205. A motion to recede and concur in a Senate amendment takes precedence of a motion to insist further on disagreement to the Senate amendment.

On February 17, 1911,[2] the House agreed to the conference report on the Indian appropriation bill and proceeded to the consideration of three Senate amendments still in disagreement.

Mr. Charles H. Burke, of South Dakota, moved to insist further on the disagreement of the House to Senate amendment No. 48.

Mr. Louis B. Hanna, of North Dakota, proposed, as preferential, a motion that the House recede from its disagreement to Senate amendment No. 48 and concur in the same.

The Speaker [3] held:

The chair has no doubt as to the priority of these motions. The gentleman from South Dakota was compelled to yield, having made his motion to further insist on the disagreement to the Senate amendment, to the preferential motion made by the gentleman from North Dakota that the House recede and concur. Both of those motions are preferential, but the one made by the gentleman from North Dakota was of the highest preference.

3206. On June 18, 1918,[4] the House agreed to the conference report on the naval appropriation bill and proceeded to the consideration of certain Senate amendments not included in the report.

Senate amendment No. 33 being read, Mr. J. Fred C. Talbott, of Maryland, moved that the House recede from its disagreement and concur in the amendment.

In response to an inquiry from Mr. Thomas S. Butler, of Pennsylvania, the Speaker [1] held that rejection by the House of the motion to recede and concur would have the same effect as an affirmative vote on a motion to insist further on disagreement to the amendment.

3207. On February 28, 1920,[5] during the consideration of Senate amendments to the second deficiency appropriation bill still in disagreement between the two House, Mr. George Holden Tinkham, of Massachusetts, moved that the House recede from its disagreement to Senate amendment numbered 34 and agree to the same.

The motion being rejected, the Speaker,[6] in response to an inquiry from Mr. James W. Good, of Iowa, held that the refusal of the House to recede and concur was equivalent to a vote to disagree to the amendment.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2793.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 7977.

[5] Second session Sixty-sixth Congress, Record, p. 3649.

[6] Frederick H. Gillett, of Massachusetts, Speaker.

3208. A vote to adhere may not be accompanied by a request for a conference.—On May 23, 1908,[1] Mr. Jesse Overstreet, of Indiana being recognized to offer a motion that the rules be suspended and that the House adhere to its disagreement to the Senate amendment to the Post Office appropriation bill fixing rates of transportation for ocean mail, coupled with the motion a provision that the conference be requested to adhere.

The Speaker[2] interposed:

One moment.—If the gentleman from Indiana will give his attention. If the House should adhere to its disagreement to the Senate amendments it should not ask for a conference. It is not the usual custom where the House adheres, and a simple motion to adhere would be sufficient if it is the sense of the House.

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[1] First session Sixtieth Congress, Record, p. 6862.

[2] Joseph G. Cannon, Illinois, Speaker.

Chapter CCLXII.[1]

GENERAL PRINCIPLES OF CONFERENCES.

3209. Statement with reference to an unwritten rule of conference that the House proposing an amendment on which agreement can to be secured must recede or accept responsibility for failure of the bill.

On July 3, 1930,[2] in the Senate, Mr. James E. Watson, of Indiana, in the course of debate on the conference report on the bill (H. R. 13174) to amend the World War veterans' act, said:

> When one House makes a decided and determined stand on a bill the other House has amended, and it looks as if there is going to be a sure deadlock, it is the business of the House that put the amendment into the bill to recede from that amendment or be responsible for the defeat of the legislation.
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> The conferees on the part of the Senate did make a determined stand on these amendments, but the House, backed by a letter from the President of the United States, written while the conference was in session, insisted that we recede. We knew with that stand of the President of the United States and with the stand of the House of Representatives, that unless we did recede, under the rules of conferences, this legislation would be lost and the veterans would not be pensioned. That is the rule of conferences, I will say to the Senator.

3210. Motions for conference are not in order until all Senate amendments have been disposed of.

The House having under consideration a number of Senate amendments, it was held that a motion to insist on disagreement to one amendment might not include agreement to conference asked by the Senate until disposition of all pending amendments had been determined.

On February 17, 1911,[3] the House had agreed to the conference report on the Indian appropriation bill and was considering three Senate amendments still in disagreement.

Mr. Charles H. Burke, of South Dakota, moved that the House further insist on its disagreement to Senate amendment No. 48 providing for collection of claims

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[1] Supplementary to Chapter CXXXII.

[2] Second session Seventy-first Congress, Record, p. 12414.

[3] Third session Sixty-first Congress, Record, p. 2792.

against Indians of the Standing Rock Agency, and agree to the request of the Senate for a conference.

The Speaker [1] called attention to the fact that no proposition had yet been made for the disposition of the two remaining Senate amendments still in disagreement and explained:

There seem to be three amendments here that are not disposed of. The conference is not asked until the amendments are disposed of.

Thereupon, Mr. Burke restricted his motion to further insistence on disagreement to Senate amendment No. 48.

3211. The previous question having been ordered on the report of the Committee of the Whole recommending disagreement to Senate amendments, the preferential motion to concur was held not to be in order.

A report from the Committee of the Whole when presented, is pending without motion for its adoption.

On July 10, 1914,[2] the Speaker announced that the unfinished business was the report of the Committee of the Whole House on the state of the Union, to which had been referred the Indian appropriation bill with Senate amendments.

Mr. Byron P. Harrison, of Mississippi, offered a motion to concur in two amendments.

Mr. John J. Fitzgerald, of New York, made the point of order that the question came first on agreeing to the recommendation of the Committee of the Whole and therefore the motion to concur, though preferential, was not admissible.

After debate, the Speaker [3] held:

The situation is this: The Chairman of the Committee of the Whole House on the state of the Union, acting for that committee, reported to the House recommending that all of the Senate amendments to this bill be disagreed to, except amendments numbered 6 and 13, which should be agreed to, and which were agreed to. The rest of them were disagreed to, except amendments numbered 139 and 140, on the request of the gentleman from Mississippi to have a separate vote on them. It happens in practice that nobody ever moves to adopt the report of the Committee of the Whole House on the state of the Union. There are two instances in which no motion is required. One is on a conference report and the other is on the report of the Committee of the Whole House on the state of the Union, but practically the motion is pending to agree to the report of the Committee of the Whole House on the state of the Union. Ordinarily three motions could be made—that is, if this bill is in that state—a motion to disagree, a motion to concur with an amendment, and a flat motion to concur. Now, in this matter it seems to the Chair it ought to be decided in a way to give the House the best opportunity to really express its opinion. It might want to disagree, it might want to flatly concur, it might want to concur with an amendment. The previous question having been ordered on this mater, the Chair thinks that the motion to concur is not in order and that the vote is on whether the House will adopt the report of the Chairman of the Committee of the Whole House on the state of the Union as to these two amendments.

3212. It is not unusual for conferees to agree in advance to bring amendments back to the House for further instruction in event of failure to secure specified disposition in conference.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-third Congress, Record, p. 11937.

[3] Champ Clark, of Missouri, Speaker.

On December 10, 1918,[1] Mr. Claude Kitchin, of North Carolina, asked unanimous consent to take from the Speaker's table the bill (H. R. 12863), the tariff bill, disagree to Senate amendments, and agree to the conference asked by the Senate.

Mr. James R. Mann, of Illinois, under reservation of the right to object, inquired if the House would be given the opportunity to consider certain of the amendments in event of failure to agree to them in conference.

Mr. Kitchin gave assurance that if the conferees failed to agree to the child-labor amendment, the amendment providing for enforcement of the prohibition law in the District of Columbia and the amendment providing for a tax on political contributions, the managers on the part of the House would return them to the House in disagreement for its consideration and instruction.

3213. A motion for a conference is not in order until the stage of disagreement has been reached.

On December 18, 1912,[2] the House had passed the bill (S. 3175), the immigration bill, with amendments, when Mr. John L. Burnett, of Alabama, offered a motion that the House request a conference with the Senate on the bill and amendments thereto.

Mr. James R. Mann, of Illinois, submitted the question of order that no disagreement had yet been reached and that neither House could request a conference until there was a disagreement and insistence on that disagreement.

The Speaker[3] sustained the point of order and said:

> The proper function of a conference committee is to settle differences between the two Houses, and there are no differences between the two Houses as far as has been developed. For all the House knows or all the Chair knows, the Senate will accept this amendment, and therefore the point or order is sustained. A motion to insist would have been in order, and the Chair will not say that in an emergency as to time or any other thing of the sort we would not hold the pending motion out of order, but no emergency exists, and this bill should take the usual course.

3214. One House may pass a bill of the other with amendments, and immediately, without waiting for the other House to disagree, may ask a conference.

On July 9, 1909,[4] a message was received in the House announcing that the Senate had passed, with amendments, the bill (H. R. 1438) the Aldrich-Payne tariff bill; had insisted on its amendments to the bill; and requested a conference with the House on the bill and amendments.

3215. On September 9, 1913,[5] in the Senate the bill (H. R. 3321) to reduce tariff duties and to provide revenue for the Government, had been passed with amendments, when on motion of Mr. Furnifold M. Simmons, of North Carolina, a conference was requested on the amendments before the bill had been messaged to the House.

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[1] Third session Sixty-fifth Congress, Record, p. 927.

[2] Third session Sixty-second Congress, Record, p. 866.

[3] Champ Clark, of Missouri, Speaker.

[4] Fourth session Sixty-first Congress, Record, p. 4363.

[5] First session Sixty-third Congress, Record, p. 4618.

3216. Instance wherein the House passed a bill of the other with amendment, and immediately, without waiting for the other House to disagree, insisted on its amendment and asked for conference.

On May 16, 1928,[1] the House passed, with an amendment, the joint resolution (S. J. Res. 46) providing for the manufacture and distribution of fertilizer at Muscle Shoals.

Whereupon, Mr. John M. Morin, of Pennsylvania, moved that the House insist on its amendment to the joint resolution and ask for a conference.

The Speaker[2] expressed doubt as to whether such motion was in order before the Senate had taken action on the amendment.

Mr. Finis J. Garrett, of Tennessee, took issue and said:

The gentleman from Pennsylvania is quite within his rights. It is not a usual procedure, but a perfectly parliamentary procedure. It is seldom that the House has made such a request, but it has frequently been done in the Senate. If the Chair will indulge me, so far as I have been able to ascertain, the practice began in the Senate in the passage of the Dingley revenue bill in 1897. Following that it was the practice on revenue bills for many years. The present occupant of the chair I am sure will remember that what became known as the Payne-Aldrich bill, to the making of which he contributed so great a part, passed the Senate, and immediately on its passage the Senate moved to insist on its amendments and ask for a conference.

The Speaker took the position that insistence prior to disagreement by the Senate would evidence a lack of courtesy to the Senate, especially in view of the fact that the proceeding was without precedent on the part of the House.

Mr. Morin withdrew the motion, but subsequently, on the same day was recognized by the Speaker to renew it.

The Speaker said:

Before putting the motion the Chair would like to make this statement: When the gentleman from Pennsylvania offered the motion a little while ago the Chair expressed doubt as to whether the motion was in order. The gentleman from Tennessee submitted that the motion was in order under the precedents of the House. The Chair stated that he had no recollection during his term as a Member of this House of such a motion being offered. The Chair finds as a matter of fact that once during his service in the House this motion was made. It was as far back as 1907. The Chair can find no other precedent except one that occurred in 1891, and in neither case was any opinion given by the occupant of the chair in 1907. The Chair reads from Hinds' Precedents, volume 5, the following:

The Speaker read sections 6294 and 6300 from Hinds' Precedents and continued:

So the Chair was practically correct in saying that the matter had never come up where it was decided during his service in the House.

The Chair is of the opinion that such a proceeding is contrary to established rules of parliamentary procedure. It is true it has occurred a number of times in another body, the object being to alter the ordinary proceedings in conference, that is, to have one body act where it would not naturally act. The Chair also finds that in both cases, so far as the House was concerned, this procedure was on the last day of the session. The Chair can see some reason why such a motion could be submitted on the last day. The Chair is clearly of the opinion, however, that it is against the rules and the proper practice of parliamentary procedure. The object of a conference is to harmonize disagreements. In this case there is no disagreement. We have no assurance that the Senate is not in agreement.

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[1] First session Seventieth Congress, Record, p. 8894, 8922.

[2] Nicholas Longworth, of Ohio, Speaker.

However, in view of these two precedents, the Chair does not care to assume the responsibility of refusing to recognize the gentleman from Pennsylvania. The Chair will give further attention and consideration to this matter and will reserve judgment, the next time such a motion is made, as to whether he will decline to recognize a gentleman making this motion. The question is on agreeing to the motion of the gentleman from Pennsylvania.

The question being taken, it was decided in the affirmative without division, and the motion that the House insist and ask conference was agreed to.

3217. Discussion of the practice of the Senate in asking conferences on its amendments to House bills without waiting for the House to disagree.

On January 22, 1921,[1] the House considered the District of Columbia appropriation bill which the Senate had messaged over with sundry amendments on which it had requested conference without waiting for disagreement on the part of the House.

During debate on the bill, Mr. Finis J. Garett, of Tennessee, made the following observation:

I want to suggest, if I may, for the consideration of those charged with the responsibility of arranging the order of business, that this particular measure which is before us originated in the House. It passed the Senate, and immediately upon its passage in the Senate it was moved that a conference be asked with the House. I have looked at the Record to see the form of that motion. It is my recollection that the usual form of the motion, whichever body it is made in, is to insist on its amendments or disagreement and ask for a conference. But I want to call attention to the practice that has become very frequent of late years for the Senate to take a House bill, put amendments on it, and immediately ask for a conference without having the bill come back to the House to take such action as the House may see fit on the amendments.

That was not formerly the practice. My recollection is that probably the first measure in which that practice was adopted was the Dingley tariff bill. I was not a Member of Congress at that time. After the Dingley tariff bill had passed the Senate with Senate amendments, immediately, without its coming back to the House, it was moved to insist on the Senate amendments and ask for a conference with the House. I do not think it occurred again until the Payne tariff bill passed the Senate. Then the same policy was adopted. Since that time in recent years it has become almost the custom. The effect of that is it necessitates the House acting first on the conference report. A conference report comes up for action first in the body which agrees to the conference and not in the body that has asked for it.

It has occurred to me that possibly in working under this new rule that it may be desirable to bring about a change in that practice so that the House bill can be returned with Senate amendments and let the House determine what it is going to do with the Senate amendments in advance of any conference being requested or agreed to.

3218. Instance wherein the Senate receded from its disagreement to a House amendment to its amendment, although it had insisted and asked a conference, to which the House had agreed.

On February 26, 1921,[2] the House having under consideration Senate amendments to the legislative, executive, and judicial appropriation bill, concurred in Senate amendment No. 113, providing a bonus of $240 for civilian employees, with an amendment making certain exemptions.

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[1] Third session Sixty-sixth Congress, Record, p. 1890.

[2] Third session Sixty-sixth Congress, Record, p. 4007.

On March 1,[1] the Senate disagreed to the amendment of the House and insisted on its disagreement and asked further conference.

The House agreed to the conference asked by the Senate and appointed conferees, but on the same day,[2] before a conference was had, a message was received in the House announcing that the Senate has receded from its disagreement to the amendment of the House to Senate amendment No. 113 and had agreed to the same.

Thereupon, the bill was enrolled and signed by the Speaker.[3]

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[1] Record, p. 4122.
[2] Record, p. 4210.
[3] Record, p. 4314.

Chapter CCLXIII.[1]

APPOINTMENT OF MANAGERS OF A CONFERENCE.

1. Number of managers determined by each House. Sections 3219–3222.
2. Represent attitude of majority of House. Section 3223.
3. Changes of managers. Sections 3224–3229.

3219. Under the later practice, the number of conferees to be appointed has been left to the discretion of the Speaker.

On March 31, 1920,[2] on motion of Mr. Gilbert N. Haugen, of Iowa, by unanimous consent, the agricultural appropriation bill was taken from the Speaker's table; the Senate amendments thereto were disagreed to; and the conference asked by the Senate was agreed to.

Mr. Champ Clark, of Missouri, inquired why it was proposed to limit the committee of conference to three, and recalled that the long-established practice had been to appoint five conferees on this bill, and that on one occasion seven were appointed.

Mr. Joseph Walsh, of Massachusetts, submitted that the number of conferees to be appointed on a bill was a matter within the discretion of the Speaker.

Mr. Haugen explained that three were being appointed because that number had been appointed as managers on the part of the Senate.

Mr. Clark insisted that the number appointed by the Senate should not determine the number to be appointed by the House, and that the custom of appointing five should be continued.

Thereupon, the Speaker[3] announced the appointment of Mr. Haugen, Mr. James C. McLaughlin, of Michigan, and Mr. Gordon Lee, of Georgia, as managers on the part of the House.

3220. On June 24, 1932,[4] on motion of Mr. Charles R. Crisp, of Georgia, by unanimous consent, the bill H. R. 12443, the general relief bill, was taken from the Speaker's table and the House disagreed to the Senate amendments and agreed to the conference asked by the Senate.

The Speaker[5] suggested the appointment of himself, the majority leader, Mr. Henry T. Rainey, of Illinois, and the minority leader, Mr. Bertrand H. Snell, of New York, managers on the part of the House.

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[1] Supplementary to Chapter CXXXIII.

[2] Second session Sixty-sixth Congress, Record, p. 5054.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Seventy-second Congress, Record, p. 13879.

[5] John N. Garner, of Texas, Speaker.

Mr. Snell, demurred, and said he had never heard of a Speaker serving as a conferee.

Mr. Crisp inquired if it would be in order to move that the three gentlemen mentioned be appointed managers on the part of the House.

The Speaker said:

The Chair will state to the gentleman from Georgia that you can not direct the Speaker as to the number or the manner in which conferees shall be appointed. The Chair, therefore, would have to hold that it is not in order to submit such a motion.

The Chair appoints the following conferees: Messrs. Collier, Crisp, Rainey, Hawley, and Treadway.

3221. A motion to instruct the Speaker as to the number of conferees to be appointed is not in order.

The number of conferees to be appointed is within the discretion of the Speaker and may consist of three, five, seven, or nine.

The number of conferees appointed by one House does not determine the number to be appointed by the other.

Instance wherein the Senate appointed seven conferees and the House three on the same committee of conference.

On December 20, 1913,[1] the House disagreed to the amendments of the Senate to the bill (H. R. 7837) to provide for the establishment of Federal reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, and to establish a more effective supervision of banking in the United States.

Mr. George A. Neeley, of Kansas, moved that the Speaker be instructed to appoint seven conferees, and urged adoption of his motion on the ground that the Senate had appointed seven conferees and the House should be represented by the same number.

Mr. Oscar W. Underwood, of Alabama, raised a point of order against the motion, and cited the rule[2] providing for appointment of all committees of conference by the Speaker.

The Speaker[3] sustained the point of order and announced the appointment of Mr. Carter Glass, of Virginia, Mr. Charles A. Korbly, of Indiana, and Mr. James Hay, of Virginia, as managers on the part of the House at the conference.

3222. Instance wherein the Senate after appointing committee managers subsequently added two additional members to the committee of conference.

On February 16, 1917,[4] in the Senate, following the passage of the Post Office appropriation bill, with amendments, a conference was requested with the House.

The Vice President[5] appointed Mr. John H. Bankhead, of Alabama, Mr. Ellison D. Smith, of South Carolina, and Mr. Charles E. Townsend, of Michigan, as managers on the part of the Senate on the disagreeing vote of the two Houses.

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[1] Second session Sixty-third Congress, Record, p. 1294.

[2] Section 2 of Rule X.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-fourth Congress, Record, p. 3405.

[5] Thomas R. Marshall, of Indiana, Vice President.

Subsequently, on February 22,[1] on motion of Mr. Bankhead, two additional conferees on the part of the Senate were authorized, and the Vice President appointed Mr. Nathan P. Bryan, of Florida, and Mr. John W. Weeks, of Massachusetts, as additional managers on the part of the Senate.

3223. The majority of the managers of a conference should represent the attitude of the majority of the House on the disagreement in issue.

Exceptional instance wherein the Speaker passed over the ranking member of the committee in the appointment of conferees.

On June 7, 1929,[2] on motion of Mr. John Q. Tilson, of Connecticut, by unanimous consent, the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, was taken from the Speaker's table; the amendments of the House were insisted on; and the conference asked by the Senate was agreed to.

Under the usage of the House, the three ranking majority members of the Committee on the Census—Mr. E. Hart Fenn, of Connecticut, Mr. Clarence J. McLeod, of Michigan, and Mr. Lloyd Thurston, of Iowa—would have been appointed with two minority members, as managers on the part of the House.

However, in view of the opposition of Mr. Fenn and Mr. Thurston to the bill, the Speaker[3] appointed as managers on the part of the House, Mr. Carl R. Chindblom, of Illinois, a member of the Committee on Ways and Means, who had presided as chairman of the Committee of the Whole during the consideration of the bill, Mr. Fenn, Mr. Thurston, Mr. John E. Rankin, of Mississippi, and Mr. Ralph F. Lozier, of Missouri.

3224. The resignation of a Member as conferee is properly addressed to the Speaker, but is acted on by the House, and being accepted, the Speaker appoints a successor.

On July 8, 1912,[4] the Speaker[5] laid before the House the following:

JUNE 13, 1912 .

Hon. CHAMP CLARK,

Speaker of the House, of Representative

MY DEAR MR. SPEAKER. I hereby resign my position as a member of the conference committee on the river and harbor bill.

Important business will necessitate my being absent from Washington for some time, and on this account I think it is best to take the above action.

Yours, very sincerely,

J. H. DAVIDSON.

Following the reading of the communication by the clerk, the Speaker said:

Without objection, the resignation will be accepted.

There being no objection, the Speaker announced:

The gentleman from Wisconsin, Mr. Davidson, was appointed on this conference committee to fill a vacancy caused by the resignation of the gentleman from Massachusetts, Mr. Lawrence. Mr. Davidson now resigns, and the Chair reappoints Mr. Lawrence, who has returned to the city.

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[1] Record, p. 3860.

[2] First session Seventy-first Congress, Record, p. 2531.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session/Sixty-second Congress, Record, p. 8696.

[5] Champ Clark, of Missouri, Speaker.

3225. Conferees failing to report within 20 calendar days after appointment may be instructed or discharged, and motions to instruct, or to discharge and appoint successors, are of the highest privilege.

During the last six days of a session motions to instruct or discharge are privileged if conferees fail to report within 36 hours after appointment.

Section 1½a of Rule XXVIII provides:

After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees; and further, during the last six days of any session of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

This rule was adopted December 8, 1931,[1] largely in response to the demand which brought about the formulation of the rule establishing the Discharge Calendar. Prior to the adoption of the rule the motion to discharge conferees was without privilege;[2] and the only method of effecting the discharge of recalcitrant conferee was through special orders reported from the Committee on Rules, a method which apparently had not been invoked since 1894.[3]

3226. On December 16, 1930,[4] by direction of the Speaker[5] the Clerk read as follows:

DECEMBER 18, 1930.

Hon. NICHOLAS LONGWORTH,

The Speaker House of Representatives,

Washington, D. C.

MY DEAR MR. SPEAKER: I hereby submit my resignation as one of the conferees on the bill (H. R. 8159) to authorize appropriations for construction at the United States Military Academy, West Point,, N.Y., Fort Lewis, Wash., and Camp Benning, GA.

Respectfully submitted.

JOHN C. SPEAKS.

Whereupon, the Speaker said:

Without objection the resignation is accepted, and a Chair will appoint to fill the vacancy the gentleman from Michigan, Mr. James, and the clerk will inform the Senate of the appointment.

There was no objection.

3227. It has long been the practice for a manager of a conference to be excused only by authority of the House.

On February 2, 1920,[6] conferees on the part of the House on the bill (H. R. 9065), the farm loan bill were appointed, including Mr. Michael F. Phelan, of Massachusetts.

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[1] First session Seventy-second Congress, Record, p. 11, 83.

[2] Hind's Precedents, section 5626–5628.

[3] Second session Fifty-third Congress, Record, p. 8469.

[4] Third session Seventy-first Congress, Record, p. 908.

[5] Nicholas Longworth, of Ohio, Speaker.

[6] Second session Sixty-sixth Congress, Record, p. 2371.

On February 4,[1] Mr. Phelan having advised the Speaker that he desired to be relieved from service on the committee of conference, the Speaker[2] submitted the request to the House and, there being no objection, the request was agreed to.

Whereupon, the Speaker appointed to the vacancy Mr. Joe H. Eagle, of Texas.

3228. The absence of a manager of a conference causes a vacancy, which the Speaker fills by appointment.

On February 25, 1919,[3] Mr. James McAndrews, of Illinois, was appointed one of he managers on the part of the House on the disagreeing votes of the two Houses on the District of Columbia appropriation bill.

On February 26,[4] the Speaker[5] announced.

The gentleman from Illinois, Mr. McAndrews, one of the conferees on the District appropriation bill, has been called to Chicago on important business, and the Chair appoints the gentleman from Texas, Mr. Buchanan, in his place.

3229. On June 24, 1926[6] Mr. Edward J. King, of Illinois, was appointed one of managers on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. 2) to provide for branch banking.

On January 14, 1927,[7] the Speaker[8] made the following announcement:

The Chair desires to make an announcement with reference to the conference on House bill 2, the so-called McFaden bill providing for branch banking. The Chair's attention has been called to the illness of the gentleman from Illinois, Mr. King, one of the conferees, who is confined in a hospital. The Chair is informed through Mrs. King that his physician states that for some time to come he will be unable to transact business, including service on this conference committee, and requests the Chair to appoint someone in his place. Under these circumstances the Chair appoints to fill Mr. King's place on the conference committee during his illness the gentleman from Kansas, Mr. Strong.

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[1] Record, p. 2482.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 4261.

[4] Record, p. 4335.

[5] Champ Clark, of Missouri, Speaker.

[6] Second session Sixty-ninth Congress, Record, p. 11927.

[7] Record, p. 1671.

[8] Nicholas Longworth, of Ohio, Speaker.

Chapter CCLXIV.[1]

INSTRUCTION OF MANAGERS OF A CONFERENCE.

3230. Conference having been agreed to, the motion to instruct conferees in preferential.

While it is unusual to instruct conferees before conference is had, it is in order to move instructions for a first conference as for any subsequent conference.

Whether motions to instruct are inconsistent with action previously taken by the House, is a question for the House; and the Speaker declines to rule such motions out of order on that ground.

The fact that proposed instructions to House conferees can not be incorporated in the bill without cooperation on the part of Senate conferees does not subject motions imposing such instructions to a point of order.

Where a substitute has been proposed by one House for the entire bill passed by the other House, provisions in either the bill or the substitute are germane when offered in motion to instruct managers.

On June 3, 1924[2] Mr. W. W. Griest, of Pennsylvania, proposed to take from the Speaker's table the amendments of the Senate to the bill (S. 1898) reclassifying postal salaries; insist on the amendments of the House and agree to the conference asked by the Senate.

The motion was agreed to, and pending the appointment of conferees Mr. Finis J. Garrett, of Tennessee, offered, as preferential, a motion that the managers on the part of the House be instructed to agree in conference to a portion of the Senate bill to which the House had disagreed and on which disagreement it had just insisted.

Mr. Everett Sanders, of Indiana, submitted seriatim points of order: That it was not in order to instruct conferees for a first conference; that the proposed instruction to agree to a part of the Senate bill to which the House had disagreed was contradictory and inconsistent; that the action desired could not be secured by agreement of the House conferees alone but must be supplemented by agreement of the Senate conferees, over whom the House had no jurisdiction; and that the portion of the Senate bill proposed to incorporated was not germane to the House bill.

[1] Supplementary to Chapter CXXXIV.

[2] First session Sixty-eighth Congress, Record, p. 10327.

The Speaker [1] overruled the various points or order and held:

The first point made by the gentleman from Indiana, that it is very unusual to instruct before there has been any conference, is, of course, true. The House and the Senate generally allow their conferees liberty of action at the first conference. But the Chair is not aware, whatever the propriety may be, that it is not within the power of the House to instruct at the very outset, and the Chair can not sustain that point of order.

Then, secondly, as to the point that this House is doing something which is contradictory to what it has already done. The House has rejected the whole Senate bill, has substituted one of its own, and now instructs its conferees not to agree unless they put in a part of the Senate bill, which it has already stricken out, and that is, of course, contradictory. The action of the House in first striking it out and then instructing its conferees not to agree unless a part of it is put back is contradictory.

The point is also true, as made by the gentleman from Indiana, that the House having already decided to insist, this could not go in by the action of the House conferees alone. It requires action by the Senate conferees to put back this section. They must recede and concur with an amendment.

Bu the Chair does not see why—granting the extraordinary character of it—it is subject to a point of order. It seems to the Chair that, if the House wants to do it, no matter how contradictory or how unusual or how improper it may be, the House has the right to say to its conferees, "You must not agree until a certain contingency has arisen," although when the House merely insists on its disagreement and sends the bill to conference it gives its conferees authority to depart from that insistence and to make an agreement.

So it seems to the Chair in the present instance, although very unusual and contradicting the prevision action of the House, that if the House wishes to do it the House has the right to do so. As to the point of order that the instruction is not germane to the bill, the Chair thinks that as the matter was in the Senate bill in this exact form, and the House struck it out and inserted different provisions, the whole matter in both bills is in conference and consequently germane.

The Chair overrules the point of order.

3231. After conference is ordered and before conferees are appointed the motion to instruct the House conferees is privileged.

The proponent of a motion is entitled to the floor against all save the Member in charge, who as prior right to recognition and may move the previous question at any time during the hour allotted him.

A motion to instruct conferees is subject to amendment unless the previous question is ordered.

Only one motion to instruct conferees is in order and, having been disposed of, may not be supplemented by motions to further instruct.

On December 20, 1913,[2] the House had under consideration the Senate amendment to the bill (H. R. 7837), the currency bill.

A motion by Mr. Carter Glass, of Virginia, to concur in the Senate amendment having been rejected, Mr. James R. Mann, of Illinois inquired when it would be in order to offer a motion to instruct the managers on the part of the House.

The Speaker [3] replied that the motion to instruct would be in order after conference was agreed to and before conferees were named.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-third Congress, Record, p. 1308.

[3] Champ Clark, of Missouri, Speaker.

Mr. Glass moved that the House agree to the conference requested by the Senate. The motion was agreed to and Mr. Mann offered, as privileged, a motion to instruct the conferees.

The Speaker held the motion to be privileged and directed the Clerk to read it. Following the reading of the motion to instruct, Mr. Asbury F. Lever, of South Carolina, demanded the floor to propose a substitute.

The Speaker held that Mr. Mann was entitled to the floor against all save the Member in charge of the bill, Mr. Glass.

Whereupon, Mr. Glass demanded the floor and, being recognized by the Speaker, moved the previous question on the motion to instruct.

Pending the vote on ordering the previous question, Mr. John N. Garner, of Texas, inquired whether it would be in order to offer amendments to the pending motion, if the demand for the previous question was rejected.

The Speaker replied that if the previous question was not ordered the motion to instruct would be open to amendment.

The question being put and the yeas and nays being ordered, it was decided in the negative—yeas 83, nays 259.

Thereupon, Mr. Lever offered as a substitute a motion to instruct the conferees to agree to the provision in the Senate amendments extending the time of loans secured by agricultural products and farm lands.

The amendment was adopted and the motion to instruct as amended was agreed to, when Mr. William H. Murray, of Oklahoma, offered a motion to further instruct the conferees.

Mr. Thomas W. Hardwick, of Georgia, having raised a question of order, the Speaker ruled.

The point of order is sustained; you can not have two sets of instructions.

3232. The motion to instruct conferees is in order only after the vote to ask for or agree to a conference and before the managers are appointed.

When a bill with Senate amendments is taken up for consideration, the amendments must be read before consideration begins.

The House having disagreed and ordered conferees on Senate amendments on which Senate has insisted and ordered conferees, the stage of disagreement has been reached.

The test of disagreement is the ordering of conferees; when both Houses have ordered conferees they are in disagreement.

On May 10, 1917,[1] Mr. Carter Glass of Virginia, moved to take from the Speaker's table the bill (H. R. 3673) amending the Federal reserve act, with Senate amendments, disagree to the amendments and agree to the conference asked by the Senate.

The Speaker was proceeding to put the question, when Mr. James R. Mann, of Illinois, made the point of order that the Senate amendments must be read before consideration began.

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[1] First session Sixty-fifth Congress, Record, p. 2078.

The Speaker,[1] sustained the point of order and directed the clerk to read the Senate amendments.

The reading of the amendments being concluded, Mr. Louis T. McFadden, of Pennsylvania, moved that the managers on the part of the House be instructed to agree in substance to the proviso in the Senate amendments relative to charges by banks for collection of checks.

Mr. Glass raised a question of order and contended that conferees could not be instructed until appointed.

The Speaker overruled the point of order and held that the motion to instruct was not in order until agreement had been reached to send a bill to conference but must be offered before confrerees were named.

Mr. John J. Fitzgerald, of New York, submitted the further point of order that the stage of disagreement had not yet been reached.

In controverting the point of order Mr. James R. Mann, of Illinois, said:

> We have disagreed to the Senate amendment and the Senate has insisted. The stage of disagreement has been reached.
>
> On the Phillippine bill, to which the gentleman from New York refers, I suggested to him to offer a motion to instruct the conferees before the stage of disagreement had been reached. There was a case where the House had amended a Senate bill and before the stage of disagreement had been reached the conferees were instructed by a motion, which was subject to a point of order; but that is not this case. This is a case where there is a House bill with a Senate amendment, upon which amendment the Senate had made an insistence, and the House has disagreed to the Senate amendment, and we have reached the stage of disagreement. It is not conferees who disagree; it is the Houses of Congress which disagree.
>
> In the immigration bill some years ago, when the House struck out all of the Senate amendments and inserted the House bill, a motion was made to instruct the conferees, and I made the point of order that the motion was not in order, because the Houses were not in disagreement, and that the action of one House would not put the two Houses in disagreement. The Speaker sustained the point of order. But here both Houses have acted, and they are in disagreement.
>
> When both Houses have ordered conferees, they are in disagreement. Otherwise they could not order a conference.

The Speaker concurred in the statement by Mr. Mann and overruled the point of order.

3233. It is not in order to instruct conferees after their appointment.

On August 17, 1912,[2] on motion of Mr. Lemuel P. Padgett, of Tennessee the House further insisted on its disagreement to Senate amendments to the naval appropriation bill and asked for a conference on the disagreeing votes of the two Houses.

The Speaker appointed as conferees Mr. Padgett, Mr. J. Fred C. Talbott, of Maryland, and Mr. George Edmund Foss, of Illinois.

Thereupon, Mr. John A. Thayer, of Massachusetts, moved to instruct the House conferees with reference to a provision for the construction of a cruiser.

Mr. Padgett made the point of order that the motion came too late after the appointment of the conferees, and was not in order.

The Speaker [1] sustained the point of order.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-second Congress, Record, p. 1051.

3234. On May 25, 1928,[1] the Senate had under consideration the conference report on the joint resolution (S. J. Res. 46), providing for the completion of the Muscle Shoals plant for the manufacture and distribution of fertilizer, when Mr. Kenneth McKeller of Tennessee, offered a motion to recommit the joint resolution to the conferees with instructions to the Senate conferess to insist on an amendment subjecting the corporation to the laws of the State in which operated.

Mr. George W. Norris, of Nebraska, having raised a question of order, the Vice President[2] said:

> The Chair has had ample time during the night for reflection upon this question.
>
> The Chair has caused an investigation to be made into the question of recommittal of conference reports with instructions to conferees, and has found that there is a practical unanimity of opinion, where a conference report is before the Senate for consideration, that a motion to recommit with instructions at that stage is not in order. The rule appears to be that instructions are only in order after a motion to ask or agree to a conference has been agreed to, and prior to the appointment of conferees. In the present cast the conferees have already been named, and following the rule established by the decisions extending over a period of several years, the Chair feels impelled to sustain the point of order.

3235. The ruling out of a motion to instruct conferees does not preclude the offering of a proper motion to instruct.

Instructions to managers of a conference may not direct them to do that which they might not do otherwise.

A motion to instruct conferees may not include directions which would be inadmissible if offered as a motion in the House.

A motion to instruct conferees to concur in a Senate amendment with an amendment not germane thereto was ruled out of order.

To a proposition authorizing loans to farmers in certain areas, an amendment authorizing loans with geographical restrictions was held not germane.

On January 13, 1931,[3] the House agreed to a resolution reported by the Committee on Rules sending to conference the joint resolution (H. J. Res. 447) making appropriation for the relief of farmers in drought and storm stricken areas.

The resolution having been agreed to, Mr. Fiorello H. LaGuardia, of New York, moved that the house conferees be instructed to concur in a Senate amendment providing for the distribution of food with an amendmnent eliminating geographical restrictions.

Mr. Bertrand H. Snell, of New York, raised the question of order that the amendment to the Senate amendment was not germane and the motion proposed by indirection what would not have been in order if offered as a motion when the subject was open to amendment.

The Speaker[4] held:

> The Chair agrees with the gentleman from New York, Mr. Snell, that the motion of the gentleman from New York, Mr. LaGuardia, is very ingeniously drawn and in the opinion of the Chair has

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[1] First session, Seventieth Congress, Record p. 9837

[2] Charles Curtis, of Kansas, Vice President.

[3] Third session Seventy-first Congress, Record, p. 2086.

[4] Nicholas Longworth, of Ohio, Speaker.

great merit, but that cannot be considered by the Chair in determining the point of order. The Chair must disagree with the gentleman from New York, Mr. LaGuardia, in his general proposition that conferees have broader powers than the House itself has; in other words, that the House may instruct conferees to do a thing which the House could not do itself. The Chair thinks that motions to instruct conferees stand on exactly the same basis and must be dealt with in the same way as motions to recommit to a committee with instructions, and that if the House can not authorize a committee to do that which the House itself can not do, it follows that it can not instruct conferees to do that which the House can not do.

The motion of the gentleman from New York is that the House conferees be instructed to concur in the Senate amendment providing for food distribution, and so forth. What is the Senate amendment?

"That the Secretary of Agriculture is hereby authorized for the crop of 1931 to make advances of loans to farmers in the drought and storm stricken areas where he shall find that an emergency for such assistance exists, for the purchase of food under such terms as may be prescribed by the Secretary of Agriculture"

The motion of the gentleman from New York is not directed against the bill as a whole, but only to that one amendment which the Chair has just read, which is specifically limited to farmers in the drought and storm stricken areas. The gentleman from New York desires to broaden that to the extent that it would prevail in cities where there are no drought or storm stricken areas and no farmers. The last decision on the general subject of whether a motion to broaden a specified area is germane was made by the present occupant of the Chair on April 2, 1930. A bill was under consideration which provided, among other things, that actions brought against a carrier should only be in a State through or into which the carrier operates a line of railway. An amendment was offered proposing in addition that such action might be brought in the district or State where the railroad maintained an agency and the Chair held that was not germane, because it broadened largely the area in which the proposition was supposed to operate.

The Chair thinks that the motion of the gentleman from New York seeks to do exactly the sort of thing which the present occupant of the chair has held to be illegal, and the Chair is constrained to sustain the point of order.

The Speaker having concluded his ruling Mr. James V. McClintic, of Oklahoma, inquired if a further motion to instruct conferees would be in order.

The Speaker replied that a proper motion to instruct conferees was in order at this stage of the proceedings and as none was pending he would recognize Mr. McClintic for that purpose.

3236. One motion to instruct conferees having been considered and disposed of, further motions to instruct are not in order.

On February 28, 1913,[1] on motion of Mr. John Lamb of Virginia, the rules were suspended and the agricultural appropriation bill with Senate amendments was taken from the Speaker's table; the Senate amendments were disagreed to and a conference was asked with the Senate.

Mr. Frank W. Mondell, of Wyoming, offered the following resolution:

Resolved, That it is the opinion of the House that the conferees on the part of the House should not agree to Senate Amendment numbered 142 in form or substance:

The question of the resolution being taken, on division, there were ayes 36, nays 117, and the resolution was not agreed to.

Whereupon Mr. John W. Weeks, of Massachusetts, proposed this resolution:

Resolved, That it is the opinion of the House that the conferees on the part of the House should agree to Senate amendment 142 in form or substance.

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[1] Third session Sixty-second Congress, Record, p. 4344.

Mr. John J. Fitzgerald, of New York, made the point of order that one motion to instruct having been considered and disposed of, a further motion to instruct was not admissible.

In debating the point of order, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, it seems to me that the motion for instruction is itself open for amendment unless the previous question be had, but there can not be an indefinite number of motions offered in the way of instructions. The motion for instructions being made, any gentleman may offer an amendment by adding additional instructions, but only one main motion for instructions, I think, can be offered. Without a holding to that effect, unless the Speaker hastens the naming of the conferees in spite of Members demanding recognition, we would be in a position whereupon one of these bills in conference with a large number of Senate amendments it would be impossible to ever finish.

The Speaker [1] ruled:

This is analogous to a motion to recommit, and there can be but one motion to recommit that is in order, and it is amendable; anybody could have amended it if he got the chance without the previous question being ordered; and it has been held by the Chair's predecessors, and also by the present occupant of the chair, that when a gentleman makes a motion to recommit with instructions and the Chair rules his instructions out of order, then another member can make another motion that will be in order; but if the first one is in order and disposed of, that ends it, because there must be an end to all things some time or other. The Chair sustains the point of order:

3237. Adoption of a motion to disagree or to insist on disagreement to a Senate amendment does not preclude consideration of subsequent motions instructing conferees to take other action on such amendments or parts thereof.

A motion to instruct conferees when made at the proper time is admissible and it is not within the province of the Chair to rule on its consistency.

On May 13, 1920,[2] the House had under consideration the Senate amendments to the agricultural appropriation bill, and had insisted on its disagreement to Senate amendment No. 93, and asked a further conference with the Senate. Pending the appointment of the conferees, Mr. Thomas L. Blanton, of Texas, submitted a motion to instruct the managers on the part of the House to concur in amendment No. 93.

Mr. Ezekiel S. Candler, Jr., of Mississippi, raised a question of order on the ground that the conferees had just been instructed to insist on the disagreement of the House to the amendment and the motion was therefore contradictory and inconsistent.

After debate, the Speaker [3] overruled the point of order and said:

The Chair is informed that there is no exact precedent on the point. The Chair thinks that the proper time to make a motion to instruct is after the conference has been asked for and before the conferees are appointed. The Chair recognizes that there is force in what the gentlemen say, that this motion is contradictory to the judgment of the House heretofore expressed, but at the same time, inasmuch as parliamentary law does allow a motion to instruct, the Chair does not see why the mere fact that it is contradictory to what the House has done at a former time should prevent it. That is a forcible argument against making it. But if the parliamentary rule allows the motion, the fact that the House has already expressed itself against it would not of itself make

[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 7025.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

it out of order. Of course, this question seldom arises, because the motion would generally be recognized as futile. The gentleman from Texas has fairly stated the facts in explanation of how it arises now—that there was confusion and that the issue was not fully understood in the House when the vote was taken. It is probable that only under similar circumstances would the question arise, although it might arise where a Member thought that the House has changed its mind after several hours had elapsed. At any rate, the parliamentary rule is that before the conferees are appointed a motion to instruct is in order, and there being no authority limiting that the Chair rules that the motion of the gentleman from Texas is in order.

3238. On May 19, 1920,[1] the House was considering the Senate amendment to the bill (H. R. 12775), the Army reorganization bill.

On motion of Mr. Julius Kahn, of California, the House further disagreed to the amendment of the Senate and asked further conference.

Subsequently Mr. Kahn moved that the managers on the part of the House be instructed to recede from their disagreement to the National Guard section of the Senate amendment and agree to the same with an amendment.

Mr. Louis C. Cranton, of Michigan, made the point of order that the House having just voted to disagree further to the amendment, a motion to instruct the conferees to recede was an attempt to reopen a matter already adjudicated and was not in order.

The Speaker[2] said:

The Chair had occasion to rule on this question the other day, and ruled that at this stage it was proper to instruct the conferees. Now, as to the point that the gentleman from Michigan makes that the House can not instruct the conferees as to a portion of the Senate amendment, because it would be inconsistent with its action of disagreement, the House can instruct its conferees in any way it pleases, and inasmuch as the House had disagreed to the Senate amendment, any instruction, except to insist upon that disagreement, would be in some measure inconsistent with its disagreement; but if the House can instruct—and the Chair believes there is no doubt about that—the Chair thinks the House can instruct as to part of the Senate amendment. That would leave the House and the Senate still in disagreement, and the conferees would still have jurisdiction to decide as they pleased about the rest. Of course, that ruling leaves full freedom to the House to instruct or not to instruct, and the Chair overrules the point of order.

3239. On June 22, 1926,[3] the Speaker sustained a point of order raised by Mr. Edward J. King, of Illinois, against the conference report on the bill (H. R. 2) providing for the consolidation of national banking associations.

Thereupon, Mr. Louis T. McFadden, of Pennsylvania, moved that the House insist on its disagreement to all Senate amendments save one and recede from its disagreement to that one with an amendment, and asked for further conference.

Mr. Martin B. Madden, of Illinois, as a parliamentary inquiry, asked whether, after the House had agreed to the pending motion, it would be in order to instruct conferees with respect to the Senate amendment to which an amendment was proposed.

The Speaker[4] held that under such circumstances a motion to instruct the House conferees would be in order.

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[1] Second session Sixty-sixth Congress, Record, p. 7300.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 11789.

[4] Nicholas Longworth, of Ohio, Speaker.

In response to a further inquiry by Mr. Clarence Cannon, of Missouri, the Speaker held that a motion for such instructions would be in order even though in contravention of action taken by the House in agreeing to the pending motion.

3240. Instructions to conferees expire when their report is submitted to the House and if further conference is had such former instructions do not obtain and a motion for new instructions is in order.

Conferees reporting inability to agree are thereby discharged and if a new conference is ordered conferees must again be appointed and new instructions are in order.

A motion to instruct conferees is in order after conference is agreed to and before conferees are named.

The motion to instruct conferees is subject to amendment and is debatable under the hour rule unless the previous question is ordered.

On February 25, 1919,[1] Mr. S. Hubert Dent, jr., of Alabama called up the conference report on the bill (H. R. 13274) validating informal war contracts.

The Clerk having read the conference report announcing that the conferees had been unable to agree, Mr. Dent moved that the House further insist on its disagreement to the Senate amendment and ask further conference.

Mr. Martin D. Foster, of Illinois, proposed a motion to instruct conferees.

Mr. William Gordon, of Ohio, submitted that the conferees had been instructed previous to the conference just reported.

The Speaker[2] held that the conferees had been discharged and their instruction invalidated when they presented their report, and if the pending motion for a new conference was agreed to, it would be necessary to appoint conferees again and a motion to instruct them would again be in order after the conference was agreed to and before the conferees were named.

Mr. William H. Stafford, of Wisconsin, submitted a parliamentary inquiry as to whether it would be in order to amend the motion to instruct.

The Speaker held that the motion to instruct was subject to amendment, and in response to a further inquiry from Mr. S. Hubert Dent, jr., of Alabama, held the motion to be debatable, and recognized Mr. Foster for one hour to debate it.

3241. Where the purport of a motion to instruct was clear, the form in which submitted was held not to be subject to a point of order.

Action[3] 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.

The House may at the proper time instruct its own conferees, but having no jurisdiction over the managers on the part of the Senate may not instruct the committee of conference as a whole.

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[1] Third session Sixty-fifth Congress, Record, p. 4257.

[2] Champ Clark, of Missouri, Speaker.

[3] Action on a conference report is limited to agreement, disagreement or recommitment (F. 6546.)

The motion to recommit a conference report with instructions to the House conferees is subject to amendment unless the previous question is ordered.

On May 9, 1924,[1] the House was considering the conference report on the bill (H. R. 7995), the immigration bill, reporting a new bill in lieu of the substitute for the House bill proposed by the Senate amendment.

Mr. Adolph J. Sabath, of Illinois, moved to recommit the conference report to the committee of conference.

Mr. Nicholas Longworth, of Ohio, having demanded the previous question on the motion, Mr. Finis J. Garrett, of Tennessee, as a parliamentary inquiry asked if it would be in order to offer an amendment in event the previous question was refused.

The Speaker[2] replied in the affirmative, and the pending motion for the previous question having been rejected, recognized Mr. John E. Raker, of California, to offer the following:

To recommit the bill to the committee of conference with instructions on the part of the House not to agree to the proviso reported in the bill submitted by the conference committee, reading as follows: "That this subdivision shall not take effect as to exclusion until March 1, 1925, before which time the President is requested to negotiate with the Japanese Government in relation to the abrogation of the present arrangement on this subject."

Mr. Everett Sanders, of Indiana, raised a question of order on the ground that the motion proposed to instruct the conferees against agreement to a mere proviso, whereas the Senate amendment incorporating an entire bill was pending, and the proper way to effect such purpose would be to instruct conferees to agree to the pending Senate amendment with an amendment.

During debate on the point of order, the Speaker, in response to inquiries from Mr. Charles R. Crisp, of Georgia, held that when either House acted on the conference report, such action discharged the committee of conference, and a motion to recommit was no longer in order; but that until action was taken on the report by one of the two Houses, it was in order to move to recommit to the managers on the part of the House with or without instructions.

The Speaker further held that while the House had no jurisdiction over Senate conferees and therefore could not instruct the committee of conference as a whole, it was in order at the proper time to move to instruct the House conferees.

The Speaker then passed on the question raised by Mr. Sanders as follows:

There is no doubt that the House has a perfect right to instruct the House conferees, but the technical point of order is made whether the gentleman from California has gone about it in the right way. This proviso is just one part of the general conference report, and why should they not be instructed, if in a further conference with the Senate conferees they agree at all, to agree to an amendment striking out that proviso? Something of that kind, in the Chair's opinion, would be a proper motion.

However, inasmuch as it is purely technical and easily reached, the Chair would take the chance that the conferees will be able to act in accordance with the will of the House, and overrules the point of order. The question is on agreeing to the amendment.

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[1] First session Sixth-eighth Congress, Record, p. 8248.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

3242. One House has no jurisdiction over conferees appointed by the other, and instructions to conferees may apply only to managers on the part of the House giving the instructions.

On August 23, 1921,[1] the House had under consideration the conference report on the bill (H. R. 8117) to supplement the national prohibition act.

Mr. Meyer London, of New York, moved to recommit the conference report to the committee of conference with instructions to amend it to restrict the right to search dwellings and personal effects.

Mr. James R. Mann, of Illinois, made the point of order that it was beyond the province of the House to instruct a committee of conference including managers on the part of the Senate over whom the House had no jurisdiction.

The Speaker[2] sustained the point of order.

3243. The jurisdiction of conferees is limited to the differences between the two Houses and conferees may not be instructed to act on an amendment not in disagreement.

On June 1, 1917,[3] the House ordered the previous question on the adoption of the conference report on the urgent deficiency appropriation bill.

Thereupon, Mr. William B. Bankhead, of Alabama, moved that the bill be recommitted to the committee of conference, with instructions to the managers on the part of the House to insist on an amendment which did not appear in the original bill or in the Senate amendments.

Mr. John J. Fitzgerald, of New York, made the point of order that the proposed amendment was not a matter in disagreement between the two Houses.

The Speaker[4] sustained the point of order.

3244. Instructions to managers of a conference may not direct them to do that which they might not otherwise do.

Instructions may not require conferees to report back amendments outside the subjects in disagreement between the two Houses.

On September 15, 1922,[2] in the House, during the consideration of the conference report on the tariff bill of 1922, Mr. John N. Garner, of Texas, moved that report be recommitted to the committee of conference with instructions to the House conferees to recede from their disagreement to Senate amendment No. 667 relating to the sugar schedule and agree to the same with an amendment reducing the duty to seventy-one one-hundredths of a cent.

Mr. Edward T. Taylor, of Colorado, made the point of order that the rate proposed was lower than the rate fixed by the House in the bill and lower than that fixed by the Senate in its amendment, and was therefore without the limits of the disagreement between the two Houses.

The Speaker[2] sustained the point of order.

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[1] First session Sixty-seventh Congress, Record, p. 5568.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-fifth Congress, Record, p. 3189.

[4] Champ Clark of Missouri, Speaker.

[5] Second session Sixty-seventh Congress, Record, p. 12716.

3245. Instances wherein special provision was made for consideration of instructions in compliance with assurances that the House would be afforded opportunity to vote on a Senate amendment.

Form of a special order reported from the Committee on Rules providing for consideration of a resolution instructing conferees.

On November 17, 1921,[1] Mr. Philip P. Campbell, of Kansas, by direction of the Committee on Rules, submitted as privileged the following:

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider and to vote upon the following resolution without amendment. There shall be three hours of debate on such resolution, the time to be controlled, one-half by the gentleman from Michigan, Mr. Fordney, and one-half by the gentleman from Texas, Mr. Garner. At the conclusion of the debate the previous question shall be considered as ordered on the resolution.

Resolved, That the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the bill (H. R. 8245) entitled "Act act to revise and equalize taxation, to amend and simplify the revenue of act of 1918, and for other purposes," now in conference, be, and they are hereby, instructed to recede from the disagreement of the House to the amendment of the Senate No. 122, and to agree to the same.

In presenting the resolution Mr. Campbell explained:

Mr. Speaker, this resolution does what was agreed would be done when this bill was sent to conference. At that time it was stated by the gentleman in charge of the bill that an opportunity would be given to vote upon the proposition as to whether or not the House would concur to the Senate amendment relating to the surtax. This resolution brings the question squarely before the House, and will enable the House to express its judgment upon this question.

After brief debate the resolution was agreed to.

3246. Although managers may disregard instructions, their report may not for that reason be ruled out of order.

On December 22, 1913,[2], Mr. Carter Glass, of Virginia, called up the conference report on the bill (H. R. 7837), the currency bill.

Mr. William H. Murray, of Oklahoma, made the point of order that the managers had violated their instructions and that their report was not in compliance with the direction imposed on them by the House at the time the bill was sent to conference.

The Speaker[3] declined to entertain the point of order on the ground that the question as to whether conferees had exceeded their powers was for the House, and, while it might affect the acceptance or rejection of the report, it was not competent for the Chair to rule on it.

3247. A conference report is not subject to the point of order that it is in violation of instructions given the managers.

On September 15, 1922,[4] the House resumed consideration of the conference report on the bill (H. R. 7456), the tariff bill.

After debate (Mr. John N. Garner, of Texas, moved that the conference report be recommitted to the committee of conference with instructions to the House conferees

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[1] First session Sixty-seventh Congress, Record, p. 7860.

[2] Second session Sixty-third Congress, Record, p. 1430.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-seventh Congress, Record, p. 12531.

to agree to the Senate amendment putting fertilizer potash on the free list, and to strike out the provision containing the dye embargo.

The yeas and nays being demanded and the vote being taken, the motion was agreed to, yeas 177, nays 130, and the conference report was recommitted to the committee of conference.

On September 15,[1] Mr. Joseph W. Fordney, of Michigan, called up the second conference report on the bill, when Mr. Henry A. Cooper, of Wisconsin, made the point of order that the conferees had exceeded their authority in changing the rates in the chemical schedule. Mr. Cooper read the instructions imposed by the House on the conferees confining them to the provisions for the return of fertilizer potash to the free list and the elimination of the dye embargo, and contended that in reporting changes in other unrelated rates in the chemical schedule the conferees had gone beyond the powers delegated to them.

In support of his contention Mr. Cooper cited sections 4404 and 5526 of Hinds' Precedents relating to the recommitment of bills to committees of the House.

The Speaker[2] differentiated between the recommitment of a conference report to a committee of conference and the recommitment of a bill to a committee of the House, and said:

The Chair thinks that the argument of the gentleman from Wisconsin is based on a failure to distinguish the difference between the reference of a bill to a committee with instructions and the reference to the conferees with instructions. The case which the gentleman cited was the reference of a bill to a committee with instructions to report the bill back, and it is well established, as the gentleman states, that in that case the committee is bound and limited by the orders of the House, and immediately it reports the bill back without any meeting of the committee at all. It is really a technical performance. But if the House will consider for a moment, there is a great difference between sending a bill back to a committee of the House, which is under the control of the House, and sending a conference report back to conferees who are not subject to the will of the House, because the Senate conferees have equal power and are quite independent.

This case does not rest simply on the Chair's opinion, but there is a decision by a Speaker whose opinion carries as much authority, probably, as that of anybody who has ever been in the chair, Speaker Carlisle. In a decision cited in Hinds' Precedents, volume 5, section 6395, he went even further than it is necessary for the Chair to go now. He went so far as to say that if the House conferees disobeyed the instructions of the House, still the report is not on that account subject to a point of order. Of course, the House is not bound to agree to it and probably would not agree with its conferees if they so acted, but, as Speaker Carlisle said, the conferees are partly from the House and partly from the Senate. They are there to come to an agreement, and the House conferees, of course, are subject, and feel themselves subject to the orders of the House, but if they disobey the House and come back, with a report which disregards its instructions, the report is not subject to a point of order, but is subject to review by the House. In the present instance, of course, it is not necessary to go as far as that, because the conferees have strictly obeyed the orders of the House and have made the changes which the House commanded and have made other changes as to which they had no directions. When the House referred the bill back to the conferees, the whole bill went again to conference. Speaker Clark in the case of a bill which the Members who were then here will well remember, the great Army bill at the beginning of the war, answered a parliamentary inquiry on this very point, that when the bill went back to the conferees with instructions the whole bill was then before the conferees. Here there is no difference between the two Houses. The House has nothing at all on the question. it is

[1] Record, p. 12710.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

an entirely new provision put in by the Senate. The Chair thinks any provision which is germane is permissible. The Chair overrules the point of order.

3248. The Speaker may not rule out of order a conference report as in contravention of instructions imposed on the managers.

Where one House has amended a bill of the other by striking out all after the enacting clause and substituting a new text, the conferees have the entire subject before them and may report any germane bill.

On June 12, 1917,[1] the House was considering the conference report on the bill (H. R. 3673) amending the Federal reserve act, when Mr. Pat Harrison, of Mississippi, made the point of order that the conferees had violated instructions imposed on them on May 10, as follows:

"That the managers on the part of the House be instructed to agree in conference to the substance of the following provision in the Senate amendment:

"'*Provided,* Such nonmember bank or trust company maintains with the Federal reserve bank of its district a balance sufficient to offset the items in transit held for its account by the Federal reserve bank: *Provided further,* That nothing in this or any other section of this act shall be construed as prohibiting a member or nonmember bank from making reasonable charges, in no case to exceed 10 cents per $100 or fraction thereof based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise.'"

Mr. Harrison charged that the conferees instead of reporting the two provisos in the form in which directed had substituted for them this provision—

That nothing in this or any other section of this act shall be construed as prohibiting a member or nonmember bank from making reasonable charges to be determined and regulated by the Federal Reserve Board. But no such charges shall be made against the Federal reserve bank—

thus changing the Federal Reserve Board from an agency of administrative capacity to one of judicial capacity and giving them power to determine the reasonableness of rates.

After debate, the Speaker[2] ruled:

The situation is this: The Senate struck our everything after the enacting clause of the House bill. It has been decided so many times that it is hardly necessary to repeat it, that where that is done a very wide discretion is given to the conferees, even to the bringing in of an entirely new bill. Of course such new bill would have been to be on the same subject.

The transactions in regard to conference reports are divided into two parts—what the House can do and what the Speaker can do. On the 23d day of June, 1812, 105 years ago, Mr. Speaker Henry Clay laid down the limits of what conferees can do so clearly that his ruling has been followed ever since. The conferees can not go outside of what is submitted to them and lug in entirely new matter and new questions. They are always trying to do it. As the gentleman from Wyoming, Mr. Mondell, suggests, it is a very serious proposition for the Speaker to refuse to rule out a conference report in the last days of the session, and it is a very serious question for him to rule it out. The Chair did so twice in the last days of a session on very important bills, but both were clear cases. The Chair did it with a great deal of reluctance, but it had to be done under the universal practice.I32The Speaker has not a thing to do in passing upon the question of whether the conferees did or did not comply with the instructions of the House. That question is for the House to decide. That has been decided. I do not know how many times, but several times, and the Chair decided

[1] First session Sixty-fifth Congress, Record, p. 3529.

[2] Champ Clark, of Missouri, Speaker.

it once himself. That was the reason my opinion in that case was so short. The Chair did not elaborate it, for the House was busy, and it had been decided that way several times, and he simply followed the old ruling.

The leading case is found in section 6395 of Hinds' Precedents. The opinion was written by Mr. Speaker Carlisle. He was a great man and a great Speaker. The headline of Mr. Speaker Carlisle's decision was written by Asher C. Hinds, construing Mr. Speaker Carlisle's opinion. It is not any secret with people who have been around here any considerable length of time that Mr. Hinds probably knew more about parliamentary law than any other man that ever lived. He knew more than Speakers whom he advised, and they were great Speakers. He had made it the study of his life. Here is what Mr. Hinds said, and then I will read what Mr. Speaker Carlisle said.

The Speaker then read section 6395 of Hinds' Precedents, and concluded:

It seems to the Chair that that opinion is as clear as crystal. This is a matter for the House to decide. The point of order is overruled, and the House has the conference report before it. If the House does not like the conference report, it can vote it down. That is its remedy.

3249. The Senate practice admits the motion to instruct conferees.

A pending conference report must be disposed of before motions are in order for disposition of amendments in disagreement.

On July 24, 1914,[1] the Senate had under consideration the conference report on the Indian appropriation bill.

Mr. Frank B. Brandegee, of Connecticut, submitted a parliamentary inquiry as to when it would be in order to move to instruct conferees on amendments remaining in disagreement.

The Vice President [2] ruled:

There is not any doubt at all about the parliamentary situation. Certain items in disagreement between the two Houses have been agreed to by the conferees. Certain items—six of them—are still in dispute. As to the items that have been agreed to, there is not any question that the uniform rulings of the occupants of this chair have been that is the first motion that comes up, and that it is the duty of the Senate either to concur in or to refuse to concur in the items which have been agreed upon, and that must be as a whole. If the Senate refuses to concur they go back, of course, for reconsideration and then it is possible for instructions to be given to the conferees by the Senate. After the question of agreeing to the conference report has been determined by the Senate, the motion of the Senator from Montana will be in order, to instruct the conferees with reference to the items that are yet in dispute between them.

3250. On May 18, 1920,[3] the Senate was considering the conference report on the agricultural appropriation bill, when Mr. Pat Harrison, of Mississippi, inquired when it would be in order to move to instruct conferees.

The Vice President [2] said:

The Chair took occasion in 1914 to investigate the question and then expressed the opinion that anything could be done that had been done in accordance with decisions of preceding presiding officers, but it was the opinion of the Chair at that time that the way to reach it was to point out what the objections were to the conference report, and if the objections met with the views of the Senate, and they wanted the conferees to stand by the Senate amendments, not to withdraw it, but reject the conference report and then instruct the conferees to insist on the amendments of the Senate and send the bill back to conference.

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[1] Second session Sixty-third Congress, Record, p. 12609.

[2] Thomas R. Marshall, of Indiana, Vice President.

[3] Second session Sixty-sixth Congress, Record, p. 7211.

3251. Instance in which it was held that while the Senate might not instruct conferees, it might request conferees to take designated action on propositions in disagreement between the two Houses.

On May 27, 1920,[1] the Senate was considering amendments to the agricultural appropriation bill in disagreement between the two Houses.

Mr. George W. Norris, of Nebraska, proposed the following motion:

Mr. President, I move that the Senate further insist upon its amendment numbered 93, ask for a further conference with the House, and that the conferees on the part of the Senate be instructed in accordance with the language which I sent to the clerk's desk.

Mr. Pat Harrison, of Mississippi, having raised a question of order, the Vice President ruled:

The Chair thinks the Senate can amend its amendment if it chooses to do so, but the present occupant of the chair has never believed that you can instruct conferees. That is equivalent to saying to the House conferees "You have got to take the amendment." It does not leave it open to a full and free conference if you tell the conferees that they have got to take it.

It is the opinion of the Chair that whenever that is done the Senate conferees ought to withdraw immediately from the conference. The Senate conferees should immediately withdraw from a conference whenever the House of Representatives undertakes to tell the Senate that it has to accept an amendment.

The Chair is going to rule, and then an appeal can be taken, and the matter settled.

The Chair holds that it will be in order for the Senate, if the chooses, to adopt the amendment as presented by the Senator from Nebraska.

The Chair holds, secondly, that it is not in order to instruct the conferees to insist upon this amendment; that that is in violation of the principle of the rule with reference to a full and free conference between the two Houses. An appeal from either or both rulings can be taken.

The Chair thinks it would be proper, if the Senator wishes to adopt it, to say that the conferees be not instructed, but requested to agree upon a compromise with the House conferees upon the proposed basis. That can be done, but the Chair does not think the Senate can instruct the conferees.

Thereupon, Mr. Norris modified his motion to read that the conferees on the part of the Senate be requested in accordance with the language sent to the Clerk's desk.

The Vice President said:

The Chair thinks that can be done.

The question being taken, and the yeas and nays being ordered, the yea were 39, nays 24, and the motion was agreed to.

The entry in the Journal is as follows:

Mr. Norris moves that the Senate request a further conference with the House of Representatives on the disagreeing votes of the two Houses on Senate amendment numbered 93, and that the conferees on the part of the Senate be appointed by the Chair, and that they be requested, if possible, to compromise the disagreement upon the said amendment upon substantially the following basis:

In lieu of the matter proposed to be stricken our insert:

"For the purchase, testing, and distribution of valuable seeds, bulbs, trees, shrubs, vines, cuttings, and plants, $75,000. Said seeds, bulbs, trees, shrubs, vines, cuttings, and plants shall be sent only to such persons as shall make request therefor: *Provided*, That all such requests made of Senators, Representatives, and Delegates in Congress, if transmitted to the Department of Agriculture, shall be complied with by said department."

[1] Second session Sixty-sixth Congress, Record, p. 7717.

Chapter CCLXV.[1]

MANAGERS TO CONSIDER ONLY MATTERS IN DISAGREEMENT.

3252. Conferees are restricted to the differences between the two Houses and may not change the text to which both Houses have agreed or incorporate new subjects.

On August 17, 1912,[2] the House having under consideration the conference report on the naval appropriation bill, Mr. John J. Fitzgerald, of New York, raised a question of order against the report on the ground that the conferees had exceeded their authority by including in the report matters not in disagreement between the two Houses.

Mr. Fitzgerald submitted that the conferees had inserted a provision for the mining of coal in Alaska; had extended the provision relative to retirement of naval officers to the Marine Corps; had provided for the creation of a reserve corps of dental surgeons, and had extended provisions for pay and allowances for Medical Corps of the Navy to the Dental Corps of the Navy, all of which were in contravention of the rule confining conferees to subjects committed to them.

The Speaker[3] ruled:

There is no question at all in the mind of the Chair but that these points of order must be sustained. As it is a question which is liable to arise several times very soon, the Chair will state his position.

The rule is this: That the conferees can not go beyond something that is in the original bill, that is proposition No. 1; or in the Senate amendment, and that is proposition No. 2; or in the House amendment to the Senate amendment, and that is proposition No. 3.

That rule is as old as the 23d day of June, 1812, and it is barely possible that it is older. But, on the 23d of June, 1812, Henry Clay rendered an opinion of which that is the substance.

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[1] Supplementary to Chapter CXXXV.

[2] Second-session Sixty-second Congress, Record p. 11176.

[3] Champ Clark, of Missouri, Speaker.

It has been stated variously by various Speakers. Speaker Crisp stated the matter with perfect clarity. In Hinds' Precedents, section 6408, volume, 5, Speaker Crisp said:

"The question for the Chair to determine is whether the amendment which has been agreed to and reported by the conference committee is germane to the amendment of the Senate or to the original bill. The amendment may not be germane to the original bill, yet if it is germane to the Senate amendment the conference committee might report it.

The Chair thinks that the practice of enlarging the powers of conference committees beyond the strict letter of the rule was wrong; that conferees ought to be held to the rule, and that amendments they propose in conference reports shall be germane either to the original text or to the amendment."

Let us apply these principles to the points raised by the gentleman from New York. of course, everybody understands that the Chair is not ruling the way he would like to see the bill go. The Chair would like to see mining operations started in Alaska in a proper way, but this is not the proper way to do it.

Page 51, line 22, the language of the bill was: "That all officers authorized in this act, etc., shall receive." The conferees inserted, after the word "officers," the words "of the Dental Corps," so that it will read "All officers of the Dental Corps" shall do so and so.

Speaker Cannon rendered an opinion involving that precise point. In volume 5, Hinds' Precedents, section 6417, the headlines or syllabi read as follows:

"The managers of a conference must confine themselves to the differences committed to them. Managers of a conference may not change the text to which both Houses have agreed."

Of course that simply states the rule. Here is the case itself:

The Speaker read the section and continued:

The conferees inserted the words "or any other" before the word "act," making it read "this or any other act," and also inserted the words "by this or any other act," so that it would read "for the personal use of any officer provided for by this or any other act, other than the President," and so forth.

Speaker Cannon said.

"The managers have inserted between the words personal' and 'use' the words 'or official.' Mr. Mann insisted that this amendment of the text, to which both Houses agreed, was beyond the power of either House, and, consequently, beyond the power of the conferees, citing the precedent of April 23, 1902."

After debate, Speaker Cannon withheld his decision, evidently wanting to investigate the matter.

Here is the sum and substance of Speaker Cannon's decision:

"This provision in the conference report inserts legislation that never was before the House or before the Senate, and it was quite competent for the conferees, if they could do this, to have stricken out the whole paragraph and inserted anything that was germane. They could have stricken out the words 'other than the President of the United States, the heads of executive departments, and the Secretary to the President'; and while there were but two words inserted, the provision, if enacted into law, would be far-reaching and would run along the line of the whole public service."

Now, that is just exactly this case as to this particular amendment.

Speaker Cannon goes on to say:

"As to the wisdom of such a provision, the Chair is not called upon to intimate any opinion. It is for the House and the Senate to determine upon the wisdom of it, and, as the House and the Senate never have considered that proposition, the Chair is of opinion that the conferees exceeded their power, and therefore sustains the point of order."

The second point of order is that on page 30, beginning with line 23, and it does not make any difference as far as the parliamentary points are concerned how desirable it is to mine coal in Alaska.

The language of the Senate amendment was:

"That $75,000 of said sum, or so much thereof as may be necessary, may be used for the survey investigation, and report upon coal and coal fields available for the production of coal for the use of the United States Navy, or any vessel of the United States."

The conferees inserted a proposition for mining coal, and surely there is a wide difference in the proposition to survey, investigate, and report upon coal and coal fields and a proposition for the mining of coal. That point must also be sustained.

In amendment 7, on page 5 of the bill, line 24, it is provided:

"Hereafter any naval officer on the retired list may, in the discretion of the Secretary of the Navy, be ordered to such duty as he may be able to perform at sea or on shore, and while so employed in time of peace shall receive the pay and allowances of an officer of the active list of the grade form which he was retired."

The conferees inserted into that amendment these words, "of the Navy or Marine Corps." And also inserted the words, "with his consent," and made some other minor changes. The Chair believes that the Navy and Marine Corps are two different institutions, and sustains the point of order in that regard. The point of order made against the conference report on amendment No. 87 is also sustained.

So the four points of order made by the gentleman from New York are sustained.

3253. When a bill is sent to conference, matters in disagreement between the Houses, and only matters in disagreement between the Houses, are before the conferees notwithstanding House or Senate messages to the contrary.

On September 23, 1981,[1] the House disagreed to all senate amendments except one to the bill (H. R. 11945), the agricultural stimulation bill, and agreed to the conference asked by the Senate. The exception was Senate amendment No. 13, prohibiting the sale of distilled spirits during the war, which was agreed to by the House.

On the following day,[2] Mr. Joseph Walsh, of Massachusetts, rising in the House to a parliamentary inquiry, directed attention to the message from the Senate as requesting a conference with the House on the bill and amendments and the message of the House agreeing to the conference asked by the Senate. Mr. Walsh took the position that in view of its concurrence in Senate amendment No. 13 the House should have requested conference with the Senate on the disagreeing votes of the two Houses, and that in agreeing to the conference asked by the Senate on the bill and amendments, the House had agreed to a conference on Senate amendment No. 13, which was not now in dispute.

The Speaker[3] held:

Of course, the conferees have absolutely no control or jurisdiction over that amendment whatever.

Anything in controversy between the two Houses must go to a conference. Now, when they go to the conference, simply the matters that are left in controversy are considered, and if the conferees undertook to modify this amendment 13, the Chair would hold it was out of order.

3254. Conference reports are strictly construed, conferees being restricted to the literal difference between the two Houses and the insertion of any extraneous matter, however slight its effect on the general purport of the bill, is subject to a point of order.

On June 4, 1920,[4] the House proceeded to the consideration of the conference report on the bill (H. R. 10378) providing for the American merchant marine.

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[1] Second session Sixty-fifth Congress, Record, p. 10694.

[2] Record, p. 10703.

[3] Champ Clark, of Missouri, Speaker.

[4] Second session Sixty-sixth Congress, Record, p. 8576.

The report having been read, Mr. Tom D. McKeown, of Oklahoma, presented a question of order against the report on the ground that the conferees had inserted language not to be found in either the bill or the amendments. Mr. McKeown referred specifically to the following proviso inserted by the conferees as being outside the differences committed to them.

And provided further, That whenever the board shall determine, as provided in this act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein.

Mr. George W. Edmonds, of Pennsylvania, explained in rebuttal that the conferees had enlisted the services of legislative clerks and Treasury experts in order to express the legislation in better form, but that no attempt had been made to change the meaning of the propositions presented to the conferees and that the proviso objected to was merely section 22 of the original bill transposed to a more appropriate place in the report.

The Speaker pro tempore [1] ruled:

The Gentleman from Oklahoma makes the point of order against the conference report and contends that in amendment 52 the conferees have exceeded their authority by inserting the language at the end of the Senate amendment. The Chair has examined the amendment and the language reported by the conferees, and notes, as was pointed out by the gentleman from Pennsylvania, that substantially the same language was carried in section 22 of the bill amended by the Senate. The conferees have transferred that language in practically the same form to section 7 of the bill, and this provision would seem to be germane. But at any rate that section was in controversy, and the transfer by the conferees was not in excess of their authority.

The gentleman from Oklahoma also bases his point of order on the contention that the conferees have exceeded their authority in reporting language, which is amendment No. 128. This contention raises a question of considerable more difficulty. Section 25 of the bill as amended by the Senate—that amendment being No. 128—provides for certain exemptions to owners of documented vessels operating in foreign trade from the tax imposed by Title III of the revenue act, and also provides that citizens may sell during a certain period vessels documented under the United States law and that they should be exempt from certain titles of the revenue act of 1913. It also provides a board which is to determine the amount to be allowed for annual depreciation of vessels and for allowances and deductions to be allowed, and in case of disagreement the contention to be referred to the President. The conferees have recast that amendment in its entirety and instead of providing certain exemptions they have reported an amendment to the revenue act which in general language retains the features of Senate amendment No. 128, but they incorporate that in a new section to the revenue act of 1918, to be known as section 207 with subparagraphs. But the conferees have not only retained substantially the language of the Senate amendment, but they have added other amendments of an administrative character to the revenue act and enlarged somewhat and further prescribed the duties of the Commission of Internal Revenue. They have also inserted a paragraph known as paragraph D, requiring the furnishing of a bond or surety, and in lieu of a bond permitting the deposit of the amount of the taxes or obligations to be held in trust with the approval of the Secretary. This paragraph, as well as the one preceding and the one following, would seem to deal in administrative provisions and put restrictions on, and also enlarge the scope of, the authority of the Internal Revenue Commissioner. The Chair finds nothing in the Senate amendment after a very careful reading of the language, neither does he find anything in the amendment was reported by the conferees, that part of the language which has been

[1] Joseph Walsh, of Massachusetts, Speaker pro tempore.

retained, which brings these matters in controversy. They seem to be entirely new matter, which the conferees have reported in attempting to adjust their disagreement upon the Senate amendments and it would seem to the Chair that they have not followed the rules prescribed in adjusting differences between the two Houses in conference. The chair appreciates that it is a very important matter to rule that a conference report at this time should be returned to the conferees, and yet the Chair is clearly of the opinion that the conferees have exceeded their authority; that if they had retained the Senate amendment in the language in which the Senate reported it, and had not attempted to amend the revenue act, but had simply added the language which has been added in attempting to amend the revenue act, they still would have exceeded their authority. The are retaining the language of a Senate amendment and in addition are imposing certain administrative requirements upon the Commissioner of Internal Revenue which were not necessarily involved in the Senate amendment. The administrative requirement in the Senate amendment, upon the reading of that amendment, could have been left to the Shipping board; but in the language which has been reporte4d by the conferees they have proposed certain restrictions and have made certain regulations which will have the effect of law; and in writing them in as an amendment to a revenue law like a new section it seems to the chair clearly that it is not within their jurisdiction, because there is nothing in the Senate amendment that, in the opinion of the Chair, places those matters in conference; and much as the Chair regrets it, he feels constrained to sustain the point of order.

3255. Managers may not include in their report amendments relating to propositions not in disagreement between the two Houses.

On February 27, 1929,[1] the Clerk read the conference report on the bill (S. 1781) to establish load lines for American vessels.

Mr. Charles L. Abernathy, of North Carolina, raised the question of order that the conferees had exceeded their authority by including in the report an amendment authorizing the Secretary of Commerce to make a study of load-line legislation and prepare bill to be submitted to the House.

The Speaker[2] ruled:

The Chair realizes the gravity of outlawing a conference report at this stage of the session, but the Chair is called upon to decide whether the conferees have exceeded their power in putting in the amendment referred to. Section 9 of the House amendment provides:

"SEC. 9. this act shall not apply to vessels operating exclusively on the Great Lakes or to barges otherwise coming within the provisions of this act or to lumber schooners operating to and from territory contiguous to the United States."

The Senate disagreed to that.

The conferees have brought in an amendment directing the Secretary of Commerce to make a comprehensive study of those lines. The Chair cannot see in either the Senate bill or the House amendment any proposition that would direct the Secretary of Commerce to make an investigation. The House evidently never thought of it, and the Senate evidently never though of it. While it might be vaguely germane to the purposes of the bill, the Chair thinks it is entirely new matter, never contemplated by either body. The Chair thinks the conferees exceeded their authority. Therefore the Chair feels constrained to sustain the point of order.

3256. The Speaker may rule a conference report out of order, if it is shown that the conferees have exceeded their authority.

Conferees may not include in their report new items even when germane, and may not change the text to which both Houses have agreed.

The managers having appended to a Senate amendment, pertaining to charters of national banks, a provision for investigating relations between

[1] Second session Seventieth Congress, Journal, p. 403; Record, p. 4614.

[2] Nicholas Longworth, of Ohio, Speaker.

the banking system and commodity prices, the Speaker held they had gone beyond the differences committed to them.

Where the statement is read in lieu of the conference report, points of order should be made or reserved before the statement is read.

When any portion of a conference report is ruled out on a point of order the effect is as if the report had been rejected by a vote of the House, and motions for disposition of Senate amendments and for conference are in order de novo.

A motion to instruct conferees is in order only after the decision to send to conference and before conferees are named.

A motion to recommit the conference report is in order at any time before final action is taken on the report.

On June 22, 1926,[1] Mr. Louis T. McFadden, of Pennsylvania, called up the conference report on the bill (H. R. 2) to provide for the consolidation of national banking associations and asked unanimous consent to the reading of the statement in lieu of the report.

Mr. James G. Strong, of Kansas, announced that he desired to submit a point of order and asked when the question should be presented.

The Speaker[2] replied:

The Chair understand the rule to be that if the statement is read in lieu of the report it is necessary to reserve points of order before the statement is read.

In response to an inquiry from Mr. Morton D. Hull, of Illinois, as to the proper time to move to instruct the conferees, the Speaker continued:

The proper time to instruct the conferees in case the point of order against some portion of the report is sustained and the House should agree to send the bill back to conference is at that time—before the appointment of the conferees and after the decision is made to send it back.

Answering a further parliamentary inquiry from Mr. Otis Wingo, of Arkansas, as to the status of the report in event the point of order should be sustained, the Speaker ruled:

In case the Chair should not sustain the point of order the gentleman would be in order to move to recommit the report before final action was taken upon the conference report.

If the point of order should be sustained, then the entire report is out of order, and it would be necessary to send the bill back to conference.

The House could then take such action as it wished, subject to the general rules of the House.

If the House should decide to send the bill back to conference, it would then be in order, before the appointment of the conferees, to instruct the conferees at that time.

The point of order having been reserved, the statement was read in lieu of the report. Thereupon, Mr. Strong insisted on the point of order. Mr. Edward J. King, of Illinois, also submitted points of order.

After extended debate, the Speaker held:

The gentleman from Illinois a day of two ago submitted to the Chair a written argument upon this matter relating particularly to amendment No. 38. The gentleman from Illinois bases

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[1] First session Sixty-ninth Congress, Record, p. 11788.

[2] Nicholas Longworth, of Ohio, Speaker.

his argument mainly on a decision rendered a good many years ago by Speaker Blaine, wherein he held in part as follows:

"The power of a conference committee, which, as the gentlemen well know, the two Houses have been in the habit of considerably enlarging, fairly includes the power to incorporate germane amendments. If the gentleman from Indiana, Mr. Holman, makes the point that the amendments he specifies are not germane, the Chair will examine the question; but the mere fact that the proposition embraced matters which were not originally before the House or Senate would not be sufficient to require them to be ruled out."

That is the one decision that the gentleman from Illinois quotes on this precise point. There has been no decision to that effect since that time so far as the Chair is aware. On a number of occasions, both since he was elected Speaker and therefore, the Chair has had occasion to look into the question with respect to the power of conferees. As the Chair understands the precedents and the rule today, it is that the managers of a conference must confine themselves to the differences committed to them and may not include subjects not within the disagreements, even though germane to the question in issue. Immediately following the decision quoted in Hinds' Precedents to which the Chair has referred, in which Speaker Blaine seemed to intimate that if an amendment was entirely germane it might be in order, notwithstanding the fact that the conferees departed from the differences committed to them, there is a decision by Speaker Reed, which covers the precise point involved in this case.

This was in 1898, and the decision of Speaker Blaine was in 1871, 27 years previously. In this instance the situation was this, and is to be found on page 720 of Hinds' Precedents, volume 5:

"During the debate it was developed that among the Senate amendments was a provision relating to the fishery question between Canada and the United States. To this the conferees added a provision for a commission to consider the differences between Canada and the United States in relation to trade relations."

It seems to the Chair that is practically the same situation we now find before us. Speaker Reed, in passing upon the question, said:

"The Chair dislikes to pass upon such matters as this, but it is a well-established principle that no conference committee can introduce a new subject, one that was not in dispute between the two Houses; and it is evident that everybody in the House realizes that this amendment which has been presented is really beyond the power of the committee of conference. That being so, and the point being made, there is no other course but to sustain the point of order, which the Chair accordingly does."

From then on through many pages of Hinds' there are a number of precedents discussed, all of which hold at least as strongly as did Speaker Reed that a committee of conference may not include subjects not within the disagreements between either House.

Later in 1902, Speaker Henderson decided that—

"A conference committee may not include in its report new items constituting in fact a new and distinct subject not in difference, even through germane to questions in issue."

In other words, the later precedents of the House go so far as to say that the question of germaneness has nothing to do with the question if the conferees have exceeded their powers in regard to the action of either House.

The Chair is not aware, certainly since he has been a Member of this body and heard this question ruled on repeatedly, of any precedent which would go to show that a conference committee might, provided the proposition were germane, go beyond the limits set in the decisions just referred to. The Chair is not called upon therefore to determine the question as to whether this provision as to a commission is germane to the bill or not. If he were, he would think it was a matter of very grave doubt as to whether to a bill dealing with the Federal reserve system and branch banks an amendment providing for the appointment of a committee to make an inquiry into the price of commodities in the United States affected since the year 1914, if at all, by the Federal banking laws could be regarded as germane. But the chair is not called upon to determine that. The Chair fails to find in any part of this bill a suggestion on the part of either House of the appointment of a commission of this kind. The Chair thinks beyond all question that the

conferees have exceeded their powers in reporting such an amendment to the House. The chair also sustains the points of order with regard to two other amendments as presented by the gentleman from Illinois. In both cases the conference committee have inserted matter which was not in disagreement at all and have changed the text which was identical in both the House and Senate bills. The Chair forgot to mention in the discussion of the brief of the gentleman from Illinois that the other precedents quoted by him were where the Senate had stricken out the entire House bill and substituted a different bill, in which case, of curse, the powers of the committee are much broader and almost any amendment may be in order, provided only it is germane. But that is not this case, and the Chair therefore sustains the points of order made, both that of the gentleman from Kansas and that of the gentleman from Illinois.

The Speaker also held, in response to an inquiry from Mr. Finis J. Garrett, of Tennessee, that the point of order against the conference report having been sustained, the situation was as if the report had been rejected by a vote of the House, and recognized Mr. McFadden to move to disagree to the Senate amendments and ask conference with the Senate.

3257. The managers of a conference may not in their report change the text to which both Houses have agreed.

When 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.

On May 30, 1924,[1] the Clerk read the conference report on the bill (H. R. 7041) to provide compensation for employees of the United States suffering injuries while in the performance of their duties.

The reading of the report having been concluded, Mr. Louis C. Cramton, of Michigan, made the point of order that the conferees had modified the text of the bill to which both Houses had agreed.

Mr. Cramton explained that the conferees had accepted the one minor amendment proposed by the Senate, but in addition had inserted an amendment of their own in another part of the bill passed by both Houses.

The Speaker[2] ruled:

The Senate inserted an amendment of a few words. In conference that amendment was accepted, but an additional provision was inserted, not as an amendment to the Senate amendment but as an amendment to the original text several lines below. Whether it is germane or not, and whatever might be the Chair's original opinion if there were no precedents, the Chair thinks the precedents abundantly establish the fact that conferees are very closely limited and that they must not add anything to words which have already been agreed upon by both Houses. In this case, it seems perfectly clear to the Chair, the amendment is put in at a different place and affects language not connected with the Senate amendment. It is put in at a place which is different, and therefore changes the language which has already been agreed upon by both Houses.

Therefore the Chair feels obliged to sustain the point of order.

Thereupon, Mr. Leonidas C. Dyer, of Missouri, offered a motion to recede and concur in the Senate amendment with an amendment.

Mr. Nicholas Longworth, of Ohio, objected that motions for the disposition of the Senate amendment were not in order for the reason that a conference report when ruled out of order was referred to the committee of conference.

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[1] First session Sixty-eighth Congress, Record, p. 9923.

[2] Frederick H. Gillett, Speaker.

The Speaker said:

No; the sustaining of a point of order against a conference report ends the conference, and ends the jurisdiction of the conferees.

It is as if the conference report has been disagreed to. Therefore, the bill with the Senate amendment came up in the House. The House can send it back to conference or can act directly on the Senate amendment.

The Clerk will report the motion of the gentleman from Missouri.

3258. The managers of a conference must confine themselves to the differences committed to them, and may not include subjects not within the disagreements, even though germane to a question in issue.

Conferees, having agreed to a Senate amendment pertaining to Army aircraft with an amendment pertaining to naval aircraft, were held to have exceeded the differences committed to them.

A conference report have been ruled out on a point of order, consideration was authorized by special order reported from the Committee on Rules.

On June 25, 1926,[1] Mr. W. Frank James, of Michigan, called up the conference report on the bill (H. R. 10827) to increase the efficiency of the Army Air Corps.

The statement having been read in lieu of the report, Mr. Eugene Black, of Texas, who had reserved points of order on the report, raised the question of order that the conferees had exceeded their authority by including in the report provisions relative to the naval aircraft not in disagreement between the two Houses.

The Speaker[2] sustained the point of order and held:

It may be true, as has been argued, that if this were merely a question of jurisdiction, the Committee on Military Affairs might have power in the original instance to report a bill such as this; but the question that arises is not one of committee jurisdiction, but a question purely of the power of the conferees and whether or not they have exceeded their power in this instance.

The rule is very well settled, passed on by a number of Speakers, as to the powers of conferees. It is well described in the Manual:

"The managers of a conference must confine themselves to the differences committed to them and may not include subjects not within the disagreements, even though germane to a question in issue."

Therefore the question of whether or not this amendment is germane has nothing to do with the point of order as raised by the gentleman from Texas. The question is solely, Did the conferees go beyond the differences between the two Houses?

The bill is entitled, "To provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes." There is nothing said in the bill, either as it passed the House or as it passed the Senate, with relation to aviation for the Navy. The conferees therefore, in including in it matter relating to the Navy must have exceeded their powers, because they have departed from the exact differences that were before them in conference.

The Chair therefore sustains the point of order made by the gentleman from Texas.

Subsequently, on June 29, 1926,[3] Mr. Bertrand H. Nell, of New York, by direction of the Committee on Rules, presented the following privileged resolution:

Resolved, That notwithstanding previous action of the House relative to the conference report on the disagreeing votes of the two House on the bill H. R. 10827, immediately upon the adoption

[1] First session Sixty-ninth Congress, Record, p. 11982.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Record, p. 12254.

of this resolution the House shall consider said conference report without the intervention of points of order against the same.

The resolution having been adopted; Mr. W. Frank James, of Michigan, again called up the conference report which, after consideration, was agreed to, yeas 256, nays 12.

3259. Conferees may not change the text to which both Houses have agreed and the mere amendment by one House of an item in a bill of the other House does not authorize the elision of the entire item.

Where an amendment strikes out an entire paragraph and inserts a new text, the entire subject is committed to the conferees.

The ruling out of conference report on a point of order is equivalent to its rejection by the House and the bill and amendments are again before the House as if they had not gone to conference.

The stage of disagreement having been reached, the motion to recede and concur has precedence over the motion to refer.

While the Member in charge must yield for preferential motions, a Member may not by offering such motion deprive the Member in charge of the floor.

On March 8, 1910,[1] the House had under consideration the conference report on the District of Columbia appropriation bill, when Mr. Herbert Parsons, of New York, made the point of order that the conferees had eliminated a portion of the text agreed to by both Houses. Mr. Gardner submitted that in striking out the item providing an appropriation for playgrounds included in the bill as it passed the House and agreed to by the Senate with an amendment making the appropriations available for supervision, the conferees had exceeded their authority.

After debate, the Speaker[2] sustained the point of order and said:

The Chair calls the attention of the House again to the provision as it appeared in the bill as it passed the House.

"Playgrounds: For maintenance, repairs, equipment, and supplies, $17,000, which sum shall be paid wholly from the revenues of the District of Columbia."

That provision, as the Chair has read it, went to the Senate. The Senate amends first, in amendment numbered 74, after the word "equipment," by inserting the word "supervision," and again in the same provision, by amendment numbered 75, it struck out the words "which sum shall be paid wholly from the revenues of the District of Columbia." Now, the House and Senate were agreed on certain language, namely, "for maintenance, repairs, equipment, and supplies, $17,000."

But both Houses agreed to the text, the Senate proposing, however, to insert the word "supervision" as a change to the text. Now, that amendment of the Senate was to the provision of the House. But the amount of $17,000 appropriated, with the objects as defined by the House, could not be changed, because the Senate had not provided for a change by way of amendment. If the Senate had amended by striking out the whole paragraph and inserting a new paragraph, then the whole question would have been in conference, and it would have been admissible in settling the differences between the two Houses to have made any germane agreement that would bring the conferees together. Now, with the two amendments referred to, the House and the Senate, to settle the disagreements, at a part where there was no disagreement, strikes out a whole provision.

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[1] Second session Sixty-first Congress, Record, p. 2920.

[2] Joseph G. Cannon, of Illinois, Speaker.

The Chair thinks that is a change of the text to which both Houses had agreed, and the precedents, so far as the Chair has been able to examine them, are against the exercise of that power even by the House itself, without the concurrence of the other body. It could only be done by the House and by the Senate by a concurrent action. The Chair feels compelled to sustain the point of order.

The Speaker having announced his decision, Mr. James A. Tawney, of Minnesota, moved that the conference report be referred to the Committee on Appropriations with instructions to report it back to the House forthwith with an amendment striking out the paragraph.

Mr. James R. Mann, of Illinois, objected that the motion was not in order.

The Speaker sustained the point of order and held:

The Chair calls the attention of the gentleman that under the practice of the House the sustaining of a point of order to a conference report is equivalent to the rejection, and that the next proceeding would be for the House to take such action as it may desire, de novo, as if this bill were here for the first time with the Senate amendments disagreed to.

It is in order to make a motion to agree to any of the amendments of the Senate.

The effect of the statement of the Chair, sustaining the point of order, is to make the conference report as if it had not been made, and the bill stands now upon the House provisions and upon the Senate amendments. The House have possession of the bill, it is in order for the House to treat it just as it would have treated it if the conference report had been voted down.

This is the condition as the Chair understands it: The House passed the bill, the Senate amended it, the House disagreed to the Senate amendments, it went to conference, the conference has constructively failed, and this bill is now before the House as if it had not gone to conference. So that the Senate amendments must be disposed of.

Mr. Parsons moved that the House recede and concur in the amendment of the Senate.

Mr. Tawney offered a motion to refer as preferential.

The Speaker cited section 6225 of Hinds' Precedents holding that the motion to insist has precedence of the motion to refer, and reasoned that inasmuch as the motion to recede and concur takes precedence of the motion to insist, therefore, the motion to recede and concur takes precedence over the motion to refer.

The Speaker then recognized Mr. Parsons to move to recede and concur, but held that the motion did not entitle him to the floor as against the Member in charge of the bill.

3260. Insertion by managers of new matter in a conference report renders it subject to the point of order that the managers have exceeded their authority.

On April 10, 1920 [1] the conference report on the Post Office appropriation bill being under consideration in the House, Mr. L.C. Dyer, of Missouri, made the point of order that the managers had exceed their jurisdiction.

In support of this point of order, Mr. Dyer called attention to Senate amendment No. 3, making an appropriation for the purchase of land immediately available, to which the conferees had attached a proviso authorizing the Postmaster General to erect a building on the land.

[1] Second session Sixty-sixth Congress, Record, p. 5504.

The Speaker [1] ruled:

The Chair regrets very much to have a conference report go out on a point of order, and in any case where he felt justified in doing so would overrule the point of order; but the Chair does not see how this amendment can possibly be hung on the Senate amendment, and the Chair is regretfully obliged to sustain the point of order.

3261. On June 3, 1910,[2] the House was considering the conference report on the bill (H. R. 10378) to provide for the American merchant marine, when Mr. Finis J. Garrett, of Tennessee, made the point of order that the conferees had exceeded their authority by incorporating matter not in disagreement between the two Houses.

Mr. Garrett cited the proviso in Senate amendment No. 15, reading as follows:

Provided, That any person dissatisfied with any decision of the board shall have the same right to sue the United States as he would have had if the decision had been made by the President of the United States under the acts hereby repealed.

for which the conferees had substituted the following language:

And shall have authority to adjust, settle, and liquidate all agreements, express or implied, on a fair and equitable basis.

Mr. Garrett contended that the substitute changed the tenor of the original proviso and inserted language used nowhere in either the House bill or the Senate amendment.

The Speaker [3] sustained the point of order and said:

Although the Chair dislikes to hold a conference report out of order, because it sends the report back, yet it seems to the Chair quite clear that the conferees in this case exceeded their authority. The only difference between the House was as to the right to sue the United States. Then they have added a provision of final settlement, and there seems to be a difference of opinion by the gentleman who have discussed that provision whether that changed section (c) or did not. It seems to the Chair that it enlarges the authority, because section (c), as the Chair understands, simply applies to those powers which the board received from the President, whereas this clause authorizes the board to settle all agreements, those which it made of its own right and those for which it received jurisdiction from the President. The Chair does not think that is necessary for a decision. It seems to the Chair very clear that this final amendment was not in dispute between the two Houses, and by striking out the Senate provision and putting in this provision, which was entirely different from it and not germane, the conferees exceeded their authority and therefore the Chair is constrained to sustain the point of order.

Mr. George W. Edmonds, of Pennsylvania, inquired as to the status of the conference report after the point of order had been sustained.

The Speaker held that the report had been rejected and recognized Mr. Edmonds to move that the House further insists on its disagreement to the Senate amendments and ask further conference with the Senate.

3262. A germane modification of an amendment in disagreement was held not to invalidate a conference report.

On May 10, 1910,[3] the conference report on the bill (H. R. 13915) was read for consideration.

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[1] Frederick H. Gillett, of Massachetts, Speaker.

[2] Second session Sixty-sixth Congress, Record, p. 8412.

[3] Second session Sixty-first Congress, Record, p. 6037.

Mr. James A. Tawney, of Minnesota, lodged a point of order against the conference report on the ground that the conferees had injected new matter in Senate amendment No. 15, transferring coal investigations from the Geological Survey to the Bureau of Mines.

In the debate it appeared that the original Senate amendment had provided for the transfer of "clerks" from the Survey to the Bureau and that the conferees had modified the amendment to provide for the transfer of "employees, property, and equipment."

The Speaker [1] overruled the point of order and held:

Section 4 of the House bill reads as follows:

"The Secretary of the Interior is hereby authorized to transfer to the Bureau of Mines from the United States Geological Survey the supervision of the investigation of structural material and the analyzing and testing of coal, lignites, and other mineral substances, and the appropriation made for any such investigation may be expended under the supervision of the Commissioner of Mines in manner as if the same were so directed in the appropriation act, and such investigation shall hereafter be within the province of the Bureau of Mines."

It will be noticed that by the House provision certain matters were transferred, as read by the Chair. Now, the Senate amended section 4, which the Chair has just read, by inserting at the end of section 4 these words:

"And shall cease and determine under the organizations of the United States Geological Survey, and such experts and clerks as are now employed by the Geological Survey in connection with the subject herein transferred to the Bureau of Mines are authorized to be transferred to said bureau by the President."

Now, that was a Senate amendment to Section 4. The House disagreed to the Senate, amendment. The Conferees met, and having the disagreement before them, struck out the words "and clerks" of the Senate amendment and inserted "employees, property, and equipment."

The only change in the Senate amendment made by the conferees was to strike out the words "and clerks" and insert "employees, property, and equipment." It seems to the Chair that the conferees did not exceed their jurisdiction, the main question being whether the Geological Survey should cease and determine as to the work specified. The other matter is an incident of the settlement of the main question.

Now, as to the precedent that the gentleman from Minnesota refers to, the Chair finds on examination that it is not in point, because in that case the House and Senate had agreed to a text and there was no difference between them, and the conferees changed that text, which was not in disagreement.

The Chair, therefore, overrules the point of order.

3263. Conferees may not go beyond the limits of the disagreements confided to them, and where the differences involve numbers, conferees are limited to the range between the highest figure proposed by one House and the lowest proposed by the other.

Where on House strikes out all of a bill of the other after the enacting clause and inserts a new text, conferees have a wide discretion in incorporating germane amendments and may even report a new bill on the subject.

On August 14, 1911,[2] Mr. Oscar W. Underwood, of Alabama, called up the conference report on the bill (H. R. 11010) reducing tariff duties on wool, and asked unanimous consent that the statement be read in lieu of the report.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[1] First session Sixty-second Congress, Record, p. 3912.

Under reservation of the right to object, Mr. James R. Mann, of Illinois, made the point of order that the conferees had exceeded their powers by incorporating in their report provisions on subjects not in disagreement. Mr. Mann referred specifically to the rates on Brussels carpets, which were fixed at 30 per cent in the House bill, at 35 per cent in the Senate amendment, but which had been raised to 40 per cent in the conference report.

The Speaker [1] ruled:

The desire of the present occupant of the chair is to rule fairly; and so far as I am individually concerned, I would rather have it said of me, after I have finally laid down the gavel, that I was the fairest Speaker that the House ever had, than that I was the greatest.

The gentleman from Wisconsin last Saturday made a remark which deserves the consideration of the House, and that was that no Speaker could afford to render a decision for temporary benefit to his party fellows without considering the ultimate and general effect of it. That is absolutely true.

The particular matter at bar seems to have been differentiated into two classes by previous Speakers: One, where the dispute between the who Houses is simply a dispute about rates or about amounts, and the other where one House strikes out everything after the enacting clause and substitutes an entirely new bill.

The Chair has no doubt whatever that at least one contention of the gentleman from Illinois is correct. That is, that if it is a mere dispute about amounts or rates, the conferees can not go above the higher amount or rate named in one of the two bills or lower than the lower rate named in one of the two bills. But that is not this case. In this case the Senate struck out everything after the enacting clause and substituted a new bill. Last Saturday there did not seem to be any precedents to fit the point under consideration. This time, fortunately for the Chair at least, four great Speakers of this House have ruled on the proposition involved—Speaker Colfax, who was subsequently Vice President; Speaker Carlisle, subsequently Senator and Secretary of the Treasury; Speaker Henderson, and Speaker Cannon. The Chair does not know anything about the parliamentary clerks to Speaker Colfax and Speaker Carlisle, but the Chair is fully persuaded that every Member of this House who has served in prior Congresses will agree that Speaker Henderson and Speaker Cannon had the advantage of being advised by one of the most skillful parliamentarians in this country, the present Member from Maine, Mr. Hinds. [Applause.]

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted, it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill. The Chair will have three of these decisions read, and will have the decision of Speaker Cannon incorporated into this opinion, because the question ought to be definitely settled during the life of this Congress at least.

The Speaker then directed the Clerk to read sections 6421, 6423, and 6424 of Hinds' Precedents, and concluded:

In view of this long line of decisions by illustrious Speakers, the Chair overrules the point of order of the gentleman from Illinois.

3264. Where the two Houses fix different periods of time the conferees have latitude between the two, but may not go beyond the longer nor within the shorter.

On March 2, 1915,[2] the conference report on the bill (S. 52059) establishing mail lines with foreign countries and known as the ship purchase bill, was before the

[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-third Congress, Record, p. 5208.

House and had been read when Mr. James R. Mann, of Illinois, made the point of order that it contained matter which was not properly before the conferees.

Mr. Mann pointed out that as originally passed by the Senate the bill would have gone into effect immediately on its passage; that in the House amendments it was provided that the bill should go into effect two years after its passage; but that the conference report provided it should become effective three years after passage. Mr. Mann contended that the conferees could have designated any time between the passage of the bill and two years after its passage, but were not authorized to extend the time beyond the limit of two years set by the House amendment.

The Speaker [1] sustained the point of order and ruled:

If there is anything settled about conferees between the two Houses it is this: Where two amounts are named, and the question is referred to the conferees, they may oscillate as much as they please between the two extremes, but they can not go below the lower amount and they can not go above the higher amount. That applies to sums of money in appropriation bills. This has been ruled so often that it is as familiar as the multiplication table. In tariff bills, where the House suggests one rate on any given article and the other House suggests another rate, the conferees can not go below the lower, and they can not go above the higher rate.

This happened when the Payne bill was passed: There were certain amendments in controversy. The House fixed the rate on shoes at 15 per cent, and the Senate fixed it at 20 per cent. President Taft notified the conferees that if they did not cut the rate to 10 per cent he would not sign the bill, and as the conferees could not go below the minimum of 15 per cent, the House had to pass a special resolution in order to enable them to cut the rate down to 10.

As far as the suggestion that where everything after the enacting clause is struck out, then the conferees have carte blanche to bring in a bill; that is not this case here. The House did not strike out everything after the enacting clause in the Weeks bill. It particularly agreed to the Weeks bill, which has really been in conference only technically. But the limit of time was fixed at two years, and the conferees extended it to three years. If they could extent it beyond two years, they could extend it until the end of time. Their limit was from zero to two. In the nature of things they could not go below zero; under the practice of the two Houses they could not go higher.

The Chair sustains that point of order.

3265. Where all of a bill after enacting clause is stricken out, the conference report may include any germane provision.

Points of order are properly raised or reserved against a conference report after it is read, and before the statement is read, and whether the statement is read in lieu of the report or after the report, it is too late to raise a question of order after the reading of the statement.

On May 9, 1924,[2] Mr. Albert Johnson, of Washington, called up the conference report on the bill (H. R. 7995) to limit the immigration of aliens into the United States, and asked unanimous consent that the statement be read in lieu of the report.

Pending the question, Mr. Adolph J. Sabath, of Illinois, inquired when a point of order should be properly presented it the request was agreed to.

The Speaker [3] replied that points of order should be made or reserved in either event before the reading of the statement.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-Eighth Congress, Record, p. 8227.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Sabath reserved a point of order and, the statement having been read, submitted that the conferees had exceeded their jurisdiction by including the following provision:

Provided: That this subdivision shall not take effect as to exclusion until March 1, 1925, before which time the President is requested to negotiated with the Japanese Government in relation to the abrogation of the present arrangement on this subject.

Mr. Sabath argued that under the House bill the legislation would have gone into effect July 1, 1924; under the Senate bill it would have become effective immediately; and that the conferees by delaying the date until March 1, 1925, had gone beyond the dates in dispute between the Houses.

Mr. John E. Raker, of California, made the further point of order, based on same proviso, that the request that the President negotiate with the Japanese Government was not germane to the bill passed by the House or to the substitute inserted by the Senate.

The Speaker in passing on the first point of order differentiated between precedents in which individual items were at issue and the present case in which all after the enacting clause had been stricken out, and said:

The first point made by the gentleman from Illinois, it seems to the Chair, is thoroughly disposed of by the decision of Speaker Clark, quoted in the Manual. It says:

"And it has been held so often and so far back and by so many Speakers that where everything after the enacting clause is struck out the conferees have carte blanche to prepare a bill on that subject; that it seems to the Chair that question is no longer open to controversy."

The Chair on that ground overrules the point of order.

As to the second point of order, involving a question of germaneness the Speaker held:

But it seems to the Chair that inasmuch as this report terminates the understanding referred to on July 1, this provision extending it to March 1, 1925, and at the same time asking that the President meanwhile shall negotiate to abrogate it, which may possible terminate it sooner, that makes it clearly germane to the subject, and the Chair overrules the points of order.

3266. Where an entire bill has been stricken out and a new text inserted, the conferees exercise broad authority and may discard language occurring both in the bill and the substitute.—On January 29, 1927,[1] the House proceeded to the consideration of the conference report on the bill (H. R. 9971) for the regulation of radio communications.

Mr. Tom D. McKeown, of Oklahoma, made the point of order that the conferees had stricken out matter agreed to by both Houses.

The Speaker[2] said:

The Chair thinks he can simplify this situation by ruling with reference to the points of order that inasmuch as the Senate struck out the entire House bill and inserted a bill of its own, any amendment which was germane is in order. The Chair will quote the precedent from Hinds' Precedents, volume 5, section 6421, as follows:

"The Chair understands that the Senate adopted a substitute for the House bill. If the two Houses had agreed upon any particular language, or any part of a session, the committee of conference could not change that; but the Senate having stricken out the bill of the House and inserted

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[1] Second session Sixty-ninth Congress, Journal, p. 435; Record, p. 2557.

[2] Nicholas Longworth, of Ohio, Speaker.

another one, the committee of conference have the right to strike out that and report a substitute in its stead. Two separate bills have been referred to the committee, and they can take either one of them, or a new bill entirely, or a bill embracing parts of either. They have a right to report any bill that is germane to the bills referred to them."

The Chair thinks that is the better practice, and it has been universally followed in the House, that where the Senate strikes out the entire House bill and substitutes one of its own, it is in order for the conferees to recommend the adoption of any provision that is germane. That ruling will cover all amendments.

On February 8, when the conference report came up for consideration in the Senate, Mr. Robert B. Howell, of Nebraska, raised a similar question of order and quoted the second section of Rule XXVII of the Senate as follows:

Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.

The Vice President [1] ruled:

The Chair would remark that when the amendment of the Senate is a new bill in the nature of a substitute instead of various amendments to different parts of the bill, the whole status of conference is changed under the precedents. Under the line of argument which the Chair followed the other day in holding that new matter when germane could be put in as an amendment under those circumstances, he would seem to be justified now in overruling the point of order. The status of conference being changed where the Senate substitutes a bill as an amendment, the precedents in effect hold that the restrictions of Rule XVII, paragraph 2, do not apply, and he so rules. The point of order is not well taken.

Mr. Key Pittman, of Nevada, having appealed from the decision of the Chair, the appeal was laid on the table, yeas 41, nays 34, and the decision of the Chair stood as the judgment of the Senate.

3267. When a section is stricken out and a new text inserted, the conferees may incorporate any germane matter.—On March 3, 1915,[2] the conference report on the agricultural appropriation bill was under consideration in the House, when Mr. Robert L. Henry, of Texas, submitted a point of order that the report contained matter not in dispute between the two Houses.

Mr. Henry based his point of order on the provision for a joint farm-credits committee incorporated in the conference report in lieu of a provision for a rural-credits bureau carried in a Senate amendment stricken out by the House.

The Speaker [3] overruled the point of order as follows:

The point of order raised by the gentleman from Texas has been repeatedly passed on. In the first place it seems to the Chair that the only correct way in which to regard the matter now in controversy is to consider this rural-credit amendment offered by Senator McCumber as a separate subject, distinct from the bill proper. What happened about that was this: The Senate inserted the McCumber amendment, treating the whole subject of rural credits, and it was sent over to the House in that form. The House struck out the whole of the McCumber amendment. That is, it agreed to a substitute for the entire McCumber amendment. It did not leave a single line or word of the McCumber amendment. That put it exactly in the same situation as if everything after the enacting clause of a bill was struck out. And it has been held so often and so far back and by so many Speakers that, where everything after the enacting clause is struck out, the con-

[1] Charles G. Dawes, of Illinois, Vice President.

[2] Third session Sixty-third Congress, Record, p. 5469.

[3] Champ Clark, of Missouri, Speaker.

ferees have carte blanche to prepare a bill on that subject, it seems to the Chair that question is no longer open to controversy. The Chair will refer to just one or two of the rulings.

The ruling on the point made on the shipping bill has nothing to do with this bill, because the situations are not the same. The point raised there was the matter of time, which had never been passed upon before so far as the Chair knows; but it involved the principle of the higher and lower rates in a bill, or the larger and smaller amounts in a bill. In the shipping-bill contest it happened to be the question of time that was in controversy.

The case as to the immigration bill, which was passed on some three or four Congresses ago, is precisely on "all fours" with this. In paragraph 6424 of Hinds' Precedents, volume 5, the syllabus, to use the legal phrase, is this:

"Where the disagreement is as to an amendment in the nature of a substitute for the entire text of a bill, the managers have the whole subject before them and may exercise a broad discretion as to details."

The only change I would make in that language is to say that they have carte blanche on the subject.

"A point of order against a conference report should be made or reserved after the report is read and before the reading of the statement. On February 18, 1907, Mr. William S. Bennet, of New York, submitted the report of the managers of the conference on the bill (S. 4403) entitled 'An act to amend an act entitled, "An act to regulate the immigration of aliens into the United States," approved March 3, 1903.'"

Before the report was read, Mr. John L. Burnett, of Alabama, proposed to reserve a point of order.

The report having been read, a point of order was made by Mr. Burnett, who insisted that the managers had exceeded their authority in inserting the following provisions:

"Provided further, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possession or from the Canal Zone."

And the Speaker ruled that that provision was in order.

Section 6425, the syllabus:

"A Senate amendment having provided an appropriation to construct a road, and conferees having reported in lieu thereof a provision for a survey, it was held that the provision was within the differences."

The only thing for the Speaker to pass on at this juncture is whether or not the conferees exceeded their authority. Not only by the decision of the present Speaker on two different occasions, but by half a dozen of his predecessors, it beings this provision which the conferees brought in here within the rule, and the point of order of the gentleman from Texas is overruled.

3268. On March 15, 1922,[1] Mr. William R. Wood, of Indiana, called up the conference report on the independent offices appropriation bill.

The report having been read, Mr. Frederick W. Dallinger, of Massachusetts, raised the question of order that the conferees had gone beyond the differences committed to them, in providing a limitation of $100,000 beyond which contracts must be awarded to the lowest bidder, whereas the original bill made no limitation and the Senate amendment fixed a limit of $5,000.

The Speaker pro tempore,[2] ruled:

The gentleman from Massachusetts makes the point of order that the conferees exceeded their authority in agreeing to the language in lieu of Senate amendment No. 30. It will be noticed that

[1] Second session Sixty-seventh Congress, Record, p. 4370.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

the original provision of the bill contained no limitation whatever providing for the purchase, repair, or reconditioning of any vessel, commodity, article, or thing on the part of the Government. The Senate struck out all of the language of the original House provision and inserted an amendment which required the reconditioning or repairs in excess of $5,000 to be done in Government yards under certain conditions. The conferees have agreed to substantially that language except that they have stricken out "$5,000" and inserted "$100,000." In the view of the Chair the whole controversy before the conferees was whether there should be a limitation upon the amount of the repairs, and if so, what the limitation should be; in other words, it was between $5,000 worth of repairs and no limit whatever.

This point has heretofore arisen, and a discussion occurred on March 3, 1915, Sixty-third Congress, third session, Record, page 5469, when Speaker Clark ruled, in passing upon a point of order raised against the conference report on the agricultural appropriation bill, that where the House struck out all of the Senate amendment, not leaving a single line or word of that provision, and substituting a new amendment, it put it in exactly the same condition as where the Senate or House struck out all after the enacting clause of a bill and inserted a new bill entirely. The Speaker then ruled that the conferees had carte blanche in drafting new language and inserting new provisions. He cited as a precedent paragraph 6424 of Hinds' Precedents, volume 5, the syllabus of which is, that—

"Where the disagreement is as to an amendment in the nature of a substitute for the entire text of a bill, the managers have the whole subject before them and may exercise a broad discretion as to details."

It seems to the Chair that this particular case is analogous to that situation, and that the conferees were authorized either to agree to the provisions without any limitation whatever, or to a limitation of $5,000, or to any limitation between that and no limitation whatever, and that the point of order that they have exceeded their authority is not well taken. The Chair therefore overrules the point of order.

3269. The House provision for the regulation of railway capitalization being stricken out by the Senate, which substituted nothing in lieu thereof, a provision inserted by the conferees authorizing the President to appoint a commission to investigate the subject was held to be within the differences between the two Houses.

On June 18, 1910[1] when the conference report on the bill (H. R. 17536) to create a commerce court, was called up for consideration in the House, Mr. Charles L. Bartlett, of Georgia, made the point of order that the conferees had exceeded their authority. Mr. Bartlett based his point of order on the provision authorizing the President to appoint a commission to investigate railway capitalization, which had been incorporated in the bill in lieu of a provision to regulate railway capitalization, carried in the House bill but stricken out by the Senate.

The Speaker[2] said:

The bill as it passed the House, section 16, provided for a new section to the interstate commerce law.

"That no railroad corporation which is a common carrier subject to the provisions of this act as amended shall hereafter issue for any purpose connected with or relating to any part of its business governed by the provisions of this act as amended any stocks, bonds, notes, or other evidences of indebtedness to an amount exceeding that which may from time to time be reasonably necessary

[1] Second session Sixty-sixth Congress, Record, p. 8471.

[2] Joseph G. Cannon, of Illinois, Speaker.

for the purpose for which such issue of stocks, bonds, notes, or other evidences, of indebtedness may be authorized."

Then it continues with provision for the amount of the securities to be thus issued, and so forth. That is sufficient to show the House provisions. The Senate struck out by way of amendment to the House bill all after the enacting clause, and in its substitute made no mention of section 16. The House disagreed to the Senate amendment, and the whole matter went to conference. The conferees in settlement of the differences between the House and the Senate as to this matter agreed to the following:

"SEC. 16. That the President is hereby authorized to appoint a commission to investigate questions pertaining to the issuance of stocks and bonds by railroad corporations subject to the provisions of the act to regulate commerce."

Now, the question arises whether the agreement between the conferees was legitimately within the differences between the House and the Senate.

The Chair has a precedent, which he will ask the Clerk to read.

The Clerk read section 6425 of Hinds' Precedents, and the Speaker concluded:

The Chair believes in principle that the ruling of the Chair in the case just read by the Clerk was correct. The greater does include the less. The proposition in the House bill to regulate the capitalization of railways, their stocks and bonds, constitutes, in this case, the greater proposition. The Senate having disagreed, and the whole matter being in conference and an agreement having been reached covering and setting the differences, the provision for a commission to investigate the subject touching stocks and bonds and capitalism of railways, it seems to the Chair, is clearly in order and within the differences between the two Houses, and therefore the Chair overrules the point of order.

3270. Mere changes in phraseology without material alteration of the subject matter are not sufficient to render a conference report subject to the point of order that the conferees have exceeded their authority.

In changing a provision relating to "grain" to a provision relating to "nonperishable agricultural commodities" conferees were held to have gone beyond the differences committed to them.

Instance wherein a conference report rejected on a point of order was considered under a special order from the Committee on Rules.

Form of resolution for consideration of conference report invalidated on point of order.

On May 8, 1933,[1] Mr. Marvin Jones, of Texas, called up the conference report on the bill (H. R. 3835) to relieve the existing national economic emergency by increasing agricultural purchasing power.

Mr. Edward W. Goss, of Connecticut, made the point of order that the conferees had exceeded their powers in that they had modified the following provision of Senate amendment No. 17:

The making of any such legal agreement shall not be held to be a violation of any of the antitrust laws of the United States—

to read:

The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States.

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[1] First session Seventy-third Congress, Record, p. 3031.

The Speaker [1] overruled the point of order and said:

Senate amendment 17 has reference to making legal agreements. The conference committee leaves out the word "legal" and inserts that agreements shall be deemed to be lawful. The Chair does not see any difference, and the Chair overrules the point of order.

Mr. Goss submitted the further point of order that, while Senate amendment No. 14 provided—

Under regulations of the Secretary of the Interior requiring adequate facilities for the storage of grain on the farm, inspection—

the conference report read:

Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm.

The Speaker sustained the point of order and held:

It seems to the Chair that the striking out of the word "grain" and the substitution therefor of the words "nonperishable agricultural commodities" by the conferees broadens the scope of the Senate amendment. The Chair thinks that the conferees did not confine themselves to the matter in disagreement but attempted to incorporate new matter into Senate amendment 14. Therefore the Chair sustains the point of order against the conference report.

On the following day,[2] Mr. Arthur H. Greenwood, of Indiana, called up the following resolution from the Committee on Rules:

Resolved, That notwithstanding the previous action of the House relative to the conference report on the disagreeing votes of the two Houses on the bill H. R. 3835, immediately upon the adoption of this resolution the House shall consider said conference report without the intervention of points or order against the same.

The resolution was agreed to, and thereupon Mr. Jones again called up the conference report ruled out on the previous day, and after consideration it was agreed to in the form in which originally presented.

3271. The practice of the House does not countenance the reservation of points of order against a conference report when presented for printing, and questions of order are not entertained until the report has been read for consideration.—On April 15, 1920,[3] Mr. William R. Wood, of Indiana, submitted the conference report on the legislative, executive, and judicial appropriation bill for printing under the rule.

Mr. John N. Garner, of Texas, being recognized to submit a parliamentary inquiry, said that recently a number of Members had risen when conference reports were presented for printing and reserved all points of order as when appropriation bills were reported. Mr. Garner inquired if it was necessary to rise and make such reservation of points of order when conference reports were filed.

The Speaker [4] held that the practice of reserving points of order against conference reports when presented for printing was unwarranted, as the proper time to raise a question of order against a conference report was after the report had been read for consideration and before the reading of the statement.

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[1] Henry T. Rainey, of Illinois, Speaker.

[2] Record, p. 3060.

[3] Second session Sixty-sixth Congress, Record, p. 5688.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

3272. Under the former Senate practice, a conference report was not subject to the point of order that the conferees had exceeded their authority.

Instance wherein the Vice President expressed the opinion that the practice of the Senate should be amended by making conference reports subject to the point of order that conferees had exceeded their authority by incorporating matters not in disagreement between the two Houses.

The adoption of the present rule [1] and practice of the Senate requiring conferees to limit their reports to matters in disagreement between the two Houses.

On February 12, 1917,[2] in the Senate on motion of Mr. Henry F. Ashurst, of Arizona, by unanimous consent, the conference report on the Indian appropriation bill was taken up for consideration.

Mr. Charles Curtis, of Kansas, raised the question of order that the conferees had inserted in the conference report matter not in disagreement between the two Houses.

The Vice President [3] declined to entertain the point of order and said:

> The Chair has been observing these conference reports for four years, and it is not an unfair statement to say that quite a good deal of the important legislation of the Congress of the United States is transacted in the conference committees, and not in the Senate and the House of Representatives of the United States. The Chair understands the rule to be that the conferees have no right in conference to insert in the report which they make or in the agreement into which they enter anything except matters which were in dispute between the two Houses. Nevertheless, it is constantly being done by conference committees. It has, however, been the settled rule of the Senate that a point of order could not be made to a conference report, the sole question being whether the report shall be concurred in or whether it shall be rejected and sent back to conference again, with or without instructions.
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> Vice President Hobart did not decide the point of order, but submitted it to the Senate, and said that the Senate should settle it by either agreeing or disagreeing to the conference report.

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[1] On March 8, 1918, Second session Sixty-fifth Congress, Record, p. 3180, the Senate adopted the following rule:

"Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report shall be recommitted to the committee of conference."

This amendment to the rules was introduced by Mr. Charles Curtis, of Kansas, and adopted on March 8, 1918.

It became necessary to make this change in the Senate's rules in order to control legislation by conference committees.

The requirement that a conference report be accepted in its entirety or rejected led to the practice by conference committees of rewriting legislation in conference. Often important changes in existing law or new legislation proposals which had not been debated, considered, or voted upon in either the House or Senate were incorporated in conference reports. The Senate or the House could by a majority vote reject a conference report in which the conferees had attempted to write new legislation, but frequently near the end of a session it was a choice of accepting the conference report or of having no legislation at all. The rule was adopted to remedy this defect. With the adoption of this rule the practice of the two Houses became identical.

[2] Second session Sixty-fourth Congress, Record, p. 5064.

[3] Thomas R. Marshall, of Indiana, Vice President.

Senator Lodge, when he occupied the chair, said that the point of order should be decided by the Senate, but it was not ruled upon, the Senate having rejected the conference report.

This is not a full and complete conference report. If the report be disagreed to, as it has been reported, the question can then go back to conference, either with or without instructions on the part of the Senate.

The Vice President added:

The Chair believes, however, that at some time, if the insertion of new matter does not stop, it will be the duty of a Presiding officer to sustain a point of order; and, although it is opposed to all the precedents of the United States Senate, the Chair proposes to reserve the right at some time in the future to sustain the point of order and test the opinion of the Senate upon that practice; but in view of the condition of this particular case, and in view of the fact that the Chair believes he is ruling in accordance with the precedents, he is now overruling the point of order of the Senator from Kansas.

3273. Under a recent rule of the Senate, a conference report ruled out of order on the ground that it inserted matter not committed to the conference and omitted matter agreed to by both Houses, was recommitted to the committee of conference.

On August 25, 1922,[1] the Senate resumed consideration of the conference report on the bill (H. R. 9103) for the appointment of additional district judges for certain courts of the United States.

The Presiding Officer[2] invited further discussion of the point of order previously made by Mr. John K. Shields, of Tennessee, that the conferees had eliminated matter agreed to by both Houses and had inserted matter not committed to them by either House.

Ater debate, the Presiding Officer rules:

The rule that is invoked reads as follows:

"Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report shall be recommitted to the committee of conference."

This rule was adopted to meet a practice of the Senate that had become an abuse and to which objection had often been made. It is clear and definite in the limits which it imposed upon the action of the conferees. It has not been often invoked since its adoption, but when invoked it is controlling upon the Senate. Whether the objection made is technical or substantial, if it comes within the terms of the rule, no discretion is left in the Presiding Officer.

The first objection to this conference report is based upon the provision in the House bill that reads:

"The Attorney General shall, upon request of the Chief Justice, report to said conference on matters relating to the business of the several courts of the United States, with particular reference to causes or proceedings to which the United States may be a party, together with such recommendations or requests as may be deemed proper. The Attorney General shall not be a member of said conference."

That is the provision placed in the bill by the House. As the bill passed the Senate it contained this provision:

"The Attorney General shall, upon request of the Chief Justice, report to said conference on matters relating to the business of the several courts of the United States, with particular reference to causes or proceedings in which the United States may be a party."

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[1] Second session Sixty-seventh Congress, Record, p. 11766.

[2] Mr. Wesley L. Jones, of Washington, Presiding Officer.

That language is identical with the language of the House, as far as it goes, and the Chair thinks that it states a distinct matter, or proposition, and that the further provisions in the House bill—"together with such recommendations or requests as may be deemed proper" and "the Attorney General shall not be a member of said conference"—are in substance and statement two additional matters, and it seems to the Chair that the first matter stated in the House provision was adopted in the bill as it passed the Senate and comes clearly within the prohibition of the rule against omitting matter adopted by both Houses.

The next objection is based upon this language. The House bill provided:

"Said judges shall be residents of the districts for which appointed and shall receive the same salary and allowances and shall possess, exercise, and perform the same jurisdiction, powers, and duties as is now provided by law."

The Senate provision is:

"Every judge shall reside in the district or circuit or one of the districts or circuits for which he is appointed and shall devote his time to the duties of his office and shall not engage in any other employment for which he receives compensation, and for offending against the provisions of this section shall be deemed guilty of a high misdemeanor."

The Chair thinks there are several independent matters contained in each one of these provisions. There is the provision, "Said judges shall be residents of the districts for which appointed." That is a distinct matter. The Senate bill provided:

"Every judge shall reside in the district or circuit or one of the districts or circuits for which he is appointed."

These two propositions are identical in substance and almost in language. They have nothing to do with the qualifications of the judge or with the salary which he shall receive. In other words, both Houses provided that each judge should reside in his district or circuit.

The point is made that this is covered by existing law. That may be true, and yet the Senate and the House both seemed to think that a provision of this sort was necessary, and inserted it. The rule says that a matter passed upon by both Houses shall not be eliminated. No discretion is left to the conferees as to whether it is covered by existing law or not.

It seems to the Chair that the point of order on that matter must be sustained.

The next proposition is with reference to the provision relating to the middle district of Tennessee. The House made provision for an additional judge for this district. It was conceded that under existing law the present judge is the judge for the eastern and the middle districts of Tennessee. The Senate made no provision for an additional judge for the middle district. The provision as finally agreed to and submitted by the conferees takes away the jurisdiction given to the present judge by existing law in the middle district and limits his jurisdiction to the eastern district.

The question of limiting the jurisdiction of the existing judge was not submitted to either House; neither House gave it any consideration whatever; and the Chair believes it to be new matter in the conference report and prohibited by the rule.

The Chair sustains the point of order on all three grounds.

The Presiding Officer having concluded his ruling, Mr. Albert B. Cummins, of Iowa, as a parliamentary inquiry, asked what disposition would be made of the conference report.

The Presiding Officer replied:

The rule says that when a point of order is sustained, the report shall be recommitted to the conference.

The Chair is informed that the House has not yet acted upon the conference report. If that is the case, there is still a conference committee. The clerk at the desk informs the Chair that the House has not yet acted on the report.

The Chair is of the opinion that the conference committee is still in existence and that this report will go back to the conference committee.

3274. A question being raised in the Senate as to whether conferees had exceeded their authority, it was held that conferees might include in

their report provisions from either the Senate or House bills, and the Chair in passing on points of order was not authorized to take into consideration the effect of such provisions in conjunction with provisions inserted from the bill passed by the other House.—On September 16, 1922,[1] on motion of Mr. Porter J. McCumber, of North Dakota, the Senate proceeded to the consideration of the conference report on the bill (H. R. 7456), the tariff bill.

Mr. F. M. Simmons, of North Carolina, made the point of order that the conferees had exceeded their jurisdiction. He submitted that the House bill prescribed rates on a basis of American valuation, and conferred on the President no powers to proclaim or modify valuation; that the Senate provision provided rates on a basis of foreign valuation and gave the President power to increase or decrease duties; and therefore the conferees in adopting foreign valuation but conferring on the President power to proclaim American valuation, had exceeded the limits imposed by the disagreement of the two Houses.

The President pro tempore[2] took the question under advisement, and on September 18,[3] delivered his opinion as follows:

The point of order made by the Senator from North Carolina is as follows:

"I wish to make a point of order against the report. I think the conferees have exceeded their authority in the matter of authorization to the President to proclaim the so-called American valuation."

The Record shows that the House bill adopted what is known as the American valuation as the basis for its ad valorem duties, and gave no authority to the President to change the duties prescribed in the bill. The Senate bill adopted what is known as the foreign valuation as the basis of ad valorem duties and conferred upon the President the power to increase or decrease them 50 percent, if found necessary, in order to equalize the difference in the cost of production in this country and in foreign countries.

Under the Senate bill, paragraph (a), section 315, and with respect to ad valorem duties, the effect of establishing a foreign valuation necessarily required the President to use that plan in reaching his conclusions. But paragraph (b) of section 315 enlarged his power and permitted him to use the American valuation upon two paragraphs, if he found that such valuation was necessary in order to make the duties measure the difference in the cost of production at home and abroad.

As already stated, the House bill adopted American valuation and the Senate bill foreign valuation as the basis for ad valorem duties. It is in this difference, if at all, that the jurisdiction of the conferees to make the change respecting the powers of the President must be found. Disregarding for the moment the sections giving authority to increase or diminish duties under certain conditions, it will not be questioned that the conferees could lawfully have agreed that the American valuation should apply to certain of the paragraphs in the dutiable list and the foreign valuation to other paragraphs. Nor can it be doubted that the Senate conferees would have been within their jurisdiction had they receded from the Senate amendment to the Senate bill with regard to valuations and accepted the House plan of valuation. Furthermore this could have been done even though the Senate percentages of duties had been retained throughout.

It is commonly believed that if this course had been pursued the duties actually to be paid would, in many instances, be much higher than would be paid under either the Senate or the House bill, and this may be true even though paragraph (b) of section 315 of the conference bill forbids an increase in the rate; but in ruling upon a point of order the Chair can not take judicial notice of that fact, if it be a fact. For aught the Chair knows from the record upon which its

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[1] Second session, Sixty-seventh Congress, Record, p. 12753.

[2] Albert B. Cummins, of Iowa, President pro tempore.

[3] Record, p. 12795.

ruling must be founded, if the proposed enactment becomes a law, the foreign valuation of any given article may be as high than the American valuation of the same article. As a Senator I may entertain a certain belief upon the matter and vote accordingly, but as the Presiding Officer of the Senate, acting in a judicial capacity, I am without knowledge upon the subject.

With these preliminary observations, which seem to the Chair indisputable, we approach the vital inquiry which may be thus concretely stated: In order to reach a settlement of the differences respecting the plan of valuation, could the House conferees rightly say to the Senate conferees, "We will recede from the American-valuation plan, accept the foreign-valuation plan, and accept the authority of the President to modify duties, provided you will agree to extend the authority of the President so that he may employ our plan upon the whole dutiable list whenever he finds it necessary in order to equalize the difference in the cost of production in this country and in foreign countries"; and could the Senate conferees, acting within their lawful powers, accept the proposal?

The Chair appreciates the consequences which follow an affirmative answer to this question, but these consequences inhere in the nature and extent of the difference between the two Houses relating to the plan of valuation. If the Senate conferees could accept American valuation as a whole—and this is not denied—it seems clear that they could accept a qualified and limited use of that plan by the President. Moreover, if the Senate conferees had accepted American valuation throughout and made no change whatever in section 315, the Chair is of the opinion that the President would have had precisely the same power that he will have under the conference bill.

It is quite impossible to separate valuation from presidential authority in this measure, and the Chair firmly believes that the change which the conferees have wrought in the bill, so far as the question we are discussing is concerned, was within their jurisdiction and that it must be dealt with by the Senate in its action upon the question of agreeing or disagreeing to their report. The point of order is overruled. The question is upon agreeing to the report of the conferees.

3275. A conference committee may not include in its report new items, constituting in fact a new and distinct subject not in difference, even though germane to questions in issue.

A conference report being ruled out in the Senate on a point of order, was recommitted under the Senate rules to the committee of conference.

Interpretation of the term "new matter" as used in the Senate rule.

On February 17, 1925,[1] the Senate resumed consideration of the report of the committee on conference on the disagreeing votes of the two Houses on the bill (H. R. 518) to authorize and direct the Secretary of War, for national defense in time of war and for the production of fertilizers and other useful products in time of peace, to sell or lease to Henry Ford certain plants owned by the Government at Muscle Shoals, Ala.

During debate, Mr. George W. Norris, of Nebraska, raised the question of order that the conferees had included in their report a new item relating to the employment by the President of agents to carry out purposes of the act; a new item relative to the rental to be paid for Dam No. 2; a new item relating to the production of nitrogen; and a new item relative to construction work on Dam No. 3.

Subsequently, on the same legislative day,[2] but on the calendar day of February 20, the President pro tempore [3] ruled:

The Chair recognizes that the points of order made by the Senator from Nebraska present questions, which are not only exceedingly important but exceedingly difficult and upon which

[1] Second session Sixty-eighth Congress, Senate Journal, p. 210; Record, p. 4123.

[2] Journal, p. 215; Record, p. 4244.

[3] Albert B. Cummins, of Iowa, President pro tempore.

there is an opportunity for wide differences of opinion. These differences will never be settled finally until they are settled by a decisive vote of the Senate itself. In the ruling the Chair is about to make, the text of the House bill is entirely disregarded, for, in the opinion of the Chair, it can not be fairly claimed that the two House in their original action agreed upon any point or upon any thing. There were, of course, some features of similarity, but these features of similarity were so connected with other consideration and so influenced by other provisions that the Chair is forced to the conclusion that the jurisdiction of the conference committee was neither expanded nor limited by anything contained in the original House bill as compared with the Senate bill. This means that, in the judgment of the Chair, the points of order must depend upon a comparison of the Senate bill with the report of the conference committee. It is urged on the one hand that when so compared "now matter" will be found in the conference report and that, therefore, the report is objectionable under Rule XXVII. It is urged upon the other hand that the phrase "new matter" does not prohibit the incorporation in a conference report of matter which is germane to the subject or subjects of the bill.

The subjects of the Senate bill were—

First. The disposition by lease of certain specified property belonging to the Government situated at or near Muscle Shoals, Ala.

Second. In the event of a failure to lessee or in the event of a cancellation of the lease, the operation of the property so leased together with other property by a Government-owned corporation.

There can be no doubt that the changes made in the Senate bill in conference are germane in a broad, general sense to the subjects dealt with in the Senate bill, and if that is the test to be applied the points of order must be overruled.

The Chair, however, finds itself unable to interpret the second paragraph of Rule XXVII with the breadth contended for by those who seek to sustain the conference report. This paragraph of Rule XXVII to which reference has been made is as follows:

Second. In the event of a failure to lease or in the event of a cancellation of the lease,

"Conferees shall not insert in their report matter not committed to them by either House, nor shall they stricken from the bill matter agreed to by both Houses. If new matter is inserted in the report of if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained the report shall be recommitted to the committee of conference.

The Chair has already observed there was nothing agreed upon by both Houses, and that part of the rule will not be further considered. There remains to be considered the prohibition that "conferees shall not insert in their report matter not committed to them by either House" and the requirement that "new matter" must not be inserted in a report. What is "new matter"? It is quite impossible to define this phrase with that accuracy and precision which will make any rule announced applicable to the infinite variety of cases that will arise. It may be remarked, however, that some three of four years after the adoption of paragraph 2 of Rule XXVII the Senate amended Rule XVI relating to the consideration of appropriation bills, and the amendment provided:

"The Committee on Appropriation shall not report an appropriation bill containing amendments proposing new or general legislation, and if an appropriation bill is reported to the Senate containing amendments proposing one or general legislation a point of order may be made against the bill, and if the point is sustained the bill shall be recommitted to the Committee on Appropriations."

It has seemed to the Chair that the words "new matter" as found in Rule XXVII and "new legislation" as found in Rule XVI must mean practically the same thing. The fact of the identity of these two phrases makes it all the more important that the ruling upon the points of order now before the Senate shall be correct. Without attempting to define "new matter," the Chair is of the opinion that it was intended, when this paragraph of the rule was adopted, to restrict the general parliamentary law as frequently announced by the Speaker of the House of Representatives. The House knew, when it sent the bill to conference, that the rule of the Senate forbade the insertion of "new matter" in a conference report, and the Chair assumes it adopted that plan for bringing the House into agreement with full understanding of the limitation placed upon the Senate conferees.

The Chair does not desire to be understood as holding that every change made in the Senate bill by the conference report constitutes "new matter." It is of the opinion that in order to bring the change within the spirit of Rule XXVII "new matter" must be of substantial import; that is to say, a change affecting in a substantial way the plan proposed in the Senate bill.

It is the judgment of the Chair that many such changes appear in the conference report. The Chair has been in some doubt with respect to the propriety of pointing out these changes which, in the judgment of the Chair, bring the conference report under the prohibition of the rule. He has, however, concluded not to name the specific instances in which, as viewed by the Chair, the rule has been violated.

The Chair has been in grave doubt with regard to that matter. He has before him at the present moment a half dozen or more instances in which, in his judgment, Rule XXVII was violated in the conference report. The points of order is so far as they challenged the insertion of new matter in the conference report are sustained.

From the decision of the Chair, Mr. Oscar W. Underwood, of Alabama, appealed to the Senate. On February 23,[1] (Legislative day of February 17) the question was taken:

Shall the decision of the Chair stand as the judgment of the Senate?

when there were yeas 45, nays 41, and the question was decided in the affirmative. So the decision of the Chair was sustained, and the conference report was referred to the committee of conference.

3276. Where one House strikes out all of a bill of the other after the enacting clause and inserts a new text and the differences over this substitute are referred to conference, the managers have a wide discretion in incorporating germane mattes.

While the practice of both House and Senate prohibits the elimination of provisions agreed to by both Houses, the language must be identical and any deviation of the two texts abrogates the rule.

On February 27, 1919,[2] the Senate took up the consideration of the conference report on the bill (H. R. 13274) providing for the validation of war contracts.

The report being read, Mr. Kenneth D. McKellar, of Tennessee, made the point of order that the conferees had exceeded their authority of eliminating matter passed by both Houses.

In support of his contention, Mr. McKellar cited Rule XXVII of the Senate, reading:

"Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses."

Mr. McKellar then called attention to the proviso in the bill, as passed by the House, reading as follows:

"And provided further, That the names of such contractors and the amounts of such partial or final settlements shall be filed with the Clerk of the House, for the information of Congress, and printed in the Congressional Record or in the Official Bulletin or as a public document 10 days before confirmation and payment is authorized upon such contracts."

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[1] Journal, p. 224; Record, p. 4403.

[2] Third session, Sixty-fifth Congress, Record, p. 4412.

This provision, he contended, was substantially similar to the following proviso incorporated in the bill as it passed the Senate:

And provided further, That the names of such contractors and the amounts of such partial or final settlements shall be filed with the Clerk of the House, for the information of Congress, and final settlements shall be filed with the Clerk of the House, for the information of Congress, and printed in the Congressional Record or as a public document within 10 days after such confirmation.

The Vice President [1] overruled the point of order as follows:

The Chair has heretofore gone to great lengths in sustaining the rule of the Senate with reference to the insertion of new matter and the omission of matter agreed to by the two Houses. In an early opinion after this rule was adopted, the point of order was sustained where there was a section in the original bill of the House and a section on the original bill of the Senate which were identically the same. That ruling went further than the precedents than the precedents of the House of Representatives have been from the days of Speaker Colfax down. Those rulings are uniformly to the effect that where the Houses passes a bill and the Senate strikes out all after the enacting clause and passes another bill, when it goes to conference the matter is practically in the hands of the conferees to report such a bill, germane to the subject of the conference, as the conferees may think proper, and then it is for the two Houses to say whether or not they will adopt the conference report. As heretofore stated, however, the Chair, being extremely desirous of sustaining this rule of the Senate, did sustain a point of order under circumstances of a bill enacted by the House, all after the enacting clause stricken out, and a new bill inserted in the Senate, where in both bills there was a section identical in language.

Now, let us see where we are.

This is a proviso contained in each bill. It is not identical in the two bills at all, beyond the fact that each required the names of the contacts and the amounts of partial or final settlements to be filed with the House for the information of Congress. There it ends, so far as the terms are identical in the two bills. After that, in the House bill it is to be printed in the Congressional Record or in the Official Bulletin or as a public document 10 days before confirmation and payment as authorized upon such contract. The Chair is inclined to think that the important thing in the bill was the requirement that it be printed somewhere 10 days before confirmation and payment. In the Senate bill it is to be printed in the Congressional Record or as a public document within 10 days after such confirmation.

The Chair thinks there were just about 20 days in controversy before the conferees, and that they had a right to strike the proviso out. The Chair overrules the point of order. If Senators desire either provision retained, they can vote to reject the conference report for that reason.

3277. Under the later practice of the Senate, the Chair rules out of order a conference report incorporating matter not in disagreement between the two Houses.

When held to be in violation of the Senate rule prohibiting the incorporation of new matter, a conference report is automatically recommitted to the committee of conference.

On March 13, 1918,[2] on motion of Mr. Ellison D. Smith, of South Carolina, the Senate resumed consideration of the conference report on the bill (S. 3752) to provide for the operation of transportation systems while under Federal control.

Mr. Joseph S. Frelinghuysen, of New Jersey, made the point of order that the conferees, in contravention of the recently adopted rule of the Senate, had inserted new matter in the conference report.

In debate it developed that the original Senate bill carried this proviso:

That nothing in this act shall be construed to amend, repeal, impair, or affect the existing laws or powers of the States in relation to taxation.

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[1] Thomas R. Marshall, of Indiana, Vice President.

[2] Second session Sixty-fifth Congress, Record, p. 3418.

The bill substituted by the House included the proviso as drafted by the Senate and added this language:

or the lawful police regulations of the several States, except wherein these regulations may affect the transportation of troops, war materials, or Government supplies, the regulation of rates, the expenditure of revenues, the addition to or improvement of properties, or the issue of stocks and bonds.

The conference report included the proviso as it appeared in the House substitute, but also incorporated this additional proviso:

Provided, however, That no State or subdivision thereof or the District of Columbia shall levy, assess, or collect an amount of taxes from railroad property within the State or subdivision thereof or the District of Columbia, while under Federal control, in excess of the ratio which the taxes derived from railroad property bore to the total taxes of such State or subdivision thereof or the District of Columbia for the year previous to Federal control.

Mr. Frelinghuysen contended that the additional proviso carried new matter not in dispute between the two Houses and was in violation of the Senate rule prohibiting the incorporation of matter no in disagreement.

The Vice President [1] held:

The bill going to conference, the House having stricken out the Senate bill, the entire subject of taxation was before the conferees, and they could change it in any way they pleased, so long as it was germane to the bill. But, there is no doubt that the proviso added totally changed both the Senate and House text and limited the power of the State to impose taxation. The Chair sustains the point of order.

To this ruling Mr. Smith excepted and, the question being taken on the appeal, the yeas were 51, the nays were 23, and the ruling of the Chair was sustained.

The result of the vote being announced to the Senate, the Vice President said:

The conference report is rejected on the point of order and recommitted to the committee of conference.

Mr. Smith questioned whether under the rule the recommitment of conference reports ruled out on point of order was automatic.

The Vice President read the rule [2] to the Senate and announced:

The report is automatically recommitted to the committee of conference.

3278. On April 18, 1918,[3] the Senate, on motion of Mr. Henry F. Ashurst, continued debate on the conference report on the Indian appropriation bill under consideration on the previous day.

Mr. Charles Curtis, of Kansas, resumed discussion of the pending point of order which he had submitted when the report was last under discussion. He argued that the action of the managers in striking from the bill the clause "except oil and gas leases" extended the authority of the Secretary of the Interior to lease Indian lands to include oil and gas lands, a subject which neither the House nor the Senate had considered.

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[1] Thomas R. Marshall, of Indiana, Vice President.

[2] Paragraph 2 of Rule XXVII of the Senate.

[3] Second session Sixth-fifth Congress, Record, p. 5240.

The Vice President [1] held that the point of order was well taken and said:

This is not a question as to what the law is or what the law should be, nor is it a question as to what the legislation should or should not be; it is a plain question as to what can be done in this conference report under the rules of the Senate. The Senate adopted an amendment appropriating certain money and providing that no part of that money should be used in forwarding undisputed claims to the department at Washington for approval, but that they might be approved by the superintendent of the Five Civilized Tribes in Oklahoma. The claims, which the Senate provided should not be forwarded to the Interior Department, were agricultural and mineral leases, and the provisions specifically excepted oil and gas leases therefrom. The rule of the Senate recently adopted is that—

"Conferees shall not insert in their report matter not committed to them by either House."

The conferees have now provided that oil and gas leases shall not be sent to Washington for approval by the Secretary of the Interior. That is a plain insertion of new matter by the conferees, and the Chair sustains the point of order.

The conference report is recommitted to the committee of conference.

3279. Where the House had acted on a conference report, thereby discharging its conferees, the Senate being unable to comply with its rule recommitting invalidated conference reports to committees of conference, requested further conference without taking further action on the amendments in disagreement.—On February 24, 1919,[2] in the Senate, Mr. Key Pittman, of Nevada, rising to a parliamentary inquiry, asked what action would be taken by the Senate on the conference report on the bill (S. 2812), the oil leasing bill, which had been ruled out on a point of order on the previous legislative day, the house having agreed to the report and discharged its conferees, and there being no committee of conference to which the report could be referred by the Senate under the rule.

The Vice President [1] held it would be necessary for the Senate to ask further conference with the House in order to secure reappointment of the managers on the part of the House and provide a committee of conference to which the invalidated conference report could be referred under the Senate rule.

In response to a further inquiry from Mr. Pittman, the Vice President also held that no mention of the attitude of the Senate on the amendments in dispute and no request for action on the amendments by the House should accompany the request for conference.

Thereupon on motion of Mr. Pittman, the Senate asked further conference with the House on the disagreeing votes of the two Houses on the bill, and the Vice President reappointed the original managers on the part of the Senate.

3280. Conferees having reported tariff rates not in disagreement, the Vice President held them subject to a point of order and recommitted the conference report to the committee of conference.

Conferees appointed for a further conference on matters remaining in disagreement after the adoption of a first conference report have no jurisdiction over differences composed in the previous report.

Contrary to the practice in the House, questions of order against conference reports may be raised in the Senate at any time before the report is agreed to.

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[1] Thomas R. Marshall, of Indiana, Vice President.

[2] Third session Sixty-fifth Congress, Record, p. 4114.

In the Senate it was held that an appeal from a decision of the Chair should be presented at the time the decision is announced and before the intervention of further business.

Where House conferees have not reported and the House has taken no action, recommitment of a conference report by the Senate was held not to require reappointment of conferees by the House.

On May 27, 1930,[1] the Vice President laid before the Senate the second conference report on the disagreeing votes of the two Houses on certain amendments to the tariff bill.

Mr. Alben W. Barkley, of Kentucky, inquired when it would be permissible to submit points of order against the report.

The Vice President held that questions of order against a conference report could be raised at any time before the report was agreed to.

After further debate, Mr. Barkley made the point of order that the managers had exceeded their jurisdiction by writing into their report the flexible provisions which had not been considered by either House.

The Vice President [2] ruled:

> The Chair recalls that many complaints were made years ago in regard to the action of conferees in inserting new matter, legislative in character, in reports submitted by them. The present occupant of the Chair proposed the following rule to cure the practice then at times indulged in, and it was embodied in Rule XXVII of the Standing Rules of the Senate:
>
> "Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike form the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report shall be recommitted to the committee of conference."
>
> The Chair is of the opinion that the following language in the conference report is clearly new matter:
>
> "In the event the President makes no proclamation of approval or disapproval within such 60-day period, the commission shall immediately by order publicly declare such fact and the date of expiration of such period, and the increased or decreased rates of duty and the changes in classification or in basis of value recommended in the report of the commission shall, commencing 10 days after the expiration of such period, take effect with respect to the foreign articles when so imported."
>
> The point of order is sustained.

On June 5,[3] the Senate resumed consideration of the last conference report on the tariff bill, and Mr. Barkley submitted the point of order that the conferees had exceeded their authority by inserting in the paragraph on cheese, in the paragraph on watches, in the paragraph on livestock, and in the paragraph on rayon rates which were not in disagreement between the two Houses.

Mr. Carl Hayden, of Arizona, raised a further point of order against the rates inserted by the conferees in the cattle schedule.

The Vice President sustained the point of order against the rates inserted in the cheese schedules. In the watch and clock schedule, he overruled the point of order as to movements, but sustained it as to unset jewels. He declined to pass on

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[1] Second session Seventy-first Congress, Record, p. 9646.

[2] Charles Curtis, of Kansas, Vice President.

[3] Record p. 10093.

the point of order against the schedules on cherries, on the ground that the Chair was in doubt and it was unnecessary as the report was being recommitted to the committee of conference on other schedules. He sustained the point of order against the schedule on rayon and the point of order against the livestock schedule.

Thereupon, Mr. Reed Smoot, of Utah, moved that the Senate insist on its amendments, ask further conference with the House, and that the Chair appoint conferees on the part of the Senate.

The motion being put and being agreed to, the Vice President continued the original conferees.

On a parliamentary inquiry submitted by Mr. Samuel M. Shortridge, of California, the Vice President held that an appeal from a decision of the Chair must be made immediately following the decision and before further business had been transacted.

In response to a further inquiry by Mr. Shortridge, the Vice President ruled that the decision of the Chair just rendered sustaining the point of order recommitted the second conference report only and did not apply to the first conference report still on the table.

On the same day[1] a message from the Senate was received in the House transmitting the following resolution:

Resolved, That the report of the committee of conference on the disagreeing votes of the two Houses on the various amendments of the Senate to the bill (H. R. 2667) entitled "An act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes," upon which the first committee of conference on said bill were unable to agree, which report was presented to the Senate on May 26, 1930, be recommitted to the committee of conference on said bill.

The message having been read, Mr. John N. Garner, of Texas, inquired of the Chair of action on the second conference report affected the first conference report previously considered and whether it would be necessary to reappoint conferees.

The Speaker[2] held conferees appointed for the second conference had no jurisdiction over matters committed to the first conference; that the matters disposed of in the first conference report were no longer in conference so far as the House was concerned, and any attempt on the part of the conferees of the second conference to modify provisions of the first conference report would be subject to a point of order.

The Speaker continued:

As the Chair understands the parliamentary situation, it is this: A point of order was made in the Senate and sustained, based on the flexible tariff provision, in that the conferees had exceeded their jurisdiction. The rule in the Senate in such cases is that where a point of order is made and sustained, the other House not having acted, the conferees remain as conferees, and it is automatically recommitted to the conference committee. In the House, however, the rule is different. Where a point of order is made and sustained, the conferees are retired; but in view of the fact that the House has taken no action, the conferees not having reported any action of the second conference to the House, the Chair thinks that automatically, this action having been taken by the Senate, the existing conferees remain in so far as the second conference is concerned.

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[1] Record, p. 9789.

[2] Nicholas Longworth, of Ohio, Speaker.

3281. A conference report proposing duties beyond the range of rates provided by either House bill or Senate amendments, a point of order was sustained and the report was recommitted.

Conferees reporting tariff rates higher than those provided by bill or amendments were held to have exceeded their authority.

On June 4, 1930,[1] the Senate resumed consideration of the conference report on the bill (H. R. 2667), the tariff bill.

In the course of the consideration of the report, Mr. Alben W. Barkley, of Kentucky, submitted the point of order that the provisions of the report extended beyond the scope of either the bill passed by the House or the amendments proposed by the Senate.

Mr. Barkley pointed out that while in both the bill and the Senate amendments a duty of 10 per cent ad valorem was levied on set and unset watch movement jewels, in the conference report unset jewels were transferred to the clock schedule, where they bore a straight duty of 20 cents each, a duty in excess of that provided by either the House or the Senate.

Mr. Barley further pointed out that although the House bill provided a maximum rate of only 7 cents a pound on cheese, and the Senate amendments levied a maximum rate of but 5 cents a pound, the conference report fixed a duty of 8 cents a pound.

Mr. Barkley also called attention to the rate of 40 cents per pound on rayon carried both in the bill and Senate amendment No. 657, and the increase of the rate in the conference report to 45 cents a pound, a rate beyond the limit set by either House.

Mr. Carl Hayden, of Arizona, submitted the further point of order that while the bill and Senate amendments provided uniformly for the pasturage of domestic cattle across international boundary lines, and agreed on a period of eight months' pasturage without payment of duty on return, the conference report differentiated between provisions for the northern and southern boundaries, and reduced the period of pasturage, without duty on return, to three months.

The Vice President[2] ruled as to the first point of order:

> The House provision, subsection (d) reads as follows:
> "Jewels suitable for use in any movement, etc., 10 per cent."
> The Senate provision reads:
> "All jewels for use in the manufacture of watches, etc., 10 per cent."
> The conference provides:
> "Jewels, unset, suitable for use in any movement"—
> The word "unset" does not appear in the measure as it passed the House, or as it passed the Senate, but was added in conference, thereby creating a new classification of jewels.
> The point of order is sustained.

As to the point of order against the increase in duty on cheese, the Vice President held:

> The rates on cheese as carried in the tariff act are as follows:
> House: Cheese and substitutes therefor, 7 cents per pound.
> Senate: Cheese and substitutes therefor, 8 cents per pound.

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[1] Second session Seventy-first Congress, Record, p. 10022.

[2] Charles Curtis, of Kansas, Vice President.

The conference report: Cheese and substitutes therefor, 8 cents per pound.

It will be seen from the above that the duty on cheese is increased beyond the rates carried in either the House or Senate provisions, therefore this point of order is sustained.

The Vice President sustained the point of order against the rayon schedule, as follows:

The Chair has had submitted quite a number of briefs on the rayon amendments and is thoroughly of the opinion, after most careful consideration, that the conferees exceeded their authority in changing the rates in that schedule and sustains this point of order.

The point of order on live stock was also sustained in the following language:

It seems to the Chair that the conferees exceeded their authority by separating the boundaries and prescribing different time limits from those carried in either the act as it came from the House or as it passed the Senate.

This point of order is sustained.

Thereupon, on motion of Mr. Reed Smoot, of Utah, the Senate insisted on its amendments, asked further conference with the House, and authorized the appointment of conferees on the part of the Senate.

3282. Points of order against a conference report are not entertained until the report has been read, and may not be made after the statement has been read.

Managers of a conference are limited to the differences committed to them and may not inject subjects not within the disagreements between the two Houses.

On October 4, 1919,[1] Mr. Gilbert N. Haugen, of Iowa, called up the conference report on the bill (H. R. 8624) pertaining to rents in the District of Columbia, and the Clerk read the title of the bill.

Mr. Philip P. Campbell, of Kansas, proposing to reserve points of order on the bill, the speaker ruled that points of order could not be entertained until the conference report had read and could not be considered after the reading of the statement.

The reading of the report having been concluded, Mr. James T. Begg, of Ohio, made that point of order that the conferees had gone beyond their jurisdiction by including the subject of rents for land when the differences committed to them concerned only rents for buildings.

After extended debate, the Speaker[2] sustained the point of orders as follows:

The Chair appreciates the importance of sustaining a conference report, and the Chair has been anxious from the beginning to be able, preserving his mental integrity, to rule that this conference report was in order. But preserving the authority of the rules of the House is more important than the inconvenience of sending a bill back to conference, the Chair stated in the beginning of the discussion the difficulty which confronted the Chair, hoping that the difficulty would be met and removed by argument. The Chair regrets to say that that difficulty still confronts him and seems insuperable. The question at issue is whether the conference report has gone beyond the subject matter of the Senate amendment. The Senate amendment dealt with rents, but at the very beginning it practically stated in a definition the precise subject with which it dealt, saying, "The

[1] First session Sixty-sixth Congress, Record, p. 6381.

[2] Frederich H. Gillett of Massachusetts, Speaker.

term 'rental property' means any building or part thereof in the District of Columbia." That seems to the Chair to be the subject of the Senate amendment.

Now the conferees were limited to that general subject. They might diminish it. They might take away from it. But the rule is well settled that the conferees can not introduce any new subject. Anything in connection in the way of procedure referring to the subject matter would be allowed. But the difference between the Senate and the House was that the Senate dealt with buildings or parts thereof, and the House, by disagreeing, refused to deal with anything, so that the conferees were limited in their jurisdiction between legislation affecting buildings and no legislation at all. They could introduce any matter germane to buildings, but they could not go beyond that. They introduced the new subject "land". It seems to the Chair that if the House had not some distinct purpose in view, the word "land" would not have been inserted. It broadens the scope of the Senate amendment by an entirely distinct subject matter: and so the Chair feels constrained to sustain the point of order.

On an appeal from the decision of the Chair by Mr. Ben Johnson, of Kentucky, a motion by Mr. Campbell to lay the appeal on the table was agreed to without division.

3283. On May 7, 1920.[1] the House had under consideration the conference report on the diplomatic and consular appropriation bill.

Mr. Stephen G. Porter, of Pennsylvania, having asked unanimous consent that the statement be read in lieu of the report, Mr. Frank Gardner, of Indiana, inquired when a point of order should be presented.

The Speaker replied that points of order were properly offered after the reading of the report, and in event the reading of the report was dispensed with, the should be submitted before the reading of the statement, which was in the nature of debate.

Thereupon, Mr. Tom Connally, of Texas, after Mr. Porter's request had been agreed to, and in advance of the reading of the statement, made the point of order that the managers had transcended their powers including in the conference report the following provision relative to the International Boundary Commission:

Provided, however, That this is to be considered as the final appropriation under existing treaties for the maintenance of said commission, and the President is hereby requested to notify the Republic of Mexico that the United States desires to dissolve the commission from and after six months from July 1, 1920.

The Speaker[2] sustained the point of order.

3284. A point of order against a conference report is properly made after the report has been read and before the reading of the statement.

Incorporation of new matter, when nonessential, subjects a conference report to the point of order that the conferees have exceeded their jurisdiction.

The invalidation of conference report on a pint of order is equivalent to is rejection by the House, but does not give the Member raising the question of order the right to the floor.

On January 12, 1917,[3] Mr. John L. Burnett, of Alabama, called up the conference report on the bill (H. R. 10384), the immigration bill.

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[1] Second session Sixty-sixth Congress, Record, p. 6709.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-fourth Congress, Record p. 1294.

The Speaker having directed the clerk to read the report, Mr. William S. Bennet, of New York, inquired when it would be proper to submit points of order.

The Speaker held that points of order against a conference report should be submitted after the report had been read and before the reading of the statement, which was in the nature of consideration.

The reading of the report having been completed, Mr. Bennet made the point of order that the conferees had exceeded their authority in providing that the act should take effect July 1, 1917, when the dates fixed by the House and Senate provisions were July 1, 1916, and May 1, 1917, respectively.

Mr. Augustus P. Gardner, of Massachusetts, also made the point of order that the conferees in inserting the language—

> And no alien now in any way excluded from or prevented from entering the United States shall be admitted to the United States.

had injected new matter not contained in the bill as passed by either House.

Mr. Gardner also raised the point of order that the matter inserted giving the Secretary of Labor authority to enter into certain negotiations was not within the compass of the matters of difference between the two Houses.

In debating the question of order, Mr. James R. Mann, of Illinois, argued that the date at which the act should take effect was not an essential provision and did not constitute the essence of the act and should not be permitted to invalidate the entire conference report.

The Speaker [1] ruled:

> The Chair is ready to rule on all three of these points. He overrules both points made by the gentleman from Massachusetts.
>
> Now, on this other point, about this trouble as to time, it is unnecessary for the Chair to state that he dislikes exceedingly to rule out a conference report on a point of order. But it seems to the Chair that it is better to have a rule and stick to it than to have a variety of decisions about the very same point.
>
> This case on the question of time is almost exactly "on all fours" with the decision the present incumbent of the chair rendered on the shipping bill. That was a question about time. In this case the House fixed this date of July 1, 1916. The Senate fixed it at May 1, 1917. The conferees fix the date as July 1, 1917.
>
> Well, it may be true, as the gentleman from Illinois states, that it is a sort of immaterial matter; but you can not have a ruling one way because the Chair or somebody else thinks the matter is immaterial and have it the other way when you think it is important.
>
> Now, on that shipping bill there was this same identical question of time, so in rendering that decision I said:
>
> "The Chair sustains the point of order as to time."

And he gives these reasons:

> "If there is anything settled about conferences between the two Houses it is this: Where two amounts are named and the question is referred to the conferees they may oscillate as much as they please between the two extremes, but they can not go below the lower amount and they can not go above the higher amount. That applies to sums of money in appropriation bills. This has been ruled so often that it is as familiar as the multiplication table. In tariff bills, where one House suggests one rate on any given article and the other House suggests another rate the conferees can not go below the lower and they can not go above the higher rate."

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[1] Champ Clark, of Missouri, Speaker.

Now, everybody will admit that it is a simple regulation as to a tariff bill. If that were not true, the conferees can go out and actually make a new tariff bill.

"As far as the suggestion that where everything after the acting clause is struck out, the conferees have carte blanche to bring in a bill, that is not the case here."

It is not the case now. There is no use to read the rest of it. The Chair sustains the point of order.

The Speaker then proposed to recognize Mr. Burnett to move disposition of the Senate amendments, when Mr. Bennett submitted that having preferred a point of order which had been sustained, he was entitled to the floor for the purpose of making a preferential motion, as when an essential motion by the Member in charge had been decided adversely.

The Speaker dissented and held the sustaining of a point of order was not such a proceeding as entitled the opposition to recognition, and recognized Mr. Burnett, the Member in charge, to move to send the bill to conference.

3285. Points of order against conference reports should be made after the reading of the report and before the reading of the statement, and, if the statement is read in lieu of the report, should be made or reserved before the reading of the statement.—On April 3, 1992,[1] the House was considering the conference report on the Interior Department appropriation bill. In motion of Mr. Louis C. Cramton, of Michigan, by unanimous consent, the statement was read in lieu of the report.

Following the reading of the statement, Mr. John E. Raker, of California, proposed to offer a point of order against the conference report.

Mr. William H. Stafford, of Wisconsin, objected that it was too late to entertain a point of order against the report, as the statement had been read.

The Speaker[2] stated that while it was well settled that points of order could not be entertained after the reading of the statement when the conference report was read, he was unable to recall any ruling on the question of when points of order must be presented when the statement was read in lieu of the report. Mr. James R. Mann, of Illinois, recalled that Speaker Clark had ruled on a number of occasions that where the statement was read in lieu of the report it was necessary to submit points of order before the reading of the statement.

Whereupon, the Speaker announced:

The Chair is informed by the parliamentary clerk that the Chair has never ruled on this question, and no authority is cited for allowing it after the statement, and the gentleman from Illinois states that Speaker Clark explicitly ruled in such cases that the point of order must be reserved. Therefore the Chair sustains the point of order.

3286. A point of order as to a conference report should be made before debate begins.—On March 3, 1931,[3] the conference report on the bill (H. R. 10672) to amend the naturalization laws with respect to notices of petitions for citizenship was taken up in the House.

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[1] Second session Sixty-seventh Congress, Record, p. 4947.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Third session Seventy-first Congress, Record, p. 7154

Debate having begun, Mr. John N. Garner, of Texas, raised the question of order that the managers had incorporated in the report provisions which were not in disagreement.

The Speaker [1] declined to entertain the point of order on the ground that it could not be presented after debate had begun.

3287. Points of order against conference reports should be made before the statement is read, and come too late after the reading of the statement has been concluded, even where the reading of the report has been waived.—On June 24, 1910,[2] the Clerk concluded the reading of the statement of the conferees on the conference report on the general deficiency bill.

Mr. James W. Murphy, of Wisconsin, proposed to lodge a point of order against the report.

Mr. James A. Tawney, of Minnesota, submitted that the point of order came too late after the reading of the statement.

The Speaker pro tempore [3] sustained the point of order and said:

The statement having been read, the gentleman from Wisconsin, so far as the Chair could hear, makes the point of order that in disposing of the Senate amendment the conferees have put in something beyond their power to insert—something not within their jurisdiction. Now, the gentleman from Minnesota makes the point of order that the point of order made by the gentleman from Wisconsin comes too late, not having been made until after the statement had been read.

In the Manual, on page 266, section 540, the following appears:

"In the House points of order against reports (conference) are made or reserved after the report is read and before the reading of the statement or consideration begins or the report has been agreed to."

That was the ruling made in 1907 by the present Speaker of the House. He held that points of order were in time after the reading of the report, but out of abundant caution might be reserved in advance of its reading, but that after the reading of the statement the point came too late, Speaker Henderson ruled to the same effect, as will appear by reference to Hinds' Precedents, volume 5, section 6441. The Chair thinks that in this case the point of order should have been made or reserved before the statement was read. The reading of the report was waived by unanimous consent, but that did not prevent the making or reserving of a point of order before the statement was read. The Chair is of the opinion that at this time it is too late, and sustaining the point made by the gentleman from Minnesota, overrules the point of order made by the gentleman from Wisconsin.

3288. When the reading of the conference report is dispensed with, points of order must be made before the statement is read.

Where an amendment of one House proposes to strike out a paragraph of a bill of the other, whether a substitute therefor is proposed or not, and the amendment has been disagreed to, the conferees have the whole subject before them and may report any provision germane thereto.

To be in order in a conference report a subject must have been treated in the bill as it passed the first House, in the amendment of the other House, or in an amendment of the first to the amendment of the second.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Sixty-first Congress, Record, p. 8963.

[3] Marlin E. Olmsted, of Pennsylvania, Speaker pro tempore.

On August 23, 1912,[1] Mr. John A. Moon, of Tennessee, called up the conference report on the Post Office appropriation bill and asked unanimous consent that the statement be read in lieu of the report.

Pending the request, Mr. Victor Murdock, of Kansas, inquired when it would be in order to raise a question of order against the report.

The Speaker informed him that, if the reading of the report was dispensed with, points of order, if made at all, should be made before the statement was read.

Thereupon, Mr. Murdock made the point of order that the conferees had exceeded their authority by receding from disagreement to Senate amendment No. 60 and agreeing to it with an amendment providing an appropriation of $35,000 for transporting the mails across the Mississippi bridge at St. Louis, not in dispute between the two Houses.

The Speaker[2] overruled the point of order and said:

> Twice within the last three weeks the Chair has rendered elaborate opinions on the very point involved here.
>
> The rule is clear, and it is a hundred years old, a little more than a hundred years, because it was established on the 23d day of June, 1812, by Speaker Clay. The rule is that a subject that is in a conference report must have been treated either by the House, or by an amendment of the Senate, or by a House amendment to a Senate amendment. It must be germane. That is all that there is in it.
>
> Now, let us see. Speaker Cannon stated the matter in two or three sentences once in a very comprehensive manner, thus:
>
> "It is true that if the whole paragraph in the bill as it passed the House had been stricken out"—
>
> And that is practically the case here—
>
> "and a substitute therefor proposed by the Senate, or if the Senate had stricken out the paragraph without proposing a substitute, and the House had disagreed to the Senate amendment, then the conferees might have had jurisdiction touching the whole matter and might have agreed upon any provision that would have been germane."
>
> That statement can not be improved on as to the rule. Let us see how this case fits the rule. The House provision was that—
>
> "No part of this appropriation shall be paid for carrying the mail over the bridges across the Mississippi River at St. Louis, Mo., over and above the regular mileage rates for the transportation of the mail by railroad routes."
>
> What is the subject of the words I have read? Why, it is carrying the mail from East St. Louis, Ill., to the city of St. Louis, Mo. That is all there is to that. What does the Senate amendment do? It treats of identically the same subject, and nothing else. What does this provision which has been put in by the conferees do? It treats of identically the same subject, and nothing else. If there ever was a case that fits the rule as laid down by Speaker Cannon, in which he followed all his predecessors, it is this one, and the point of order is overruled.

3289. It is too late to raise a question of order against a conference report after the statement is read, whether after the reading of the report or in lieu of the report. On June 12, 1917,[3] the House took up the consideration of the conference report on the urgent deficiency appropriation bill.

On motion of Mr. John J. Fitzgerald, of New York, by unanimous consent, the statement was ordered read in lieu of the report.

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[1] Second session Sixty-second Congress, Report, p. 11755–11759.

[2] Champ Clerk, of Missouri, Speaker.

[3] First session Sixty-fifth Congress, Record, p. 3537.

The Clerk having completed the reading of the statement, Mr. Chas. Pope Caldwell, of New York, raised a question of order against the report.

Mr. Fitzgerald submitted that the objection was not in order at this stage of the proceedings.

The Speaker' sustained the point of order and said:

The gentleman's point of order comes too late.

3290. On June 20, 1932,[2] Mr. John McDuffie, of Alabama, called up the conference report on the bill (H. R. 11267), the legislative appropriation bill, and asked unanimous consent that the statement be read in lieu of the report.

The Speaker pro tempore[3] submitted the request and announced there was no objection, and directed the Clerk to read.

In the course of the reading of the statement, Mr. Fiorello H. LaGuardia, of New York, interrupted and proposed to reserve all points of order on the conference report.

Mr. William H. Stafford, of Wisconsin, objected that the reservation came too late after the reading of the statement had begun.

The Speaker pro tempore sustained the point of order and said:

If the gentleman will permit, the gentleman from Alabama asked unanimous consent that the statement be read in lieu of the report, and the Clerk began the reading of the statement. Thereupon, after a part of the statement had been read, the gentleman from New York sought to interpose a reservation of points of order. The request came too late.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Seventy-second Congress, Record, p. 13509.

[3] William B. Bankhead, of Alabama, Speaker pro tempore.

Chapter CCLXVI.[1]

PRIVILEGE AND FORM OF CONFERENCE REPORTS.

3291. Consideration of a conference report has precedence of a motion to go into the Committee of the Whole for the consideration of a general appropriation bill.—[On May 5, 1908,[2] Mr. James A. Tawney, of Minnesota, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the sundry civil appropriation bill.]

Mr. John H. Foster, of Indiana, offered, as preferential, a motion for the consideration of the conference report on the bill (S. 29) for the control of tuberculosis in the District of Columbia.

Mr. Champ Clark, of Missouri, the minority leader, submitted that the motion to go into the Committee of the Whole for the consideration of a general appropriation bill was preferential.

The Speaker[3] held that the consideration of a conference report was of higher privilege and recognized Mr. Foster to call up the report, which was considered and agreed to.

3292. Consideration of conference reports is in order on days devoted to District of Columbia business under the rules.—[On February 27, 1911,[4] a Monday set apart under the rules for the consideration of business reported by the Committee on the District of Columbia, Mr. Samuel W. Smith, of Michigan, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of District of Columbia business on the calendar.]

Mr. Frederick H. Gillett, of Massachusetts, interposed and demanded recognition to call up for consideration the conference report on the legislative, executive, and judicial appropriation bill.

The Speaker[3] held that the conference report took precedence of District of Columbia business in order on that day, and recognized Mr. Gillett to call up the conference report.

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[1] Supplementary to Chapter CXXXVI.

[2] First session Sixtieth Congress, p. 5766.

[3] Joseph G. Cannon, of Illinois, Speaker.

[4] Third session Sixty-first Congress, Record, p. 3589.

3293. On Monday, May 13, 1912,[1] a day set apart by the rules for the consideration of bills reprted by the Committee on the District of Columbia, Mr. Ben Johnson, of Kentucky, proposed to call up the bill (S. 2224) to regulate the height of buildings in the District of Columbia, reported by that committee.

Mr. William W. Rucker, of Missouri, interposed a request that the Speaker lay before the House a conference report on the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. Johnson having demanded, as the regular order, that the House proceed to the consideration of bills on the calendar reported by the District of Columbia, the Speaker[2] held that conference reports took precedence of business in order on District Monday.

3294. A conference report displaces consideration of a report from a special committee and may interrupt debate, but a Member so taken from the floor is entitled to recognition when the privileged matter has been disposed.—On March 3, 1919,[3] Mr. Ben Johnson, of Kentucky, from the special committee appointed to investigate and report on the personnel, finances, character, and activities of the National Security League, had concluded the reading of the report of the committee, when, pending recognition of Mr. Joseph Walsh, of Massachusetts, to present minority views, Mr. James R. Mann, of Illinois, rose to a parliamentary inquiry.

In response to Mr. Mann's inquiry, the Speaker[2] held that it would be in order to call up a conference report at any time during the proceedings and that a conference report so called up would displace the report of the special committee. In reply to a further inquiry from Mr. Mann, the Speaker also held that a conference report so called up would take a Member debating the special report from the floor, but after disposition of the conference report the Member interrupted would be entitled to recognition to resume debate.

Thereupon, Mr. Walsh was recognized to read the minority report from the special committee, when Mr. Henry D. Flood, of Virginia, called up the conference report on the diplomatic and consular appropriation bill.

On the following day,[4] the conference report having been disposed of, the Speaker recognized Mr. Walsh to conclude debate interrupted when the conference report was called up.

3295. Conference reports must be signed by the managers.—On May 18, 1910,[5] in the Senate, Mr. Jonathan P. Dolliver, of Iowa, proposed to submit a conference report on the agricultural appropriation bill.

Mr. Eugene Hale, of Maine, raised the question of order that the report could not be received, because it was not in proper form in that it had not been signed by the managers.

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[1] Second session Sixty-second Congress, Record, p. 6345.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-fifth Congress, Record, p. 4925.

[4] Record, p. 5035.

[5] Second session Sixty-first Congress, Record, p. 6443.

The President pro tempore [1] sustained the point of order and ruled:

The Chair is of the opinion that the conference report should have been signed even under the statement made by the Senator from Iowa. The Senate must have before it a report signed by the conferees. That is the opinion of the Chair.

3296. While conference reports must be written in duplicate, it is the practice to prepare conference reports on appropriation bills in triplicate, and on occasion all conference reports have been required in triplicate.— On February 19, 1913,[2] Mr. John J. Fitzgerald, of New York, asked unanimous consent for the consideration of a concurrent resolution requiring all conference reports to be made in triplicate, one copy to be delivered to the enrolling clerk of the House in which the respective bills originated.

Pending his request, Mr. Fitzgerald explained:

The object is to facilitate the work of the enrolling room during the remaining days of the session. The practice of the Committee on Appropriation has been three copies of their conference reports. That has been of such great advantage that the enrolling clerks have requested that it be extended to all conference reports. The purpose of this is to enable the enrolling clerks to start their work. The comparison will be made with the original.

Mr. James R. Mann, of Illinois, demurred:

It does not seem to me that there is any occasion for requiring a copy of every conference report to be delivered to the enrolling clerk, unless it be on appropriation bills. That might be desirable. Many of the Members of the House who go on conference committees do not have clerks who are thoroughly familiar with requirements of this sort, and I do not see any necessity of it. I suppose the purpose of it is to have copies of the appropriation bills. Why not confine it to that?

I am not at all certain that it will work successfully, although I am willing to try it on appropriation bills. Copies of conference reports are not always the same, but when a conference report is presented to the Senate it is printed, and when it is presented to the House it is printed at some time or other. If there are errors, they are discovered. Here is a proposition to deliver another conference report to the enrolling room which never is presented to either body. If there is an error in it, of course the error will be copied into the enrolled bill.

The enrolling clerks are not going to compare an enrolled bill with two original conference reports. When you deliver a paper in triplicate, each one is an original. I have no objections, if you confine this to the appropriation bills.

Thereupon, Mr. Fitzgerald withdrew the resolution, and on the following day [3] presented it in this form:

Resolved, That the managers on the part of the House shall, during the remainder of this session, present with all conference reports an extra copy for the use of the enrolling clerk.

By unanimous consent, the resolution was considered and agreed to without debate.

3297. Conference reports in citing amendments must refer to the engrossed copies of the bill and amendments and not to reprints.—On December 22, 1916,[4] the House was considering the conference report on the bill (H. R.

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[1] William P. Frye, of Maine, President pro tempore.

[2] Third session Sixty-second Congress, Record, p. 3467.

[3] Record, p. 3056.

[4] Second session Sixty-fourth Congress, Record, p. 680.

407) to provide for stock-raising homesteads, when Mr. James R. Mann, of Illinois, to whom time had been yielded for debate, said:

Mr. Speaker, without making any criticism of the conference report, but merely for the purpose of calling the attention of Members to the method of making up the conference report, I want to make a little statement. When the House passes a bill, the bill is engrossed and sent to the Senate. That is the only official copy of the bill, the engrossed copy, which accompanies all communications between the two Houses. If the Senate adds amendments, those amendments are engrossed, and reference is made in page and line to the original engrossed copy of the House, and when the two Houses finally act that original engrossed copy with amendments which might be added goes to the enrolling clerk and he makes up the enrolled bill from that. As a matter of convenience we print the House bill with Senate amendments, Senate amendments numbered and interlined in the bill in italics, but that is not the official copy that goes to the engrossing clerk, and where an amendment is offered, as in this case in the conference report, by reference to this unofficial copy instead of the official copy, the clerk has to guess at what the two Houses mean when he goes to enroll the bill, and it is never safe for the enrolling clerk to guess at what goes in the enrolled bill. Now, in this case reference is made to page 3, line 12, after the word "areas" insert the following: "of the character herein described;" but there is no such word as "areas" on page 3, line 12, of the engrossed copy of the bill. Then again page 9, line 22, after the word "lands" add the following. There is no such word as "lands" on page 9, line 22, of the copy of the bill which goes to the clerk to be enrolled. I imagine in this case the clerk will be able to guess correctly and enroll the bill correctly, and yet members of the conference committee, or their clerks, ought to be very careful when they refer to page and line of the engrossed bill to have the engrossed bill to properly refer to, so that mistakes will not occur, and then the error be laid to the enrolling clerk of one of the Houses.

Chapter CCLXVII.[1]

CONSIDERATION OF CONFERENCE REPORTS.

3298. A conference report and the accompanying statement must be correctly printed in the Record, and although the original report and statement are correct, an error in printing either renders it subject to the point of order that it does not comply with the rule.—On April 25, 1912,[2] Mr. William Sulzer, of New York, called up the conference report on the diplomatic and consular appropriation bill, when Mr. Courtney W. Hamlin, of Missouri, made the point of order that the statement was not correctly printed in the Record.

Mr. Sulzer characterized the point of order as a mere technicality and explained that the original copy was correct and the discrepancies in the printed version appearing in the Record were due to errors on the part of the printer.

The Speaker[3] sustained the point of order and held that the report and the statement had not been printed in the Record as required by the rule until they were printed correctly.

3299. When conferees report that they have been unable to agree, the report is not acted on, and need not be printed in the Record before the amendments in disagreement are again taken up in the House.

Form of report of conferees on general disagreement.

On July 14, 1932,[4] Mr. Henry T. Rainey, of Illinois, submitted the following:

CONFERENCE REPORT

The committee on conference on the disagreeing votes of the two Houses on the bill (H. R. 9642) to authorize supplemental appropriations for emergency highway construction, with a view to increasing employment, having met, after full and free conference, have been unable to agree.

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[1] Supplementary to Chapter CXXXVII.

[2] Second session Sixty-second Congress, Record, p. 5330.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Seventy-second Congress, Record, p. 15378.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill (H. R. 9642) to authorize supplemental appropriations for emergency highway construction, with a view to increasing employment, submit the following written statement:

The committee of conference between the two Houses have been unable to reach any conclusion.

Mr. Bertrand H. Snell, of New York, objected that the conference report had not been printed in the Record.

The Speaker [1] explained.

This is the first experience the present occupant of the Chair has had in these matters. The Chair thinks that where the conferees report that they have been unable to agree it is not necessary to act upon the conference report. The Chair is supported in that by a decision made by Mr. Speaker Reed, which may be found in Hinds' Precedents, Volume V, section 6562. Therefore, the Chair thinks that under these circumstances, where there is nothing in the conference report to agree to, the rule providing for printing in the Record would not apply and that the matter could be disposed of immediately after the reading of the report.

The Clerk having read the report, Mr. Rainey moved that the House further insist on its amendment to the Senate amendment numbered 1 and insist on its disagreement to Senate amendment numbered 2.

Mr. Carl E. Mapes, of Michigan, inquired whether agreement to the motion would put the House in any different position than that in which it found itself before the conferees reported.

The Speaker said:

If the House insists upon its amendment to the Senate amendment, the matter will go back to the Senate for such action as they want to take. The House acted upon this yesterday, insisting on the House amendment and asking a conference. This motion, if agreed to, will send the bill back to the Senate and will give the Senate another opportunity to consider the House amendment.

3300. A conference report being presented, the question on agreeing to it is regarded as pending.—On September 15, 1922,[2] the Senate was considering the conference report on the bill (H. R. 10874) to provide adjusted compensation for veterans of the World War, when the President pro tempore [3] put the question on agreeing to the conference report.

Mr. Pat Harrison, of Mississippi, objected that no motion to agree to the report had been made.

The President pro tempore overruled the point of order and held that when a conference report was taken up for consideration the question on agreeing to the report was automatically before the Senate.

Mr. Harrison having appealed from the decision of the Chair, the yeas were 33, the nays were 21, and the decision of the Chair stood as the judgment of the Senate.

3301. A conference report may not be considered when the original bill and accompanying papers are not before the House.—On September 14, 1922; [4].

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[1] John N. Garner, of Texas, Speaker.

[2] Second session Sixty-seventh Congress, Record, p. 12683.

[3] Albert B. Cummins, of Iowa, President pro tempore.

[4] Second session Sixty-seventh Congress, Record, p. 12566.

the President pro tempore laid before the Senate a message from the House of Representatives notifying the Senate that the House had recommitted the tariff bill to the committee of conference with instructions to its managers to agree to the Senate amendments putting potash on the free list and striking out the dye embargo.

Mr. Porter J. McCumber, of North Dakota, made the point of order that it was not necessary for the Senate to take action on the message.

After debate, the President pro tempore [1] sustained the point of order and said:

A point of order has been made the Chair sustains the point of order.

Allow the Chair to state the reason why the point of order is sustained. It is because there was laid before the Senate merely the notice from the House with regard to its action on the conference report upon the tariff bill, but there is before the Senate what is known as the grain futures bill.

It is the understanding of the Chair that the House granted the conference, that the papers are therefore with the House, and that the report must be first made and first acted upon in the House.

3302. While a conference report may not be considered when the original papers are not before the House, the failure of the Clerk to certify to their authenticity may be remedied when the question is raised, and does not invalidate proceedings relating to them.

Members of a committee of conference may not file supplemental reports nor submit minority views.

On January 17, 1913,[2] Mr. John L. Burnett, of Alabama, called up the conference report on the bill (S. 3175), the immigration bill.

The Speaker [3] said:

The Chair is of the impression that a minority Member, under the rules or precedents, can not file a minority report, although the Chair recollects that he himself, as a member of a conference committee, threatened to do it once on a very serious question.

The Chair will state that he investigated that matter some years ago, because he was on a conference and there was a very bitterly contested proposition, and the present occupant of the chair then threatened to file a minority report. He investigated the authorities as best he could at that time and found out that he could not make a minority report under the rules and precedents.

The Chair rules that way. Of course, if the gentleman from Illinois does not sign the conference report, that shows prima facie that he is against it.

Thereupon, Mr. James R. Mann, of Illinois, made the point of order that the conference report could not be received until the original papers were in possession of the House, and that there was no evidence that all the original papers were before the House for the reason that the Clerk had failed to certify the resolution transmitting the House amendment to the Senate.

The Speaker overruled the point of order, saying:

The House part that is attached to the original Senate bill does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc. The Speaker

[1] Albert B. Cummins, of Iowa, President pro tempore.

[2] Third session Sixty-second Congress, Record, p. 1683.

[3] Champ Clark, of Missouri, Speaker.

has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has.

This document, purporting to be the conference report, has been read. The Chair does not have any doubt the right of the Speaker to order the Clerk to sign that document.

Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers it is the same document that the Clerk sent over to the Senate.

Now comes the Clerk of the House and attests it.

The gentleman from Illinois is a lawyer and has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course, we would not tolerate it for a second.

3303. A conference report having been rejected, motions for disposition of matter in disagreement and further conference are privileged.—On April 20, 1922,[1] the House rejected the conference report on the independent offices appropriation bill, yeas 140, nays 154.

Thereupon, Mr. William R. Wood, of Indiana, asked unanimous consent for the immediate consideration of the matters in disagreement.

Mr. Finis J. Garrett, of Tennessee, objected to the request. Mr. Frank W. Mondell, of Wyoming, submitted that unanimous consent was not necessary, and the conference report having been rejected, motions for the disposition of the Senate amendments in dispute were privileged.

The Speaker pro tempore[2] sustained the latter contention and recognized Mr. Wood to move for disposition of the Senate amendments and further conference.

3304. A conference report must be acted on as a whole.—On June 26, 1919,[3] the Senate was considering the conference report on the agricultural appropriation bill.

Mr. Aisle J. Gronna, of North Dakota, moved to agree to a part of the report.

The President pro tempore[4] ruled:

The Chair will state that the only question than can be before the Senate is the question of agreeing or disagreeing to the conference report as a whole.

3305. On June 29, 1916,[5] in the Senate, Mr. Thomas S. Martin, of Virginia, submitted the conference report on the sundry civil appropriation bill.

Mr. John E. Martine, of New Jersey, moved to disagree to a portion of the report striking out an amendment which he had introduced and that the conferees be instructed to insist on the disagreement.

Mr. Martin raised a question of order against the motion.

The Vice President[6] sustained the point of order and said:

There can be no question but that the report must be agreed to as a whole or rejected as a whole.

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[1] Second session Sixty-seventh Congress, Record, p. 6301.

[2] William J. Graham, of Illinois, Speaker pro tempore.

[3] First session Sixty-sxith Congress, Record, p. 1821.

[4] Joseph S. Frelinghuysen, of New Jersey, President pro tempore.

[5] First session Sixty-fourth Congress, Record, p. 10221.

[6] Thomas R. Marshall, of Indiana, Vice President.

3306. A conference report is not subject to amendment, but must be considered and disposed of as a whole.—On May 17, 1917,[1] the Senate had under consideration the conference report on the bill (H. R. 3545) to authorize the President to increase the Military Establishment.

In the course of the debate, Mr. William J. Stone, of Missouri, as a parliamentary inquiry, desired to know when it would be in order to move to amend provisions of the conference report.

The Vice President[2] held that a conference report is not subject to amendment, but must be considered and acted on as a whole.

3307. A question of order may not be sustained against a portion of a conference report without affecting the entire report, and modification can only be effected by rejection of the report and instruction of a new conference or, when the managers on the part of the Senate have not been discharged, by a motion to recommit with instructions.—On May 15, 1920,[3] Mr. Stephen G. Porter, of Pennsylvania, called up the conference report on the diplomatic and consular appropriation bill.

The report having been read, Mr. Isaac Siegel, of New York, made a point of order that the conferees had exceeded their authority by including in the report matter relating to fees for passports and visas, which were not in disagreement between the two Houses.

After debate, Mr. Nicholas Longworth, of Ohio, as a Parliamentary inquiry, asked if the point of order was not directed at a certain portion of the conference report and not intended to apply to the remainder of the report.

Mr. Siegel dissented, and insisted that the point of order must lie against the entire report.

The Speaker[4] ruled:

> If any point of order is made, it is made against the whole conference report.

The Speaker than overruled the point of order.

Whereupon, Mr. Tom Connally, of Texas, inquired what steps could be taken to eliminate objectionable portions of a conference report.

The Speaker replied:

> There are two ways. The conference report could be voted down, and then everything would be open; or it has been held in recent years that a motion to recommit is in oder, if the Senate has not acted on the conference report.
>
> If the Senate has acted, there can not be a motion to recommit. The only course would be to vote down the conference report. The question is on agreeing to the conference report.

3308. Conference reports may be amended by concurrent action of the two Houses.—On February 27, 1931,[5] on motion of Mr. George S. Graham, of

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[1] First session Sixty-fifth Congress, Record, p. 2435.

[2] Thomas R. Marshall, of Indiana, Vice President.

[3] Second session Sixty-sixth Congress, Record, p. 7123.

[4] Frederick H. Gillet, of Massachusetts, Speaker.

[5] Third session Seventy-first Congress, Record, p. 6279.

Pennsylvania, by unanimous consent, the House proceeded to the consideration of the concurrent resolution (H. Con. Res. 52) reading as follows:

Resolved by the House of Representatives (the Senate concurring), That the report of the committee of conference on the disagreeing votes of the two Houses on the bill of the House (H. R. 980) entitled "An act to permit the United states to be made a party defendant in certain cases," heretofore agreed to by the two Houses, be amended by adding at the end of the amendment agreed to in the report the following new section:

"SEC 7. This act shall not apply to any lien of the United States held by it or for its benefit under the Federal reclamation laws."

3309. A concurrent resolution providing for recommitment to conference is not privileged for introduction from the floor.—On August 8, 1912,[1] during the consideration of the conference report on the legislative, executive, and judicial appropriation bill, Mr. Augustus P. Gardner, of Massachusetts, offered the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), That House bill 24023 be recommitted to the committee on conference on the disagreeing votes of the two Houses.

Mr. John J. Fitzgerald, of New York, raised this question of order:

Mr. Speaker, I make the point of order that the resolution, being a concurrent resolution, can only be introduced, except by unanimous consent, through the basked, as it is not a privileged resolution. This rule is well established.

The Speaker[2] said:

The Chair thinks that the point of order is well taken. The Chair investigated this matter two or three days ago, not in anticipation of any trouble connected with this bill, but in connection with another bill, and certainly this resolution is not privileged. Therefore the Chair sustains the point of order. The question is on the adoption of the conference report.

3310. It is in order for one body to recommit a conference report, if the other body, by action on the report, has not discharged its managers. On February 16, 1921,[3] during consideration of the conference report on the bill (H. R. 11984) to increase salaries in the Patent Office, Mr. Schuyler Merritt, of Connecticut, moved to recommit the report to the committee of conference.

Mr. Thomas L. Blanton, of Texas, objected that the motion was not in order and, if recommitted, the bill should not go to the committee of conference, but to the standing committee of the House having jurisdiction.

The Speaker[4] dissented and said:

The Chair overrules the point of order. The conferees are not discharged until the conference report is agreed to, or something else happens. The question is on the motion of the gentleman from Connecticut to recommit the bill with instruction to disagree to section 9.

3311. It is in order to recommit a conference report, if the other House by action on the report has not discharged its managers, and after the previous question is ordered on agreement, the motion to recommit with or without instructions is privileged.—On June 10, 1929,[5] the previous question was

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[1] Second session sixty-second Congress, record, p. 10500.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session sixty-sixth Congress, Record, p. 3268.

[4] Frederick H. Gillet, of Massachusetts, Speaker.

[5] First session Seventy-first Congress, Record, p. 2616.

ordered on agreeing to the conference report on the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses.

Whereupon, Mr. John E. Rankin, of Mississippi, moved to recommit the conference report to the committee of conference with instructions to the managers on the part of the House to substitute May, 1930, for December, 1929, as the date for taking the census.

Mr. Carl R. Chindblom, of Illinois, made the point of order that the motion was not admissible until the conference report had been disposed of.

The Speaker [1] said:

The Chair does not think there is any question at all that a motion to recommit is in order at this stage of the proceedings. The conferees are still in existence, and a motion to recommit can always be made after the previous question has been ordered. The question is on the motion of the gentleman from Mississippi.

3312. After the previous question has been ordered on a conference report, the motion to recommit with instructions is privileged, if the other House has not discharged its conferees.—On November 21, 1921,[2] the previous question was ordered on agreeing to the conference report on the revenue bill.

Thereupon, Mr. John N. Garner, of Texas, moved to recommit the conference report to the committee of conference with instructions to agree to Senate amendment No. 582, relating to rates of the estate tax.

Mr. Everett Sanders, of Indiana, raised a question of order against the motion and argued that, while the simple motion to recommit was privileged, the motion to recommit with instructions was not in order after the previous question was operating.

The Speaker pro tempore [3] ruled:

The gentleman from Texas offers a motion to recommit the conference report to the committee on conference, with instructions to the managers on the part of the House to concur in a certain Senate amendment.

The gentleman from Indiana makes the point of order that, the previous question having been ordered on the question of agreeing to the conference report, a motion to recommit with instructions is not in order. The Chair will state that under the rules of the House the adoption of the previous question, or its being adopted by unanimous consent, does not shut out one motion to recommit. The rules have been careful to preserve a motion to recommit, going to the extent of providing that the Committee on Rules may not report a rule which will shut out one motion to recommit. The question of recommitting a conference report to the committee on conference or to the managers on the part of the House is in some respects similar to recommitting a bill to one of the standing committees of the House, and while it is usual to recommit bills to the standing committees of the House with instructions, it is not always necessary that instructions be included in the motion to recommit.

In this instance the conference is, so to speak, still in existence; that is, at least until action has been had on the part of the House. The House being the body to which the conference report is first submitted by action in this particular case, the conferees are still subject to action by the House, if the House under a proper motion sees fit to instruct them or takes such other action as may be proper for their guidance.

The motion to recommit a conference report with instructions has been of comparatively recent origin. It has been permitted several times, and on February 16, 1921, the previous ques-

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 8085.

[3] Joseph Walsh, of Massachusetts, Speaker pro tempore.

tion had been ordered on adopting a conference report on a bill to increase the salaries in the Patent Office. The gentleman from Connecticut, Mr. Merrit, at that time offered a motion to recommit the report to the committee on conference, with instructions not to agree to section 9 of the Senate bill, which happened to be section 11 in the conference report. A point of order was made at that time by the gentleman from Texas, Mr. Blanton, and the Speaker overruled the point of order, saying:

"The conferees are not discharged until the conference report is agreed to or something else happens."

In this instance the Chair thinks an analogous situation is presented, and he holds that the measure is still in a situation that if the House shall see fit to recommit it with instructions the conferees would be bound by such instructions.

The Chair overrules the point of order.

The question is upon the motion of the gentleman from Texas to recommit the conference report to the committee of conference with certain instructions.

3313. A motion to recommit a conference report is not in order, if the other House by action on the report has discharged its managers.—On March 3, 1915,[1] the Senate was considering the conference report on the naval appropriation bill when Mr. Henry F. Lippitt, of Rhode Island, moved to recommit the report to the committee of conference with instructions.

Mr. Claude A. Swanson, of Virginia, raised the question of order that the motion was not admissible for the reason that the House by agreeing to the report had discharged its managers.

The Vice President [2] held that the point of order was well taken and said:

The record shows that it has been agreed to in the other House.

It has been decided that when one House acts and agrees to a report and the conferees have been discharged there is no committee of conference.

There is no doubt about this question.

3314. On March 24, 1928,[3] on motion of Mr. James E. Watson, of Indiana, by unanimous consent, the Senate proceeded to the further consideration of the conference report on the bill (S. 2317) continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927.

After debate, Mr. Kenneth McKellar, of Tennessee, moved to recommit the report to the committee of conference of the two Houses with instructions to the Senate conferees to insist on an amendment striking out a section of the radio act of 1927 and inserting in lieu thereof a section relating to equal zones of transmission and reception in radio broadcasting.

The Vice President [4] ruled:

The Chair will state that under the precedents governing the recommital of conference reports a motion to recommit a conference report is not in order where the other House has agreed to the report, inasmuch as the conferees on the part of the body agreeing to the report have thereby been discharged.

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[1] Third session, Sixty-third Congress, Record, p. 5236.

[2] Thomas R. Marshall, of Indiana, Vice President.

[3] First session Seventieth Congress, Record, p. 5304; Senate Journal, p. 295.

[4] Charles Curtis, of Kansas, Vice President.

3315. On June 15, 1933,[1] the legislative day of June 14, in the course of the consideration of the conference report on the fourth deficiency appropriation bill, in the Senate, Mr. Lynn J. Frazier, of North Dakota, presented a motion to recommit the report to the conferees.

The Presiding Officer[2] said:

The Chair is advised that under the rules where one House has approved a conference report, it can not be recommitted.

3316. Either House having acted on a conference report, it may be recommitted only by concurrent action of the two Houses.—On May 3, 1926,[3] on motion of Mr. Edward E. Denison, of Illinois, the proceedings by which the House had agreed to the conference report on the bill (H. R. 8771) to construct a bridge across the Detroit River, were vacated.

Subsequently, on the same day, Mr. Denison proposed to file an amended conference report correcting errors discovered by the enrolling clerk in the original report.

The Speaker[4] held that vacation of the proceedings by which the conference report had been agreed to left the report pending and a further conference report was not in order.

Whereupon,[5] Mr. Denison, proceeding by unanimous consent, offered the following:

Resolved by the House of Representatives (the Senate concurring), That the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8771) to extend the times for commencing and completing the construction of a bridge across the Detroit River within or near the city limits of Detroit, Mich., be recommitted to the committee of conference.

The concurrent resolution was agreed to and on the same day was adopted by the Senate, and an amended conference report was then filed.

3317. Conference reports must be adopted or rejected as reported and any modifications however slight may be remedied only by recommitment[6] to the committee of conference.—On June 30, 1919,[7] Mr. Thomas S. Butler, of Pennsylvania, called up the conference report on the naval appropriation bill, and preferred a request for unanimous consent to transpose the words "House" and "Senate," as they appeared in the report. Mr. Butler explained that in the haste of transcription the Clerk had inadvertently used the wrong blank and the report, as prepared, indicated that in a number of instances the Senate had receded when in fact it was the House which had receded. Mr. Butler added that a similar request would be made in the Senate by the Senate conferees, and in this way it was hoped to remedy the defect in the conference report without further delay.

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[1] First session Seventy-third Congress, Record, p. 6061; Senate Journal, p. 300.

[2] Royal S. Copeland, of New York, Presiding Officer.

[3] First session Sixty-ninth Congress, Record, p. 8612.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Record, p. 8617.

[6] After conference reports are agreed to modifications may be effected by concurrent resolution, V. 6536, 6537.

[7] First session sixty-sixth Congress, Record, p. 2101.

Mr. Joseph Walsh, of Massachusetts, objected and maintained that a conference report could not be modified in this manner, however immaterial the defect.

The Speaker[1] sustained Mr. Walsh's contention and held that the proper remedy was to recommit the bill to the committee of conference for correction.

Accordingly, the conference report was recommitted, and being again reported with the desired corrections, was agreed to on the same day.

3318. On September 19, 1918,[2] Mr. Joseph Walsh, of Massachusetts, rising to a question of privilege, called attention to a number of clerical errors in the conference report on the bill (H. R. 11283) amending the Federal reserve act, agreed to by the House on the preceding day.

The errors having been verified, Mr. Carter Glass, of Virginia, preferred a request for unanimous consent that the Clerk be authorized to make the corrections.

Mr. Martin D. Foster, of Illinois, objected that it was not in order to amend a conference report.

The Speaker[3] sustained the point of order.

3319. Recognition to move recommitment of a conference report is due Members opposed to the report, regardless of party affiliations, but in the absence of other considerations preference is accorded Members of the minority—On February 14, 1919,[4] the House was considering the conference report on the bill (H. R. 13274) validating informal war contracts, when Mr. Finis J. Garrett, of Tennessee, submitted a parliamentary inquiry as to who was entitled to move to recommit the report.

The Speaker[3] replied:

> The first man who gets up in opposition to the bill is entitled to it. The Chair has always given preference in making the motion to recommit to the minority. Still, the rule is for the man who qualifies to oppose the bill to have that right.
>
> The Chair will recognize the gentleman from Oklahoma, if he qualifies. Is the gentleman from Oklahoma opposed to this bill?

Mr. Charles D. Carter, of Oklahoma, referred to, replied that he was opposed to the report with an amendment which it carried.

The Speaker said:

> If the gentleman will qualify without any limitation, the Chair will recognize him.

3320. The motion to recommit a conference report to the committee of conference is admitted under the Senate practice.—On October 5, 1914,[5] the Senate was considering the conference report on the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, when Mr. James A. Reed, of Missouri, moved to recommit the conference report to the committee of conference.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 10499.

[3] Champ Clark, of Missouri, Speaker.

[4] Third session Sixty-fifth Congress, Record, p. 3355.

[5] Second session Sixty-third Congress Journal, p. 195; Record, p. 161687.

Mr. Charles A. Culberson, of Texas, objected that the motion was unprivileged.

The Vice President [1] ruled:

The pending question was, of course, and has been for days, on agreeing to the conference report. The Senator from Missouri now moves to recommit the bill to the conferees. The Chair, in the course of a week, has examined most of the decisions of the Senate of the United States upon the question. There have been some rulings against the recommittal of a conference report, but the great majority of the rulings are to the effect that if the Senate chooses so to do it can recommit a conference report. The Chair holds the motion to recommit without instructions to be in order.

3321. Formerly announcement of the recommitment of a conference report was messaged to the Senate, but under the modern practice the other House is not notified, and managers on the part of the House carry the papers back to conference, and a new report is formulated.—On June 30, 1919,[2] a message was received in the Senate announcing that the House had recommitted to the committee of conference the Army appropriation bill.

The message was accompanied by the papers.

The message having been reported in the Senate, Mr. James W. Wadsworth, of New York, rising in his place, objected to receipt of the message and said:

Mr. President, I desire to make a statement to the Senate.

The conferees on the Army bill reached a full and complete agreement Saturday midnight. The conferees on the part of the House submitted their report to the House to-day. After an extended debate a motion was made to recommit the bill to the conference committee, and that motion was adopted by the House of Representatives. Apparently, the motion was regarded as a message from the House to the Senate, and the papers have been sent over here by an official messenger of the House, and the Senate has been officially notified that the House has adopted a motion to recommit.

I believe, Mr. President, that this is not a message which can be properly sent to the Senate. The situation is this: The Senate conferees have not as yet submitted their report to the Senate. Therefore, we have not been discharged from the consideration of the matters upon which the two Houses are in difference. The Senate conferees are still authorized, as it were, to meet with the House conferees upon their request; and it occurs to me that these papers should be returned to the House. Their motion to recommit the bill to the conference committee affects the House Journal alone, not the Senate Journal; and upon the invitation or request of the House members of the conference committee, the Senate members of the conference committee will gladly meet with them.

The Vice President [1] ruled:

The papers should go back.

3322. On February 22, 1921,[3] on a motion of Mr. George Holden Tinkham, of Massachusetts, modified by an amendment of Mr. Alben W. Barkley, of Kentucky, the House recommitted the conference report on the first deficiency appropriation bill with instructions to the managers on the part of the House to concur in Senate amendment No. 30 increasing the appropriation for enforcement of the national prohibition act.

However, the messages transmitted to the Senate on this and subsequent days do not announce the recommitment of the report. Prior to this time it was the

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[1] Thomas R. Marshall, of Indiana, Vice President.

[2] First session Sixty-seventh Congress, Record, p. 2074.

[3] Third session Sixty-sixth Congress, Record, p. 3645.

custom of the House to notify the Senate of such action, but from this time the practice was discontinued and the other House is no longer informed of the recommitment of conference reports. When recommitted, managers on the part of the house carry the papers back to conference and a new report is formulated.

3323. In an exceptional instance the Senate transmitted a message to the House announcing recommitment of a conference report, but did not transmit the papers.—On May 23, 1928,[1] a message was transmitted to the House announcing that the Senate had recommitted to the committee of conference the joint resolution (S. J. Res. 46) providing for the utilization of the Muscle Shoals plant in the manufacture of fertilizer.

On receipt of the message[2] in the House, Mr. Carl R. Chindblom, of Illinois, submitted a parliamentary inquiry as to the parliamentary situation and inquired whether a report had been made by the House conferees.

The Speaker[3] replied that the managers on the part of the House had not reported and therefore had not been discharged and that the committee of conference was still in existence and has jurisdiction of the report as recommitted.

In response to a question from Mr. John Q. Tilson, of Connecticut, the Speaker explained that the papers properly remained with the conferees on the part of the Senate.

Answering a further inquiry by Mr. William B. Bankhead, of Alabama, the Speaker held that no action on the message would be taken by the house, as the matter was in the hands of the committee of conference, and no action was in order in the House until report of the conference was received.

3324. Overruling a decision of the Chair, the Senate held it was not in order to request the House to return papers in possession of the conferees.—On April 12, 1918,[4] in the Senate, Mr. Wesley L. Jones, of Washington, proposed to enter a motion to reconsider the vote by which the Senate on the previous day had rejected the conference report on the bill (S. 383) to punish the willful destruction of war material and to request the House to return the papers to the Senate.

Mr. Henry Cabot Lodge, of Massachusetts, said he had been informed that the House had agreed to the request of the Senate for a conference, and made the point of order that the motion was not in order, for the reason that the papers were no longer in possession of the House, but were in the custody of the committee of conference.

The Presiding Officer[5] held that inasmuch as the Senate had not been notified of the action of the House in agreeing to conference, the motion to request the return of the papers was in order and should be decided by the Senate without debate.

Thereupon, Mr. Jacob H. Gallinger, of New Hampshire, appealed from the decision of the Chair.

The question being submitted to the Senate, and the yeas and nays being ordered the yeas were 29 and the nays were 35, and the decision of the Chair was not sustained.

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[1] First session Seventieth Congress, Record, p. 9606.

[2] Record, p. 9664.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Sixty-fifth Congress, Record, p. 5013.

[5] Andrieus A. Jones, of New Mexico, Presiding Officer.

3325. The fact that a conference report has been previously recommitted to the committee of conference with instructions, does not precluded a motion to recommit the amended report.—On September 13, 1922,[1] the House recommitted to the committee of conference the conference report on the tariff bill with instructions pertaining to duties on potash and dyes.

On September 15,[2] the conference report modified to conform to the instructions imposed on the conferees was again taken up for consideration.

The previous question having been ordered, Mr. John N. Garner, of Texas, moved to recommit the report to the committee of conference with instructions relating to the rates of the sugar schedule.

Mr. Horace M. Towner, of Iowa, cited paragraph 4 of Rule XVI, reading—

> 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 made the point of order that one motion to recommit having been previously entertained it was not in order to now offer a second motion recommit.

The Speaker[3] ruled:

> If this were a novel question the Chair would be disposed to give more consideration to the points raised by the gentleman from Iowa, but the right to a motion to recommit after the previous question has been ordered is of many years' standing. This very question, whether when the House had recommitted a bill and it came back another motion to recommit could be offered, arose under Speaker Carlisle, who, in answer to the claim that there having been one motion to recommit which succeeded, there could not be another, said:
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> "This is not the same proposition at all. At the time the House recommitted the bill to the Committee on Appropriations, with instructions to report it back after striking out a certain clause, there was in the bill a provision to pay certain employees of the Government a month's extra compensation. The bill being then on its passage, it was recommitted to the Committee on Appropriations under these instructions. It now comes back under a rule of the House, and is on its third reading, and open for further amendment. The bill does not now contain that clause. It is an entirely different report from the Committee on Appropriations from that upon which the House was acting an hour or so ago. * * * Under the rule there can be but one motion to recommit the bill when the question is on its passage, and no other motion can be made. But this is a different bill, a different report from the committee, and the motion is in order."
>
> It seems to the Chair the principle then enunciated covers this case. This is a different report from the one which the motion to recommit was made yesterday, for the conferees have changed it. If the Chair should rule in acordance with the suggestion of the gentleman from Iowa, it would never be possible to have the motion to recommit on any conference report, if when the bill was on its passage there had been one motion to recommit, because under that logic, there having been one motion to recommit, there could never be another. The House is well aware of the constant practice to the contrary. The case which the Chair referred to once before to-day, of the Army bill at the beginning of the war, is in point. If the Chair remembers correctly it went back to the conference committee several times under new motions to recommit. The Chair is constrained by the continuous practice of the House and by the precedents to overrule the point of order.

3326. When a conference report is recommitted to the committee of conference, it is not subject to further action in the House until again reported by the managers.—On May 12, 1917,[4] the House agreed to a motion by Mr.

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[1] Second session Sixty-seventh Congress, Record, p. 12531.

[2] Record, p. 12717.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-fifth Congress, Record, p. 2216.

Daniel R. Anthony, of Kansas, that the conference report on the bill (H. R. 3545) to increase the Military Establishment be recommitted to the committee of conference with instructions providing for the organization of four infantry divisions.

The vote having been announced, the Speaker [1] held, in response to a parliamentary inquiry from Mr. S. Hubert Dent, Jr., of Alabama, that the bill was thereby returned to the jurisdiction of the conferees to await their report.

3327. On February 14, 1919,[2] the conference report on bill (H. R. 13274) to validate informal war contracts, was under consideration in the House, when on motion of Mr. William H. Stafford, of Wisconsin, it was recommitted to the committee of conference with instructions.

Mr. Otis Wingo, of Arkansas, inquired as to the status of the report after recommitment.

The Speaker replied that it had been returned to the conferees.

3328. A conference report having been recommitted to the committee of conference, the papers are no longer before the House, and no motion for disposition of the amendments in disagreement is in order.—On April 3, 1922,[3] the House recommitted to the committee of conference the conference report on the independent offices appropriation bill with instructions to the managers on the part of the House not to agree to any proposition involving the payment of salaries under the Shipping Board in excess of $25,000.

Thereupon, Mr. William R. Wood, of Indiana, proposed to secure the opinion of the House on a number of Senate amendments in disagreement.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the conference report having been recommitted, the bill and papers were no longer before the House.

The Speaker [4] sustained the point of order and said:

The Chair is disposed to think inasmuch as the bill has to go back to the conferees with the conference report, that would carry with it the whole subject matter.

The House has disagreed to all of the Senate amendments that are not yet disposed of, and these amendments have already been sent to conference. The House just recommitted the conference report, and all of those amendments are now in the hands of the conferees.

The Chair thinks that it would undoubtedly save time if we could vote on these amendments now, but the Chair finds it difficult to see how the House can legally do it.

The Chair does not see, inasmuch as the bill and report go back to conference, how you can separate the matters in disagreement from the bill.

The Chair rules that the matter has all gone to conference.

3329. When conferees report that they have been unable to agree, the report is not acted on by the House.—On February 5, 1919,[5] Mr. S. Hubert Dent, Jr., of Alabama, called up the conference report on the bill (H. R. 13274) for the validation of informal war contracts, reporting that the conferees of the two Houses had been unable to agree.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-fifth Congress, Record, p. 2397.

[3] Second session Sixty-seventh Congress, Record, p. 4943.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Third session Sixty-fifth Congress, Record, p. 2757.

The Clerk having read the report, Mr. Dent moved that the House agree to the report as read.

The Speaker declined recognition for that purpose.

Mr. James R. Mann, of Illinois, submitted that the conference report must be disposed of before action could be taken on the amendment in disagreement.

The Speaker [1] held that as the conferees had reported no action there was nothing, to which the House could agree, and recognized Mr. Dent to move to insist on disagreement and to agree to the conference asked by the Senate.

3330. At the close of an effective conference the papers change hands and the managers on the part of the House agreeing to the conference submit the papers and the report to their House, which acts first on the report, but in exceptional cases where managers on the part of the house agreeing to conference have surrendered the papers, inadvertently or otherwise, the report has been first received by the other House.

The House is governed by the rules of Jefferson's Manual in all cases where they are applicable and in which they are not inconsistent with the standing rules and orders of the House.

On August 12, 1911,[2] the Senate agreed to the conference asked by the House on the disagreeing votes of the two Houses on the bill (H. R. 11019) revising the tariff rates of the wool schedule.

The committee of conference agreed to a report, but at the close of the conference, through inadvertence or otherwise, the papers were surrendered to the House conferees, who submitted them with their report to the House before the report had been submitted to the Senate.

When the report was presented in the House by Mr. Oscar W. Underwood, of Alabama, for printing under the rule, Mr. James R. Mann, of Illinois, made the point of order that the report could not be considered in the House until disposed of in the Senate.

In debating the point of order, Mr. Mann said:

Mr. Speaker, I think the gentleman from Alabama is mistaken when he says that the House now has physical possession of the papers which lie on the Speaker's desk. In the first place, they are not on the Speaker's desk; and in the second place, when the gentleman from Alabama presented the papers, I made the point of order that he had no right to present them. If the Speaker determines that he has no right, they are not in the possession of the House; they are in the possession of the gentleman from Alabama, and he should give them into the possession of the Senate conferees, where they belong. If they had been presented to the House without a point of order being raised, the House would then have been in physical possession of the papers, and would have to determine what its course should be.

Mr. Speaker, this question goes way beyond the question as to which body shall act first upon the wool tariff bill. If the Speaker determines that the House conferees in possession of the papers can keep them after the conference report is agreed upon, no one can ever tell in the House, except the conferees, which body will be called upon to act first upon any conference report. Orderly procedure is necessary to preserve a fair consideration and an honest consideration of measures. We know now that under the rules, as they have been made and construed, the body asking for the conference acts last upon the conference report, and that the body agreeing to the conference

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-second Congress, Record, p. 3872.

acts first upon the conference report. But if the contention of the gentleman from Alabama is agreed to, it rests solely within the will of the conferees of one body. It will hardly do to say that the Senate consented to this; the Senate has had nothing to do with it.

The Senate conferees can have nothing to do with it. The house conferees were in possession of the papers and retained them. If they could retain them at all, they could retain them under any conditions. It is not sufficient to say that the Senate conferees permitted the papers to be retained. He who has possession of the papers can retain possession, if he is acting within his rights; and if the gentleman from Alabama has the right to ask the House to act first, because he presents physical possession of the papers, then any House conferees will have the same rights in the future, regardless of whether the Senate conferees want the papers or do not want the papers.

Will we follow the precedent? Rule XLIII provides:

"The rules of parliamentary practice comprised in Jefferson's Manual shall govern the House in all cases to which they are applicable and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and the House of Representatives."

There being no special standing rule and order of the House on this subject, Jefferson's Manual controls. It is one of the rules of the House, and Jefferson's Manual plainly states that the conferees of the House asking for the conference are to leave the papers with the conferees of the other body. It has not been a matter of dispute, as suggested by the gentleman from Alabama. I have searched the precedents. There is no case where anyone has ever contended that in case the conferees reached an agreement, it was not necessary to transfer the papers. There has been some controversy where the conferees reported that they could not reach an agreement as to which set of conferees was entitled to the papers, but there is no case in the books, there is no case in the records, where anyone has ever before contended that when a conference committee reached an agreement this rule of Jefferson's Manual was not binding and did not require the physical possession of the papers to go to the conferees representing the body which agreed to the conference—in this case, the Senate.

I hope the exigencies of the case in this instance are not so strenuous that we are to violate the invariable practice of 100 years and the rules of the House.

Mr. Joseph G. Cannon, of Illinois, addressed the Chair in support of the position taken by Mr. Mann.

The Speaker [1] ruled:

The point of order raised by the gentleman from Illinois seems never to have been raised hitherto; that is, in any case where the conferees agree.

There is no question about this rule in Jefferson's Manual being a part of the rules of the House, and there is no question about what the procedure would be, if nothing had been done to vary it. The papers under that rule, without anything else being done or said to influence it would go to the Senate. The situation here is that the gentleman from Alabama undoubtedly had physical possession of the papers. As suggested by the gentleman from Illinois there are two or three ways of getting physical possession of the papers. One is by violence. If that is to be the method of procedure, the Speaker could discreetly and judiciously, if he thought there was going to be any trouble abut it, pick the conferees on account of their physical strength. But the gentleman from Alabama states, and until it is controverted, of course, his statement stands, that the Senate conferees voluntarily gave to him these papers, and he came into the House in physical possession of them and offers them to the House. Being in possession of the papers carries with it the presumption of right of possession.

There is still another remedy. If the House does not indorse the action of the conferees in agreeing among themselves for the gentleman from Alabama to have physical possession of these papers and to bring them in here, the House can correct the action of the House conferees by the simple process of passing a resolution and sending the papers to the Senate. The distinguished gentleman from Illinois, Mr. Cannon, says correctly that it is the law that where an agent exceeds his authority, his principal is not bound, which is true; but he states only half the legal proposition,

[1] Champ Clark, of Missouri, Speaker.

the other half being that where the agent exceeds his authority and the principal indorses his action, the principal by the agent's act. The point of order is overruled.

3331. On August 1, 1921;[1] Mr. Burton E. Sweet, of Iowa, in submitting for printing under the rule, the conference report on the bill (H. R. 6611) to establish a veterans' bureau, informed the House orally that the conferees of the other House had insisted on retaining the papers notwithstanding the House had agreed to the conference.

Whereupon, Mr. James R. Mann, of Illinois said:

Mr. Speaker, I do not suppose it is possible to teach the Senate parliamentary law by any action we take in the House. They used to know in the Senate that the papers were transferred when a conference agreement was reached. The Senate having in its possession the papers when the conference report was signed, the papers should have been delivered by the Senate conferees to the House conferees. The House that agrees to the conference, acts on it first. Several times lately the Senate conferees, ignorant to parliamentary procedure, have insisted where they had the papers that they should retain them after the conference agreement had been reached.

I know that when the Underwood tariff bill was up and this question was raised the House that was not entitled to the papers had possession of the papers and brought the tariff-conference report into the House. The Speaker held—I will not say incorrectly—that while they had violated parliamentary procedure the question was who actually had the papers, and as we had them, we proceeded to dispose of the conference report.

No action was taken and there is no further reference to the matter in the proceeding of either House.

3332. A conference having failed to reach a result, the papers are not surrendered, but remain with the managers of the House asking conference and that House first receives the report and first takes action on the matters in disagreement.

A report that conferees have been unable to agree is not acted on by the House and is therefore exempted from the requirement that it be printed in the Record before action can be taken on matters in dispute.

On May 19, 1930,[2] the House disagreed to the amendments of the Senate to the District of Columbia appropriation bill, and requested a conference with the Senate on the disagreeing votes of the two Houses.

The Senate having agreed to conference, and the conferees having met, Mr. Robert G. Simmons, of Nebraska, from the committee of conference, on June 17,[3] returned the papers to the House with a report announcing that the conferees had been unable to reach any conclusion.

Thereupon, and before the report had been printed in the Record, the Speaker recognized Mr. Simmons to move that the House further insist on its disagreement to the matter in dispute.

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[1] First session Sixty-seventh Congress, Record, p. 4485.

[2] Second session Seventy-first Congress, Record, p. 9145.

[3] Record, p. 11016.

Chapter CCLXVIII.[1]

MESSAGES AND COMMUNICATIONS.

3333. In 1913 President Wilson resumed the custom of delivering messages in the form of an address before the joint session of the two Houses.

Ceremonies at the delivery of a speech of the President of the United States to Congress.

At joint sessions of the two Houses the presiding officer of the House extending the invitation occupies the Chair.

On April 7, 1913,[2] Mr. Oscar W. Underwood, of Alabama, from the committee appointed on the part of the House to wait on the President of the United States and inform him that the House was organized and ask him whether he desired to communicate to the House, reported that the committee, accompanied by a like committee from the Senate, had performed that duty, and that the President desired the committee to report to the House that we would be glad to deliver his message in person on the following day.

Accordingly, Mr. Underwood asked unanimous consent for the consideration of the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, the 8th day of April, 1913, at 12.30 o'clock in the afternoon, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The resolution was agreed to without debate or division.

On April 8, 1913,[3] a message was received from the Senate announcing that the Senate had passed the concurrent resolution without amendment.

Immediately, the Speaker[4] announced:

The Chair desires to make an announcement. During the joint session of the Senate and House about to be held 110 seats in front will be reserved for the Senate and the officers thereof.

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[1] Supplementary to Chapter CXXXVIII.

[2] First session Sixty-third Congress, Record, p. 73.

[3] Record, p. 131.

[4] Champ Clark, of Missouri, Speaker.

The Chair will appoint a committee of three to wait on the President in the Speaker's room and escort him into the House. They will come in at this door on the left.

At joint meetings of the Senate and House the Vice President sits on the right of the Speaker. In this joint meeting the Speaker presides, because it is our invitation to the Senate.

The Chair desires to admonish the occupants of the galleries that they are here by the courtesy of the House, and as far as it is possible under the circumstances, during the proceedings, after the President comes in, the Chair expresses the desire that the occupants of the galleries refrain from conversation.

The Clerk appoints the gentleman from Alabama, Mr. Underwood; the gentleman from Pennsylvania, Mr. Palmer; and the gentleman from Illinois, Mr. Mann, as the committee on the part of the House to escort the President into the Hall of the House.

Whereupon, on motion of Mr. Henry D. Clayton, of Alabama, at 12 o'clock and 18 minutes p.m., the House stood in recess until 12.25 p.m.

At the expiration of the recess the House resumed its session.

At 12 o'clock and 51 minutes p.m. the Doorkeeper announced the Vice President of the United States and the Members of the United States Senate.

The Members of the House rose.

The Senate, preceded by the Vice President and by their Secretary and Sergeant at Arms, entered the Hall.

The Vice President took the chair at the right of the Speaker and the Members of the Senate took the seats reserved for them.

The Vice President [1] announced the appointment of Mr. John W. Kern, of Indiana, Mr. Augustus O. Bacon, of Georgia, and Mr. Jacob H. Gallinger, of New Hampshire, as a committee on the part of the Senate to join with the committee on the part of the House and escort the President to the Hall of the House.

At 12 o'clock and 57 minutes p.m. the President of the United States,[2] escorted by the joint committee of Senators and Representatives, entered the Hall of the House and stood at the Clerk's desk, the joint session rising and standing until seated by the gavel.

The Speaker said:

Senators and Representatives, I have the distinguished honor of presenting the President of the United States.

The President delivered his message, and at its conclusion, at 1 o'clock and 6 minutes p.m., accompanied by the committees on the part of the Senate and the House, retired from the Hall of the House.

The Speaker declared the joint session adjourned.

The Vice President and the Members of the Senate returned to their Chamber.

The House resumed its session.

This was the first occasion on which the President of the United States had delivered a message in person since the discontinuation of the practice by President Jefferson in 1801.

Under the administrations of Washington and Adams it was the practice of the President to deliver the annual message in person in the Hall of the House. Other messages in writing were transmitted by messengers of the President and read by the

[1] Thomas R. Marshall, of Indiana, Vice President.

[2] Woodrow Wilson, of New Jersey, President.

clerks of the respective Houses at their desks. But during President Wilson's administration various messages [1] of special import were delivered in person.

The custom [2] was followed during President Harding's administration and during the first year of President Coolidge's term,[3] but was discontinued by President Coolidge on December 8, 1925,[4] when he transmitted his annual message by messenger, and was not resumed by President Hoover.

President Franklin D. Roosevelt's messages to the first session of the Seventy-third Congress were delivered by messenger but on January 3, 1934,[5] he appeared in the Hall of the House and delivered his annual message in person.

3334. On December 5, 1921,[6] Mr. Frank W. Mondell, of Wyoming, offered as privileged the following:

Resolved by the House of Representatives (the Senate concurring), That the two houses of Congress assemble in the Hall of the House of Representatives on Tuesday, the 6th day of December, 1921, at 12:30 o'clock in the afternoon for the purpose or receiving such communications as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to and messaged to the Senate, which on the same day returned it to the House with notification of its approval.

On December 6,[7] following the reading and approval of the Journal, on motion of Mr. Mondell, by unanimous consent, it was ordered that the House stand in recess subject to call of the Speaker.[8]

Accordingly, at 12 o'clock and 9 minutes p. m., the House stood in recess.

At 12 o'clock and 15 minutes p. m. the members of the President's Cabinet entered the Hall and took seats at the left of the Speaker's rostrum.

At 12 o'clock and 19 minutes p. m. the members of the Conference on the Limitation of Armament entered the Hall and took the seats reserved for them fronting the Speaker's rostrum.

After Recess, at 12 o'clock and 20 minutes p. m., the House was called to order by the Speaker.

At 12 o'clock and 22 minutes p. m. the Doorkeeper announced the President pro tempore [9] of the Senate of the United States and the Members of the United States Senate.

The Members of the House arose. The Senate, preceded by the President pro tempore and by their Secretary and Sergeant at Arms, entered the Chamber.

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[1] First session Sixty-third Congress, Record, pp. 2142, 3825; Second session Sixty-Third Congress, Record pp. 4346, 6911, 14738; First session Sixty-fourth Congress, Record, pp. 95, 6448, 13361; Second session Sixty-fourth Congress, Record, pp. 31, 2578, 4326; Second session Sixty-fifth Congress, Record, pp. 21, 690, 1950, 7127, 11539; and First session Sixty-sixth Congress, Record, p. 3728.

[2] First session Sixty-seventh Congress, Record, p. 169; Second session Sixty-seventh Congress, Record, p. 52; and Fourth session Sixty-seventh Congress, Record, p. 212.

[3] First session Sixty-eighth Congress, Record, p. 96.

[4] First session Sixty-ninth Congress, Record, p. 457.

[5] Second session Seventy-third Congress, Record, p. 8.

[6] Second session Sixty-seventh Congress, Record, p. 11.

[7] Record, p. 51.

[8] Frederick H. Gillett, of Massachusetts, Speaker.

[9] Albert B. Cummins, of Iowa, President pro tempore.

The President pro tempore took the chair at the right of the Speaker and the Members of the Senate took the seats reserved for them.

The Speaker appointed Mr. Mondell, Mr. Joseph G. Cannon, of Illinois; Mr. Phillip P. Campbell, of Kansas; Mr. Finis J. Garrett, of Tennessee; and Mr. Edward W. Pou, of North Carolina, as the Committee on the part of the House to wait on the President and conduct him to the Hall.

The President pro tempore appointed Mr. Henry Cabot Lodge, of Massachusetts; Mr. Gilbert M. Hitchcock, of Nebraska; Mr. Knute Nelson, of Minnesota; Mr. Furnifold M. Simmons, of North Carolina; and Mr. Reed Smoot, of Utah, as a similar committee on the part of the Senate.

At 12 o'clock and 30 minutes p. m. the President, escorted by the committee of Senators and Representatives, entered the Hall of the House, was announced by the Doorkeeper, and stood at the Clerk's desk, amid applause on the floor and in the galleries.

The Speaker said:

> Gentlemen of the Senate and of the House, the President of the United States.

The President delivered his address.

At 1 o'clock and 20 minutes p. m. the President and the members of his Cabinet retired from the Hall of the House.

Thereupon, the President pro tempore and the members of the Senate returned to their Chamber.

The Speaker announced:

> The joint session of the two Houses is now adjourned.

The House having resumed its session, on motion of Mr. Mondell, the message of the President was referred to the Committee of the Whole on the state of the Union and ordered to be printed.

3335. A concurrent resolution providing for a joint session to receive the President's message was held to be of the highest privilege.

On April 7, 1913,[1] the Vice President laid before the Senate the concurrent resolution (H. Con. Res. 1) providing for a joint session of the two Houses for the purpose or receiving such communications as the President of the United States should be pleased to make them.

Mr. Augustus O. Bacon, of Georgia, moved that the Senate concur in the resolution.

Mr. William J. Stone, of Missouri, raised a question of order and quoted the rule requiring the retention of all resolutions over one day for consideration unless otherwise ordered by unanimous consent.

The Vice President[2] ruled:

> It is a question of the highest privilege, involving the right of this body to attend a joint session of Congress in the Hall of the House of Representatives, and that the resolution is in order.
>
> The Chair rules that this is a question of the highest privilege, to which rule the does not apply.

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[1] First session Sixty-third Congress, Record, p. 58.

[2] Thomas R. Marshall, of Indiana, Vice President.

3336. Instance wherein a concurrent resolution was passed on the last day of one session providing for a joint meeting of the two Houses on the second day of the next session of the same Congress.

Dicta to the effect that one House may not prescribe orders for its successor.

On November 29, 1913,[1] the last day of the session, Mr. Oscar W. Underwood, of Alabama, offered the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring, That the two houses of Congress assemble in the Hall of the House of Representatives on Tuesday, the 2d day of December, 1913, at 1 o'clock in the afternoon, for the purpose of receiving such communications as the President of the United States shall be pleased to make them.

Mr. James R. Mann, of Illinois, raised the point of order that one session of Congress could not provide a joint meeting of the two Houses in the next session prior to the ascertainment of the presence of a quorum in each House.

After debate, the Speaker[2] held:

The Chair holds that the resolution is in order. If it were the last days of a Congress and a new Congress came in on next Monday, that would be different. The Chair does not believe that the House should pass a resolution affecting business in the next Congress. But this resolution is on order on the ground of convenience, if for nothing else, and that is to give a proper notification of the proceeding.

3337. A Member rising to interrogate the President during the delivery of a message before a joint session of the two Houses would address the President and not the Speaker.

On January 13, 1915,[3] Mr. Samuel W. Smith, of Michigan, rising to a parliamentary inquiry, asked what would be the proper procedure if a Member or a Senator desired to interrogate the President of the United States when he appeared before a joint session of the House and Senate to deliver a message.

The Speaker[2] replied:

The Chair investigated that once, and nothing of the sort has happened in Congress since Thomas Jefferson was sworn in as President the first time, because no President since that time has read a speech before Congress except President Wilson. But before that it does seem that they interrogated the President—not very frequently, but it was done. The opinion of the present incumbent of the Chair is that the President would have the right to refuse to be interrogated.

In the opinion of the Chair, the Speaker has nothing to do with it and a Member or Senator should address the President direct. It might be in order, but it would be exercising wretched taste.

3338. Whereas it was formerly the custom to transmit messages only when both Houses were sitting, the present practice permits the reception of messages regardless of whether the other House is in session.

On June 13, 1911,[4] a clerk of the Senate presented himself in the House and, being recognized by the Speaker, announced certain messages from the Senate.

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[1] First session Sixty-third Congress, Record, p. 6946.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-third Congress, Record, p. 1514.

[4] First session Sixty-second Congress, Record, p. 1968.

Mr. Charles L. Bartlett, of Georgia, objected that the Senate was not in session and it was in order to receive a message only when both Houses were sitting.

Mr. James R. Mann, of Illinois, said:

The former rulings were that neither House could receive a message from the other while the House sending the message was not in session; that the House could not receive a message from the Senate unless the Senate was in session; but the uniform practice of both Houses for many years has been to receive messages, regardless of whether the House that sent the message was in session at the time or not. It seems to me that uniform practice has acquired the force and dignity of a rule and a ruling on the subject.

The Speaker ruled: [1]

The parliamentary rulings on this point are as follows: Jefferson's Manual declares that both Houses have to be sitting in order that one may receive a message from the other. Speaker Crisp overruled that proposition. Speaker Reed subsequently sustained it. The reason in the matter is with Speaker Crisp's ruling; otherwise it would compel the Speaker, or whoever happened to be occupying the chair, to convert himself into a committee of inquiry every time a message came over here to see whether the Senate was actually in session. In addition to this, during my 17 years' service here I have never once heard the point raised. Messages from the Senate have been uniformly received and no questions asked as to whether the Senate was in session. Usage has made it a rule to receive Senate messages when presented to the House. The Chair therefore overrules the point of order.

3339. The reception of a message from the President or the other House is not the transaction of business and does not require the presence of a quorum.

On December 22, 1916,[2] the Senate resumed consideration of the bill (S. 392) to create in the War Department and the Navy Department, respectively, a roll designated as the "Civil War volunteer officers' retired list."

During consideration of the bill Mr. Thomas P. Gore, of Oklahoma moved that the Senate adjourn. The question being taken, and the yeas and nays being ordered, the yeas were 14, the nays were 33, not voting 49, and the Presiding Officer [3] announced a quorum was not present.

Here, one of the secretaries of the President of the United States appeared and the Presiding Officer said:

The Senate will receive a message from the President of the United States.

Mr. Jacob Gallinger, of New Hampshire, objected that it was not in order to receive a message from the President in the absence of a quorum.

The Presiding Officer overruled the point of order and held:

The Chair thinks it is in order to receive a message from the President. It is found in Precedents, Decisions on Points of Order, with Phraseology, in the United States, complied by Henry H. Gilfry, page 473, under the head of "President's message—reception of, without a quorum."

The ruling was made August 5, 1886. The President pro tempore, Mr. Sherman, decided that "less that a quorum could not take a recess," and "at the same time decided that less than a quorum could receive a message from the President of the United States."

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fourth Congress, Record, p. 676.

[3] Duncan U. Fletcher, of Florida, Presiding Officer.

This is the only precedent before the Chair, and, so far as the Chair knows, it is the only one. The ruling was held by the President pro tempore, Mr. Sherman:

"An appeal was taken, but because of a want of a quorum it was not entertained by the President pro tempore."

That seems to be the only precedent on the subject, and the Chair will receive the message.

Whereupon, the messenger said:

The President of the United States directs me to deliver to the Senate a message in writing.

The message having been delivered, Mr. Gallinger presented a request to have the biographies of the members of the United States Shipping Board printed in the Record.

The Presiding Officer declined to entertain the request on the ground that it was not in order to transact business when a quorum was not present.

Mr. William J. Stone, of Missouri, addressed the Chair and was proceeding in debate when Mr. Gallinger made the point of order that debate was not in order in the absence of a quorum.

The Presiding Officer held the point of order to be well taken.

3340. The reception of a message when the Committee of the Whole rises informally for that purpose is not such business as to admit the point of order that a quorum of the House is not present. On May 31, 1924,[1] the Committee of the Whole House on the state of the Union was considering the bill H. R. 9033, the farm relief bill, when the Chairman announced that the committee would rise informally to receive a message from the Senate.

Mr. James T. Begg, of Ohio, having taken the chair as Speaker pro tempore, Mr. Thomas L. Blanton, of Texas, made the point of order that there was not a quorum present to receive the message.

The Speaker pro tempore declined to entertain the point of order and recognized the Clerk of the Senate to deliver the message.

3341. Messages from the President are laid before the House on the day on which received at a convenient time within the discretion of the Speaker.

On January 4, 1932,[2] a message in writing from the President was communicated to the House by one of his secretaries.

Mr. Charles L. Underhill, of Massachusetts, raised the question that the custom of the House required that the messages from the President be laid before the House when received.

The Speaker[3] said:

Permit the Chair to say to the gentleman from Massachusetts that the custom has been to investigate these messages before they are laid before the House in order that the Chair may determine what reference shall be made of them and whether the documents appended to the message shall be printed. That investigation is being made at the present time. Whether it is laid before the House now or later this afternoon can make but little difference.

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[1] First session Sixty-eighth Congress, Record, p. 10039.

[2] First session Seventy-second Congress, Record, p. 1224.

[3] John N. Garner, of Texas, Speaker.

3342. Messages constitute the sole source of official information as to action taken by the other House and may not be supplemented or questioned.

On September 10, 1919,[1] when the Journal was read, Mr. Warren Gard, of Ohio, objected to its approval on the ground that it recorded the House as having asked conference with the Senate on the bill (H. R. 6810), the Volstead act, when the Record indicated that the Senate had previously asked conference.

Mr. Frank W. Mondell, of Wyoming, explained:

The gentleman from Ohio having mentioned the matter, I think it is perhaps as well to say that the Senate in passing the prohibition enforcement bill agreed to a motion which was made that the Senate insist upon its amendments and ask for a conference; but in messaging the bill over no reference was made to that action of the Senate, and the House acted in accordance with the record which it had before it; and as the record did not indicate that the Senate had asked for a conference the gentleman from Minnesota, Mr. Volstead, in making his final request, asked for a conference. I assume that when the bill reaches the Senate, the Senate, without regard to its former action, will agree to the conference requested by the House.

The only notice that the House had officially, of course, was the notice carried in the message, and the announcement made by the messenger from the Senate, and the House acted properly in view of the information that it had in the notice that was given it.

That action is sometimes taken by both the House and the Senate. Whether it was unusual or nor, we are not assumed to know any thing about the action of the Senate except what is conveyed in the papers that are delivered to us. It remains for the Senate to take whatever action, if any, they may deem necessary to correct the mistake of the officer of the Senate who transmitted the papers. I assume the Senate may now simply agree to the conference the House has asked.

Thereupon, the Speaker[2] put the question on the approval of the Journal, and it was decided in the affirmative without division.

3343. On February 14, 1925,[3] Mr. Bertrand H. Snell, of New York, called up a resolution reported by the Committee on Rules providing for the consideration of the bill (S. 2287) authorizing the sale by the Government of the Hoboken Shore Line.

Mr. John J. Eagan, of New Jersey, made the point of order that the bill so provided for had not been messaged to the House in the form in which it passed the Senate.

The Speaker[4] said:

The gentleman from New Jersey was courteous enough to notify the Chair in advance of the point of order and the Chair has considered it. It seems to the Chair that the only basis on which the Chair or the House can determine the accuracy is the record which is sent to us by the Senate. It seems to the Chair we are bound by the formal interchange of documents between the two bodies. If it should prove that there is a discrepancy, as the gentleman states the record will disclose, between the Congressional Record and the bill, that occurring in the Senate, it seems to the Chair it is for the Senate to determine, and the House can only look at the record as forwarded to it by the Senate, and therefore the Chair overrules the point of order.

3344. The Senate having failed to transmit a proper message, the Speaker directed that the attention of the Secretary of the Senate be called to the omission.

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[1] First session Sixty-sixth Congress, Record, p. 5177.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-eighth Congress, Journal, p. 410; Record, p. 3757.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

On May 2, 1914,[1] Mr. Asbury F. Lever, of South Carolina, rising to a parliamentary inquiry, stated that a message received from the Senate relative to the return to the House of the bill (H. R. 7951) the agricultural extension bill, did not comport with the account of the proceedings as reported by the Record.

The Speaker[2] said:

The Chair understands that what happened was this: That the Secretary of the Senate, or one of the clerks of the Senate, brought over sundry bills and recited that the Senate had done this, that, and the other with those bills, and then he announced that he returned to the House the bill to which the gentleman refers. Now, he had no right to return a bill to the House.

What took place was that the Senate sent a message to the House stating that the Senate had agreed to the conference report. The they sent a message requesting the House to return the papers and the message.

That was granted, and both the papers and the message were returned to the Senate. Now in order to make the Record complete we must have a message from the Senate as to whether they have agreed to the conference report. They way to do is to have some one telephone to the office of the Secretary of the Senate and call attention to the fact that a proper message has not been sent over here.

Later in the day, Mr. Lever addressed the Speaker and informed the House that the bill had been properly messaged from the Senate.

3345. A clause stricken out on a point of order but inadvertently retained in the bill when messaged to the Senate, was held to be a part of the text when the bill is taken from the Speaker's table with Senate amendments.

On June 23, 1919,[3] Mr. Charles R. Davis, of Minnesota, asked unanimous consent to take from the Speaker's table the District of Columbia appropriation bill, disagree to the amendments of the Senate, and agree to the conference requested by the Senate.

Under reservation of the right to object, Mr. Ben Johnson, of Kentucky, made the point of order that the bill contained a paragraph stricken out in the House on a point of order but inadvertently retained in the bill when engrossed by the enrolling clerk and messaged to the Senate.

It was conceded in debate that the paragraph after being ordered stricken out in the House had been included in the bill as messaged to the Senate and that the Senate had returned it to the House with an amendment striking it out.

The Speaker[4] said:

The Chair will state the parliamentary situation. The gentleman from Minnesota, Mr. Davis, asks unanimous consent that the conference report be taken from the Speaker's table and that the Senate amendments be disagreed to. Now, until that consent is granted no motion can be made to concur in any Senate amendment, because the report is not yet before the House, But as soon as it is before the House it will be in order, and it will be in order for any gentleman to move to concur in the Senate amendment, which would at once relieve the entire embarrassment on account of the mistake that was made. The first thing is to give unanimous consent to have the bill taken from the Speaker's table. Is there objection?

3346. Special messages from the President touching on one subject only are referred ordinarily by the Speaker without motion from the floor.

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[1] Second session Sixty-third Congress, Record, p. 7623.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 1604.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

On April 28, 1908,[1] the Speaker laid before the House a message from the President of the United States dealing with the need of antitrust legislation.

At the conclusion of the reading of the message, the Speaker announced that it was referred to the Committee on the Judiciary and ordered printed.

Mr. John Sharp Williams, of Mississippi, raised a question as to the reference of the message and suggested that it should have been sent to the Committee of the Whole House on the state of the Union to determine its ultimate reference.

The Speaker[2] said:

> We get messages from the President about many matters almost daily in the ordinary transaction of business, and under the practice of the House they are referred by the Speaker to the appropriate committee.

3347. Messages of the President when not referred on motion from the floor are referred to the appropriate committee by the Speaker.

On January 8, 1918,[3] the President of the United States appeared before a joint session of the Senate and House and delivered a message outlining 14 tentative provisions as a prospective program for world peace.

The address having been concluded and the Speaker having resumed the Chair, Mr. Claude Kitchin, of North Carolina, moved that the message be referred to the Committee on Foreign Affairs.

The motion being agreed to, the Speaker called attention to the failure, through inadvertence, to refer the message delivered by the President on January 4, on the railroad situation, and asked if recognition was desired to move reference of the message.

Mr. Kitchin replied that as it was a special message he had not supposed a motion was required.

Whereupon, the Speaker[4] referred the message to the Committee on Interstate and Foreign Commerce.

3348. While the annual message of the President is customarily referred by the House, special messages usually are referred by the Speaker, but it has been held that any Member may object and offer a motion for a different reference.

A motion to refer a Presidential message is privileged.

A Presidential message may be divided for reference and portions relating to one topic referred to one committee while portions dealing with other subjects are referred to other committees.

On January 20, 1914,[5] the President appeared before a joint session of the two Houses and delivered a message relating to the need for the establishment of an interstate trade commission and other subjects.

At the conclusion of the address, Mr. Oscar W. Underwood, of Alabama, moved that so much of the message as related to the establishment of an interstate trade

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[1] First session Sixtieth Congress, Record, p. 5392.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 693.

[4] Champ Clark, of Missouri, Speaker.

[5] Second session Sixty-third Congress, Record, p. 1980.

commission be referred to the Committee on Interstate and Foreign Commerce and the remainder of the message be referred to the Committee on the Judiciary.

Mr. James R. Mann, of Illinois, objected on the ground that a motion for the disposition of the President's message was not in order and could only be made by unanimous consent.

The Speaker [1] held:

So far as the parliamentary point raised is concerned, the annual message of the President is referred by motion, and others are referred by the Speaker, and if the House does not like the Speaker's reference any Member can make a motion to have a change. In this particular case the Chair called the attention of the gentleman from Alabama to the matter and asked him to make the motion, because when the time came the Chair might have his attention otherwise directed. There is no question but that this motion is in order. The motion is to refer that part of the President's address touching interstate trade commissions and stocks and bonds to the Interstate and Foreign Commerce Committee, and the remainder of it to the Committee on the Judiciary.

3349. A message from the President dealing with questions within the jurisdiction of several committees may be divided for reference and each subject referred to its appropriate committee.

On December 12, 1925,[2] following the disposition of business on the Speaker's table, the Speaker [3] stated:

The Chair would ask the attention of the House for a moment. A day or two ago the Chair laid before the House two messages of the President of the United States relating to the subject of aviation, and the Chair referred them to three committees each—the Committee on Military Affairs, the Committee on Naval Affairs and the Committee on Interstate and Foreign Commerce. At that time the gentleman from Tennessee, the minority leader, questioned the advisability of that reference; and entertaining as he does the greatest respect for the judgment of the gentleman from Tennessee, the Chair postponed the reference to examine the precedents in such a case.

The Chair has been unable to find more than one precedent from what might be described a plural reference of a message from the President. On January 23, 1924, a message from the President was laid before the House dealing with the economic situation in certain wheat-growing sections of the Northwest. The Speaker referred that message to the Committees on Agriculture and Banking and Currency. However, it is almost the uniform procedure in cases of communications from governmental heads dealing with various subject matters to refer those communications to several committees.

The Chair thinks that in view of the great importance of aviation, covering as it does a large field, it would be wise in a case like to refer these messages to other than the Committee on Military Affairs, which has been the usual procedure. The Chair has consulted the gentleman from Tennessee and the gentleman from Georgia and other parliamentary authorities, and he thinks now that the reference was proper. He now refers these two messages to the Committee on Military Affairs, the Committee on Naval Affairs, and the Committee on Interstate and Foreign Commerce.

3350. Formerly the annual message of the President was distributed by resolution to the committees having jurisdiction, but since the first session of the Sixty-fourth Congress the practice has been discontinued.

On March 25, 1908,[4] the Speaker [5] laid before the House a special message from the President of the United States embodying recommendations on various subjects.

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[1] Champ Clark, of Missouri, Speaker.

[2] First session Sixty-ninth Congress, Record, p. 731.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixtieth Congress, Record, p. 3878.

[5] Joseph G. Cannon, of Illinois, Speaker.

The message being read, Mr. Sereno E. Payne, of New York, moved that the message be referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

M. John J. Fitzgerald, of New York, objected that only annual messages were referred to the Committee of the Whole and submitted that the practice was to refer special messages direct to the committees having jurisdiction.

Mr. Payne said:

> Mr. Speaker, I will explain the reason for that. The annual message deals with a great many topics with which different committees of the House have jurisdiction. The second message sent in by the President and this message deal with several topics of which several committees have jurisdiction. It is therefore necessary to refer it to the Committee of the Whole House on the state of the Union in order that hereafter it may be distributed.

The practice referred to, of distributing the annual message by resolution, was discontinued after the first session of the Sixty-fourth Congress,[1] and since that time it has been uniformly referred to the Committee of the Whole House on the state of the Union which has adopted no resolutions for its distribution.[2]

3351. The reference of a message from the President to committees may be changed by unanimous consent.

On July 18, 1919,[3] a message was received from the President of the United States, and being read, was referred by the Speaker to the Committee on Military Affairs.

Subsequently on the same day, the Speaker[4] addressing the House by consent, said:

> The Chair would like to ask unanimous consent of the House to reconsider a reference which was made a few minutes ago, and refer that part of the President's message which refers to the Army to the Committee on Military Affairs, and that part which refers to the Navy to the Committee on Naval Affairs. Is there objection?

There was no objection.

3552. While a rule formerly made the printing of documents accompanying messages from the President mandatory, the statute superseding the rule does not require it.

On December 20, 1911,[5] the Speaker[6] laid before the House a message from the President of the United States making recommendations with regard to the tariff on wool.

The message having been read, Mr. Choice B. Randell, of Texas, moved that the message be referred to the Committee on Ways and Means, and be printed and that the accompanying documents be referred to the Committee on Ways and Means.

Mr. Sereno E. Payne, of New York, made the point of order that the practice of the House required the printing of documents accompanying presidential messages.

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[1] First session Sixty-fourth Congress, Record, p. 270.

[2] First session Sixty-fifth Congress, Record, p. 118; third session Sixty-fifth Congress, Record, p. 12.

[3] First session Sixty-sixth Congress, Record, p. 2854.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Second session Sixty-second Congress, Record, p. 548.

[6] Champ Clark, of Missouri, Speaker.

The Speaker [1] said:

The Chair will suggest to the gentleman that some days ago the Secretary of War sent a letter to the Speaker, accompanied by a very large mass of papers, and the Chair was under the impression at that time that the rule was as the gentleman states it. On investigation of that statute the House rescinded the order to print the accompanying documents. The rule that was left out of this new compilation read as follows:

"First, all documents referred to committees or otherwise disposed of shall be printed unless otherwise specially ordered."

3353. The Senate declines to receive communications from any executive department except through the President unless in response to a resolution of the Senate or in accordance with law.

On December 14, 1920,[2] in the Senate, following the reading and approval of the Journal, the Vice President[3] announced:

In order that the Senate may be informed as to certain action taken by the Vice President outside of the Senate I am making this statement. At the Sixtieth Congress the Senate passed the following resolution:

"Resolved, That no communication from heads of departments, commissioners, chiefs of bureaus or other executive officers, except when authorized or required by law, or when made in response to a resolution of the Senate, will be received by the Senate, unless such communication shall be transmitted to the Senate by the President."

The present occupant of the chair has held that the Senate passed that resolution in conformity to the clause of the Constitution of the United States which provides that among other duties of the President—

"He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient."

Certain solicitors of various departments of the Government have disagreed with the Vice President to the extent of saying that the resolution adopted in the Sixtieth Congress only applied to the Sixtieth Congress. Various departments and bureaus are constantly sending to the Vice President recommendations as to what the Congress should or should not do, without submitting the same to the President of the United States. I am holding that they have no right to do that, regardless of a resolution of the Senate of the United States; that the legislation of the United Sates of America originates in either the Senate or the House, and that recommendations with reference to such legislation must come either from or through the President of the United States.

I call attention to it so that if Senators think the Chair is in error, the Chair may be corrected and hereafter hand these communications down. I have been sending them back.

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[1] Champ Clark, of Missouri, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 308.

[3] Thomas R. Marshall, of Indiana, Vice President.

Chapter CCLXIX.[1]

RECESS.

1. Motion for, not privileged. Sections 3354–3359.
2. General decision as to taking. Sections 3360, 3361.
3. Committee of Whole takes recess only by permission of House. Section 3362.

3354. A motion for a recess is without privilege under the rules.

On December 13, 1912,[2] the Committee of the Whole House on the state of the Union rose and Mr. Joseph T. Robinson, of Arkansas, the Chairman, reported that the committee had had under consideration the Indian appropriation bill and had come to no conclusion thereon.

Mr. S. A. Roddenbery, of Georgia, asked recognition to offer a motion that the House take a recess until 8 o'clock in the evening for the purpose of resuming consideration of the bill at that time.

The Speaker[3] said:

That is not privileged under the rules. It can not be done except by unanimous consent.

The gentleman from Georgia asks unanimous consent that the House not take a recess until 8 o'clock to-night, the session to continue not later than 11 o'clock, for the further consideration of the Indian appropriation bill. Is there objection?

3355. A motion for a recess is not privileged against a demand for the regular order regardless of whether there is a question under debate in the House.

On May 5, 1924,[4] Mr. Louis C. Cramton, of Michigan, Chairman of the Committee of the Whole on the state of the Union, reported to the House that that committee, having had under consideration the bill (H. R. 7385) to provide for the expeditious and prompt settlement by mediation, conciliation, and arbitration of disputes between carriers and their employees, had come to no resolution thereon.

Whereupon, Mr. Alben W. Barkley, of Kentucky, moved that the House stand in recess until 11 o'clock on the following day.

Mr. Nicholas Longworth, of Ohio, submitted that such a motion was without privilege and demanded the regular order.

Mr. Barkley contended that while the motion for a recess was not included in the list of motions given privileged status under the rules when a question was under

[1] Supplementary to Chapter CXXXIX.

[2] Third session Sixty-second Congress, Record, p. 624.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Sixty-eighth Congress, Record, p. 7890.

debate in the House, it was nevertheless in order when there was no question under debate as in the present instance.

The Speaker [1] said:

The gentleman from Kentucky offers a motion to recess, and claims that he has a right to make it, which means, of course, that it is privileged, because no motion can be made in the House which has not privilege when the regular order is demanded.

The Chair is not aware of any motion which can be made against the demand for the regular order except a privileged motion, and the rules state which are privileged. The motion to recess, up to 30 years ago, was privileged, and it was dropped for an express purpose, of course, namely, so that it could not be made.

Now, the gentleman from Kentucky argues that it is in order because in these 30 years there is no precedent against it.

It seems to the Chair the fact that nobody up to this time has ventured to make the motion is pretty good evidence that it is not in order, because there have been ingenious men in the House during the last 30 years and if there were any plausible excuse for making the motion some one would have attempted it.

The gentleman can cite no precedents justifying his motion, and the fact no one has ventured to make the motion in 30 years, so far as we know, is pretty good evidence that it is not in order.

The Chair sustains the point of order.

3356. While the motion to recess is not privileged against a demand for the regular order, it is frequently entertained by consent.

Prior to 1880 the rules made no provision for consideration of a proposal to recess, but with the revision of that year the motion to recess was given privileged status and so continued until omitted in the revision of 1890.

The motion to recess to the regular hour of meeting on the succeeding day is not admissible because in contravention of a standing order of the House, but if taken to such hour, the House when convened is still in session as of the preceding day.

A recess does not terminate a legislative day and a legislative day may not be terminated during recess.

A legislative day has not begun until the preceding legislative day has been terminated by adjournment.

On Saturday, February 18, 1911,[2] the legislative day of Friday, February 17, the House was called to order by the Speaker at the conclusion of a recess taken on the previous afternoon.

Immediately, Mr. Thetus W. Sims, of Tennessee, moved that the House resolve itself into the Committee of the Whole House for the resumption of consideration of the bill (S. 7971) the omnibus claims bill, on the private calendar and under consideration when the House recessed on Friday.

Mr. James R. Mann, of Illinois, objected to the motion and demanded the regular order on the ground that it was a new legislative day and Friday business was not in order.

Mr. Sims contended that it was still the legislative day of Friday and Friday business from the private calendar was therefore the regular order.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-first Congress, Record, p. 2848.

The Speaker ruled: [1]

By constitutional provision the House can not adjourn without the consent of the Senate for a longer period than three days. The House has determined by an order, which is equivalent to a rule, that the daily meeting shall be at 11 o'clock, at which time the Journal shall be read, and so forth, and then comes the daily order of business.

Now, it is quite competent for the House, by unanimous consent, to fix a different time for meeting. For instance, the House has made an order, which has the dignity of a rule, that it shall meet to-morrow, Sunday, at 12 o'clock. There is not anywhere in the rules, so far as the Chair can find, anything said about a recess prior to 1880. An amendment to the rules adopted at that time made a motion to take a recess a privileged motion. In 1890 the provision providing for a recess was dropped out, and it has been continually left out from that time down to the present. Yet, in practice, from time to time the House has taken recesses.

Now, if the House had adjourned yesterday prior to 11 o'clock the adjournment would, by virtue of an order, which is in effect, if not in form, a rule of the House, have been to meet again at 11 o'clock to-day. But it seems that the House on the calendar day of yesterday made an order to take a recess until 11 o'clock to-day, which brought the expiration of the recess to the exact hour that the standing order provided for the daily meeting. On the daily meeting, the beginning of the legislative day, the Journal would be read, and so forth.

Now, it is perfectly clear to the Chair that if a point of order had been made against the motion to take a recess until 11 a.m. to-day the point of order would have been sustained, since that motion had the effect of abrogating a standing order of the House, namely, that the House shall meet daily in regular session at 11 o'clock.

Now, it seems that, notwithstanding the rules of the House, the House did in fact agree to a motion to stand in recess until 11 o'clock this morning. Having recessed until 11 o'clock, the precedents that have been cited do not fit this case at all, because in all the precedents the recess was not taken beyond the hour set for the beginning of the coming legislative day, as fixed by standing order of the House. This case is different; but the House having, in fact, recessed, having manifested its will to go into recess until 11 o'clock to-day, it seems to the Chair that the various rules of the House have been set aside by that action of the House, and that the House is still in session as of the legislative day of yesterday.

3357. The motion for a recess is not in order in the Committee of the Whole.

On July 19, 1919,[2] the Committee of the Whole House on the state of the Union had under consideration the bill (H. R. 6810) the prohibition enforcement bill.

Mr. William W. Venable, of Mississippi, proposed an oral amendment to the bill.

Mr. Joseph Walsh, of Massachusetts, having demanded that the proposition be reduced to writing, Mr. L. C. Dyer, of Missouri, asked unanimous consent that the section be passed over temporarily to permit the formulation of the amendment.

Mr. John E. Raker, of California, objected.

Whereupon, Mr. Adolph J. Sabath, of Illinois, moved that the Committee of the Whole take a recess of 30 minutes in order to permit preparation of the proposed amendment.

The Chairman [3] declined to entertain the motion and said:

The motion to take a recess in the committee is not in order.

3358. Propositions for a recess are frequently entertained by unanimous consent.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 2885.

[3] James W. Good, of Iowa, Chairman.

An instance wherein a recess was taken subject to the call of the Speaker.

On December 22, 1926,[1] on motion of Mr. John Q. Tilson, of Connecticut, by unanimous consent, it was ordered that the House stand in recess subject to the call of the Speaker, and that the Speaker have the bells sounded 15 minutes before calling the House to order.

3359. The motion for a recess has been given temporary privilege by a resolution reported from the Committee on Rules.

On March 3, 1927,[2] at 9 o'clock and 56 minutes p.m., Mr. John Q. Tilson, of Connecticut, asked unanimous consent that the House take a recess until 9.30 the following morning.

Mr. Roy G. Fitzgerald, of Ohio, entered an objection.

Whereupon, Mr. Bertrand H. Snell, of New York, from the Committee on Rules, submitted the following privileged resolution.

Resolved. That immediately upon the adoption of this resolution it shall be in order to move that the House stand in recess.

The resolution was agreed to and, on motion of Mr. Tilson, the House stood in recess until 9.30 o'clock the next morning.

3360. Instance wherein, under special order, the Chairman of the Committee of the Whole declared the committee in recess from one calendar day to another.

Under provisions of a special rule for the consideration of a bill, the Chairman of the Committee of the Whole declared the committee in session from day to day without the House having adjourned, recessed, or convened, and without the Speaker appearing in the chair.

On April 8, 1908,[3] the House agreed to the following resolution reported by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules.

Resolved, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next Calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for the consideration of H. R. 20471, the naval appropriation bill; that at 5 o'clock p. m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a. m. on Saturday, April 11; that at 5 o'clock p. m. Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a. m. on Monday, April 13.

Under this resolution, the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill with Mr. James R. Mann, of Illinois, in the Chair, and continued in session until 5 o'clock p. m. when the Chairman announced:

The hour of 5 o'clock having arrived under the order of the House the Committee of the Whole House on the state of the Union will stand in recess until 11.30 o'clock to-morrow morning.

On the following day, the recess having expired, the Committee of the Whole, at 11 o'clock and 30 minutes a. m., was called to order by Mr. Mann as Chairman, under the rule, and resumed consideration of the naval appropriation bill.

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[1] Second session Sixty-ninth Congress, Record, p. 961.

[2] Second session Sixty-ninth Congress, Record, p. 5885.

[3] First session Sixtieth Congress, Record, p. 4505.

3361. A resolution providing for the holiday recess adjournment and not reported by the Committee on Rules is without privilege.

On December 22, 1932,[1] Mr. Henry T. Rainey, asked unanimous consent for the present consideration of the following:

Resolved, That when the House adjourns on Friday, December 23, 1932, it stand adjourned until 12 o'clock meridian Tuesday, December 27, 1932.

Mr. Bertrand H. Snell, of New York, reserved the right to object, and inquired if the resolution was not privileged.

The Speaker[2] replied that it was not a privileged resolution, and could be considered only by unanimous consent.

3362. The Committee of the Whole may not recess except by permission of the House.

On May 7, 1926,[3] the business on the Speaker's table having been disposed of, Mr. John Q. Tilson, of Connecticut, asked unanimous consent that the Committee of the Whole House on the state of the Union be authorized at any time prior to 5:30 o'clock that afternoon to recess until 8 o'clock p.m.

Mr. Thomas L. Blanton, of Texas, made a point of order that a recess could not be taken by Committee of the Whole.

The Speaker[4] said:

It can if the House gives unanimous consent; it can not be done by the committee itself. Is there objection to the request of the gentleman from Connecticut?

The request being agreed to, the House subsequently resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the farm relief bill.

At 5 o'clock and 20 minutes p.m. Mr. Gilbert N. Haugen, of Iowa, moved that the committee take a recess until 8 o'clock.

The Chairman[5] said:

The Chair does not think that is necessary. Under the order of the House the committee will now stand in recess until 8 o'clock p.m.

At 8 o'clock p.m., the recess having expired, the committee resumed its session.

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[1] Second session Seventy-second Congress, Record, p. 921.

[2] John N. Garner, of Texas, Speaker.

[3] First session Sixty-ninth Congress, Record, p. 8911.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Carl E. Mapes, of Michigan, Chairman.

Chapter CCLXX.[1]

SESSIONS AND ADJOURNMENTS.

3363. While neither House may adjourn for more than three days during a session of Congress without the consent of the other, either may adjourn ad libitum with the consent of the other House.

The first instance[2] in which one House adjourned for more than three days with the consent of the other.

On July 28, 1919,[3] Mr. Frank W. Mondell, of Wyoming, being recognized to submit a privileged resolution, offered the following:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Saturday, the 2d day of August, it stand adjourned until 12 'clock meridian, Tuesday, the 9th of September.

Mr. Mondell explained that the legislative program of the House had been practically completed and it was proposed that the House, with the consent of the Senate, stand in recess until the Senate had completed consideration of the pending peace treaty.

After debate, the concurrent resolution was agreed to without division.

3364. On November 18, 1919,[4] on motion of Mr. Charles Curtis, of Kansas, by unanimous consent, the Senate proceeded to the consideration of the following Senate resolution:

Resolved, That the consent of the Senate is hereby given to an adjournment sine die of the House of Representatives at any time prior to December 1 when the House shall so determine.

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[1] Supplementary to Chapter CXL.

[2] There is no previous instance in which this procedure has been followed. Section 6672 of Hinds' Precedents.

[3] First session Sixty-sixth Congress, Record, p. 3248.

[4] First session Sixty-sixth Congress, Record, p. 8760.

It was suggested by Mr. William F. Kirby, of Arkansas, that adjournment of the House under the authorization proposed by the resolution would render it impossible for the Senate to adjourn at all.

Mr. Curtis explained that it was understood that the House would adopt a similar resolution consenting to the adjournment of the Senate.

The resolution was agreed to.

On the following day,[1] the House agreed to a privileged resolution presented by Mr. Frank W. Mondell, of Wyoming, as follows:

Resolved, That the consent of the House of Representatives is hereby given to an adjournment sine die of the Senate at any time prior to December 1, when the Senate shall so determine.

3365. A concurrent resolution fixing the time of final adjournment is offered as a matter of constitutional privilege.

On May 29, 1928,[2] in the Senate, Mr. Charles Curtis, of Kansas, submitted, as privileged, the following:

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized and directed to close the first session of the Seventieth Congress by adjourning their respective Houses on the 29th day of May, 1928, at 5.30 o'clock p.m.

Mr. Hiram W. Johnson, of California, objected to the present consideration of the concurrent resolution.

The Vice President[3] held the concurrent resolution to be privileged, and overruled the point of order.

3366. A Senate resolution consenting to adjournment of the House for more than three days was refused consideration in the Senate on the ground that the House had not requested such consent.

On request of the House, the Senate agreed to a resolution granting its consent to the adjournment of the House for a period in excess of three days.

Adoption of a resolution requesting consent of the Senate to adjournment for more than three days was held not to confer privilege on a motion to adjourn to a certain day.

On June 28, 1922,[4] in the Senate, Mr. Francis E. Warren, of Wyoming, from the Committee on Appropriations reported favorably the following resolution:

Resolved, That the consent of the Senate is hereby given to an adjournment of the House of Representatives to Tuesday, August 8, 1922.

In debate it was explained that the resolution had been introduced at the request of the floor leader of the House to authorize adjournment by that body during consideration of the tariff bill in the Senate.

Objection was made that such resolution should be preceded by an official request from the House and on that ground the resolution was laid on the table.

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[1] Record, p. 8810.

[2] First session Seventieth Congress, Record, p. 10511; Senate Journal, p. 567.

[3] Charles G. Dawes, of Illinois, Vice President.

[4] Second session Sixty-seventh Congress, Record, p. 9549.

On June 29,[1] in the House, on motion of Mr. Frank W. Mondell, of Wyoming, the following resolution was considered:

Resolved, That the House of Representatives requests the consent of the Senate to an adjournment of the House until Tuesday, August 15, 1922.

Mr. John N. Garner, of Texas, objected that the adoption of the resolution might be interpreted as authorizing arbitrary consideration of a motion to adjourn to a day certain.

The Speaker[2] held:

The Chair thinks that this motion would not be privileged until some rule had been adopted as to the time of adjournment.

On the same day, the Presiding Officer laid before the Senate the resolution of the House, when on motion of Mr. Charles Curtis, of Kansas, the request of the House was agreed to, and the House was notified of the action of the Senate.

On the following day,[3] in the House, Mr. Bertrand H. Snell, of New York, from the Committee on Rules, reported, as privileged, this resolution:

Resolved, That when the House adjourns to-day it adjourns to meet on Tuesday, August 15, 1922, at 12 o'clock meridian.

After debate, the yeas and nays being ordered, the question was taken on agreeing to the resolution, when the yeas were 171, the nays were 43, and the resolution was agreed to.

Thereupon, pursuant to the resolution, and the concurrent resolution previously agreed to, on motion of Mr. Mondell, the House adjourned until Tuesday, August 15, 1922, a 12 o'clock noon.

3367. A motion to take from the Speaker's table a concurrent resolution providing for a recess of more than three days, while privileged, is not debatable.

On July 6, 1918,[4] Mr. Claude Kitchin, of North Carolina, moved to take from the Speaker's table the concurrent resolution (S. Con. Res. 20) providing for a recess of 30 days for the two Houses while the Committee on Ways and Means formulated the tariff bill.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That when the two Houses of Congress adjourn on Saturday, the calendar day of July 6, they adjourn to meet at 12 o'clock meridian on August 12, 1918, unless sooner convened by the President of the United States.

Mr. William B. Bankhead, of Alabama, submitted a parliamentary inquiry as to whether the motion was debatable.

The Speaker[5] held that it was not debatable.

3368. In computing the days of a session the period during which the Congress stands adjourned for more than three days is treated as dies non.

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[1] Record, p. 9684.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Record, p. 9877.

[4] Second session Sixty-fifth Congress, Record, p. 8835.

[5] Champ Clark, of Missouri, Speaker.

The week's time required to make a resolution of inquiry privileged consists of seven days on which the House is holding legislative sessions.

On January 3, 1927,[1] Mr. Fiorello H. LaGuardia, of New York proposed to call up, as a matter of privilege, a resolution of inquiry requesting information from the Secretary of the Treasury relating to the enforcement of the prohibition law.

Mr. Bertrand H. Snell, of New York made the point of order that the resolution was not privileged for the reason that it had not been introduced the required number of days. Mr. Snell submitted that the week required by the rule should be interpreted as seven legislative days and that the resolution having been introduced on the day on which Congress adjourned for the Christmas recess, seven legislative days had not yet elapsed.

The Speaker[2] ruled:

The Chair will first decide the point originally raised by the gentleman from New York as to whether the 7-day rule applies in this case, and how. The Chair is very certain that this precise point has never arisen before in his service of the House and is unable to find any precedent for it since the beginning.

The Chair does not think the precedent cited by the gentleman from New York is in point here, that precedent occurring while the House was in session; the failure of a committee to receive a resolution within the prescribed seven days did not vitiate the privilege of moving to discharge the committee from its consideration. This is a different question. This question has involved in it, as it seems to the Chair, whether during the holidays of the House adjournment sine die or adjournment for some specific time by concurrent resolution when both the Senate and the House act there is involved the duty of every committee of the House to remain here and take up any resolutions that may be referred to it.

The gentleman from Tennessee, Mr. Garrett, as the Chair understood, admitted that if this resolution had been introduced on the 3d of July last is could not have been called up on the 6th of December, so that the question raised by the gentleman from Tennessee was that there was at least a technical difference between an adjournment sine die and an adjournment by concurrent resolution.

The Chair appreciates that there might be a technical difference, but in making a precedent, as we do here to-day, the Chair thinks that this matter should be construed in a broad way and one particularly in the interest of the House and the machinery through which the House functions, namely, its committees. The Chair does not think that the question raised with respect to an adjournment of three days by the House would affect this case.

The question here involves a resolution that was introduced on the last day of the second session of this Congress. It is called up on the first day after we meet, under a concurrent resolution, providing for an adjournment over the holidays. Clearly seven days have elapsed, but should those seven days be taken into consideration as prescribing whether a motion to discharge the committee from further consideration of this resolution is privileged in the sense that the rule provides? The Chair thinks not, and the Chair has less hesitation in ruling, as he expects to rule from the fact that the gentleman from New York is not prejudiced in his rights, assuming that this is in fact a privileged motion. The gentleman can call it up after seven working days have elapsed, in the contemplation of the rule, from the date of its introduction.

The Chair thinks it would be extremely unfortunate if the Chair should hold or if the House should decide that the seven days under this rule should be construed as being a part of a period fixed by the House and Senate acting jointly for these two bodies to be in recess. Any other construction, it seems to the Chair, would be a highly technical one, and, further, would impose

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[1] Second session Sixty-ninth Congress, Record, p. 1001.

[2] Nicholas Longworth, of Ohio, Speaker.

upon chairmen of committees and on committees themselves duties which ought not to be imposed on them. The Chair is very clear that in the ruling which he is about to make he is establishing a precedent which will be for the best interests of the House in future. The Chair therefore sustains the point of order.

3369. The House has by standing order provided that it should meet on two days only of each week instead of daily.

In providing for merely formal sessions, the House has authorized the Speaker to designate a date on which the regular routine of the House should be resumed.

Instance in which an arrangement for a virtual recess of the House was successively prolonged.

On June 19, 1929,[1] the House agreed to a resolution providing that after September 23, 1929, the House should meet only on Mondays and Thursdays of each week until October 14, 1929, and authorizing the Speaker in his discretion to designate a date prior to that time for resumption of business by the House.

Pursuant to this resolution the Clerk of the House, on September 27, addressed the following communication to Members.

DEAR SIR: I am desired to inform you that the Speaker and the majority and minority floor leaders, respectively, have deemed it advisable to notify Members of the House that on October 14 the majority leader, Mr. Tilson, will ask unanimous consent to extend the period of 3-day recesses of the House until Monday, October 28, 1929, no business to be transacted until that date. In other words, that the present arrangement can be continued, to which it is thought there will be no objection.

Yours sincerely,

WILLIAM TYLER PAGE.

However, on October 14,[2] the standing order was supplemented by a further resolution extending the arrangement to the date of November 11, 1929.

On November 11,[3] the Senate not having yet completed consideration of the tariff bill, on motion of Mr. John Q. Tilson, of Connecticut, by unanimous consent, the time was further extended to November 21, inclusive.

3370. The House has adjourned for the holiday recess as of the legislative day.

On December 16, 1926,[4] Mr. John Q. Tilson, of Connecticut, the majority floor leader, offered, as privileged, the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), that when the two Houses adjourn on the legislative day of December 22, 1926, they stand adjourned until 12 o'clock meridian, Monday, January 3, 1927.

The concurrent resolution was agreed to without debate or division.

3371. First instance in which a Congress convened for four sessions.

In early days extra sessions were held on dates fixed by law rather than at the call of the President.

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[1] First session Seventy-first Congress, Record, p. 3228.

[2] Record, p. 4531.

[3] Record, p. 5422.

[4] Second session Sixty-ninth Congress, Record, p. 623.

On Monday, December 4, 1922,[1] a day prescribed by the Constitution of the United States for the annual meeting of Congress, the Sixty-seventh Congress assembled for its fourth session, the first instance in which any Congress had convened in more than three sessions.

From the First to the Sixtieth Congresses two sessions were the rule, three sessions being held in the First, Fifth, Eleventh, Thirteenth, Twenty-fifth, Twenty-seventh, Thirty-fourth, Thirty-seventh, Fortieth, Forty-first, Forty-second, Forty-fifth, Forty-sixth, Fifty-third, Fifty-fifth and Fifty-eighth Congresses. Beginning with the Sixty-first Congress two sessions became the exception and with the exception of the Sixty-fourth, three sessions were held in all from the Sixty-first to the Sixty-seventh, which convened in four sessions.

In the early days the extra sessions were held on dates fixed by law rather than at the call of the President, Congress itself deciding if and when extra sessions were necessary. Under the constitutional provision that Congress assemble March 4, 1789, and thereafter in every year on the first Monday in December, unless they shall by law appoint a different day, 18 acts were passed up to and including May 20, 1820,[2] providing for the meeting of Congress on other days in the year. Since that year Congress has met regularly on the first Monday in December.

3372. A resolution providing for a sine die adjournment is not debatable.

On November 20, 1913,[3] Mr. Robert Y. Thomas, of Kentucky, presented, as a privileged question, a concurrent resolution providing for sine die adjournment on November 22, 1913.

Mr. Thomas was proceeding in debate when Mr. James R. Mann, of Illinois, rising to a parliamentary inquiry, asked if the proposition was debatable.

The Speaker[4] replied that he had been unable to find a precedent in point but that he was inclined to consider the question debatable.

However, on November 22,[5] speaking by consent, he said:

> The Chair desires to correct a ruling that he made on Thursday, November 20. On that day the gentleman from Kentucky, Mr. Thomas offered the following privileged resolution:
>
> *"Resolved by the House of Representatives (the Senate concurring).* That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 22nd day of November, 1913, at 1 o'clock p.m."
>
> In answer to a parliamentary inquiry, the Chair ruled that the resolution was debatable. That ruling was made hurriedly, without opportunity to examine the authorities and without time for reflection, and the question had never been raised before during the 19 years in which the present occupant of the chair has been in the House.
>
> It turns out that on March 23, 1871, Mr. Speaker Blaine held a similar resolution to be not debatable. This is the only decision on the point that the Chair has been able to find after thorough investigation, but that decision of Mr. Speaker Blaine has been accepted by the House for 42 years. But aside from the decision, upon mature reflection and reasoning from analogy, the Chair thinks the resolution is not debatable, because if declared debatable such resolutions might be converted into instruments of troublesome filibustering, just as a motion to recess was used until deprived of its privileged character. Therefore the decision of Mr. Speaker Blaine is affirmed.

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[1] Fourth session Sixty-seventh Congress, Record, p. 1.

[2] First session Sixteenth Congress, Annals, p. 222; Journal p. 507.

[3] First session Sixty-third Congress, Record, p. 5953.

[4] Champ Clark, of Missouri, Speaker.

[5] Record, p. 5986.

3373. On June 21, 1926,[1] Mr. Bertrand H. Snell, of New York, submitted, as privileged, the following:

Resolved by the House of Representatives (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the 30th day of June, 1926, at 5 o'clock p.m.

Mr. Martin B. Madden, of Illinois, inquired if the resolution was subject to debate.

Mr. Carl R. Chindblom, of Illinois, contended that the proposition was debatable and recited instances in the Sixty-sixth, Sixty-seventh, and Sixty-eighth Congresses in which similar concurrent resolutions had been debated.

After exhaustive discussion, the Speaker[2] ruled:

The Chair recalls himself a number of the instances cited by the gentleman from Illinois where debate was had on such a resolution as this, as a matter of course the point of order not being raised. The trouble here is that the point of order being made the Chair must decide it not at all on the merits of the resolution, not at all on the question whether or not it would be wise to have debate on the resolution, but solely on the parliamentary situation. There is but one precedent which exactly fits this case. The wording of that resolution in that case was identical with this. There is no precedent to the contrary either before or since. Under the circumstances the Chair thinks he certainly would not "fall from grace," as suggested by the gentleman from Illinois, in following a decision rendered by so eminent an authority as Speaker Clark, and therefore he has no alternative but to sustain the point of order.

3374. On November 21, 1929,[3] Mr. John Q. Tilson, of Connecticut, called up a concurrent resolution (S. Con. 19) reading:

Resolved by the Senate (the House of Representatives concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session of the Congress by adjourning their respective Houses on Friday, November 22, 1929, at the following hours, namely: The Senate at the hour of 10 o'clock p.m., and the House at such hour as it may by order provide.

The Speaker having recognized Mr. Tilson to debate the resolution, Mr. John E. Rankin, of Mississippi, objected that the question was not debatable.

The Speaker[4] overruled the point of order, but subsequently, on December 4,[5] withdrew that ruling and said:

The Chair desires to make a statement touching the rules and precedents of the House. On November 21, 1929, when the adjournment resolution was before the House, some debate having been had on it, the gentleman from Mississippi, Mr. Rankin, propounded a parliamentary inquiry to the Chair as to whether the resolution was debatable or not, and the present occupant of the chair ruled it was debatable. had the Chair paused to reflect a moment he would not have made that answer.

On June 21, 1926, the same question exactly was before the House, and the gentleman from Illinois, the late Mr. Madden, desired to debate it. The gentleman from New York, Mr. Snell, made the point of order that the resolution was not debatable, quoting a decision by Mr. Speaker Clark.

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[1] First session Sixty-ninth Congress, Record, p. 11698.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Seventy-first Congress, Record, p. 5916.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] Second session Seventy-first Congress, Record, p. 100.

The Speaker then read the decision by Speaker Clark and held:

The Chair does not think this is a matter of very vital importance, the question having only been raised four times in history, so far as the Chair knows; and yet the Chair thinks that in the interest of order and the preservation of precedents he should make this statement, so that there may be no further question that a resolution of adjournment is not debatable.

3375. A special session continuing until the constitutional day for annual meeting ends automatically on that date.

Instance wherein one session of Congress followed another without appreciable interval.

Pursuant to a proclamation of the President of the United States, the first session of the Sixty-third Congress assembled on April 17, 1913, and remained in session until November 29, 1913,[1] when Mr. Oscar W. Underwood, of Alabama, in the House made the following motion:

Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, and accordingly, at 12 o'clock and 55 minutes p. m., calendar day of Sunday, November 30, 1913, the House adjourned without notification either to the President or the Senate.

In the Senate, on the same legislative day,[2] the hour of 12 o'clock, meridian, calendar day of December 1, 1913, having arrived, the Vice President[3] announced:

The hour having arrived at which, in accordance with the Constitution of the United States the Congress of the United States is required to assemble in regular session, the Chair declares the extraordinary session adjourned sine die.

Thereupon the Vice President called the Senate to order for the second session of the Sixty-third Congress.

Simultaneously the Speaker called the House to order, the roll was called by States, and resolutions were agreed to authorizing notification of the Senate and the President.

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[1] Second session Sixty-third Congress, Record, p. 1.

[2] Record, p. 6053.

[3] Thomas R. Marshall, of Indiana, Vice President.

Chapter CCLXXI.[1]

THE RULES.

3376. A proposition to amend the rules is not privileged for consideration as against a demand that business proceed in the regular order.

In exercising its constitutional privilege to change its rules the House has confined itself within certain limitations.

A decision of the Speaker which was overruled by the House was subsequently reaffirmed and sustained, and embodies the established practice of the House.

On March 17, 1910,[2] Mr. George W. Norris, of Nebraska, claiming the floor for a question of constitutional privilege, offered this resolution.

Resolved, That the rules of the House be amended as follows:

The Committee on Rules shall consist of 15 members, 9 of whom shall be members of the majority party and 6 of whom shall be members of the minority party, to be selected as follows:

The States of the Union shall be divided by a committee of three, elected by the House for that purpose, into nine groups, each group containing, as near as may be, an equal number of Members belonging to the majority party. The States of the Union shall likewise be divided into six groups, each group containing, as near as may be, an equal number of Members belonging to the minority party.

At 10 o'clock a.m. of the day following the adoption of the report of said committee each of said groups shall meet and select one of its number a member of the Committee on Rules. The place of meeting for each of said groups shall be designated by the said committee of three in its report. Each of said group shall report to the House the name of the member selected for membership on the Committee on Rules.

The Committee on Rules shall select its own chairman.

The Speaker shall not be eligible to membership on said committee.

All rules or parts thereof inconsistent with the foregoing resolution are hereby repealed.

Mr. John Dalzell, of Pennsylvania, made the point of order that the resolution did not present a question of privilege, and was not then in order.

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[1] Supplementary to Chapter CXLI.

[2] Second session Sixty-first Congress, Record, p. 3292.

After debate, which was continued on March 18 and 19,[1] the Speaker[2] ruled as follows:

The Chair has been somewhat criticized because in this matter he has been slow to rule. But the question which was brought so unexpectedly upon the attention of the House, in a revolutionary manner, as it seems to the Chair, is of such transcendent importance to the future procedure of the House that the fullest, even the most protracted, discussion seemed justifiable. In no other manner could the most complete information be brought to the consideration of the question, and in no other way could the largest participation of the membership of the House be assured.

The question of constitutional privilege in this House has not been reviewed, and the principles governing for the last 30 years have not, prior to this week, been questioned in this House for many years. Those principles are relatively simple. It has been held always that the ordinary legislative duties and functions of the House, exercised by authority of the Constitution, must proceed according to the order prescribed by the rules. The fact that the Constitution says that the House "shall have power to" lay taxes, regulate commerce, make naturalization laws, coin money, establish post offices, create courts, support armies and a navy, and so forth, has not given these subjects when embodied in bills any right to disturb the order of business provided by the rules. The very object of the rules is to provide an orderly way for considering those and other subjects intrusted to the House's judgment. To give all those subjects constitutional privilege would be to establish constitutional chaos in the House.

There are, however, certain functions which the Constitution enjoins on Congress to do, and also fixes the time for doing these things. Thus, the clause directing the disposition of a bill vetoed by the President says that the House "shall proceed" to consider it. This has always been understood as meaning that the House should at once proceed to some act of consideration. And therefore it has been held that no rule should prevent the House from proceeding to this constitutional duty. In like manner the Constitution specifies that the Congress shall provide for a census of population and an apportionment of Representatives, and specifies the time when it shall do it—every tenth year. Therefore, on the tenth year, bills to make the required provision have been admitted without regard to the requirements of the House rules. Whether that construction proceeded too far when the Constitution gave a year within which to perform the duty, is a matter as to which there might be doubt.

But for 30 years the practice was unvarying; and when confronted with the question this week, the Chair followed the practice of the House, as he would obey every other rule, without questioning the wisdom that originally created it.

To-day, however, the Chair is asked to permit a proposition for a new rule to come in, although the rules prescribing the order of business require us to proceed to other matters, and it is claimed that the Chair would be justified in doing this because the Constitution says that "each House may determine the rules of its proceedings." Whether the word "may" means "shall" or not, the Chair will not stop to examine. The Constitution fixes no time when the rules shall be adopted; and as the House may, and has in one notable instance, proceeded without rules, it does not seem to the Chair that there is here given any constitutional mandate which would justify the overriding of the rules. Fortunately in this crisis the Chair is not compelled to rely on his own judgment, swayed as he might be by the passions and purposes of this hour. He can look back to another hour, when in a day of calm the navigators who steered the business of this House took their latitude and longitude unembarrassed by the exigencies of tempest.

The pathway of the Chair has been blazed, not by any flushed majority in a moment of factional success, not for any ends of one political party as opposed to the wishes of another political party, not under auspices which prejudice the Chair because of memories of political affiliation of his own, but on a question of order raised by a great Democratic floor leader of this House, and decided by a great Democratic Speaker.

On December 13, 1878, this identical question arose in this House. Mr. Roger Q. Mills, of Texas, proposed a question of constitutional privilege, exactly as is proposed to-day, to offer from

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[1] Record, p. 3428.

[2] Joseph G. Cannon, of Illinois, Speaker.

the floor for immediate consideration a proposition looking to the amendment of the rules. And when objection was made, as it is made to-day, Mr. Mills argued:

"It is the constitutional privilege of a House Representatives to adopt rules at any time; it is a continuing power of which the House can not divest itself."

The Members of the House did not agree with Mr. Mills, and Mr. James A Garfield objected that it was proposed "to carry the power of the House in this respect further than the Constitution justifies. If the position of the gentleman were correct, a Member could at any time interrupt our proceedings by bringing in a proposition for the amendment of the rules."

The great Democratic Speaker—and the Chair measures his words in memory of the fame of a man who was the peer of his associates, the civil war leaders who yet lingered on this floor—the great Speaker, Samuel J. Randall, heard the arguments for and against the claim of Mr. Mills, and decided that the proposition to amend the rules was not a case of constitutional privilege. There was criticism, grave criticism, of the rules in those days, as there is to-day, but no man in that House thought of appealing from a decision so consonant with reason.

Planting himself upon the law made for the House by Mr. Speaker Randall, appealing from the passion of this day to the just reason of that day, the Chair sustains the point of order and holds that the resolution is not in order.

Mr. Norris appealed from the decision, and the question being taken, Shall the decision of the Chair stand as the judgment of the House? there appeared yeas 160 and nays 182. So the decision of the Chair was overruled.

3377. On January 9, 1911,[1] Mr. Charles E. Fuller, of Illinois, claimed the floor on a question of high privilege and sent to the Clerk's desk for immediate consideration the following:

Resolved, That Rule XXVIII, paragraph 4, be, and the same is hereby, amended so that the clause which now reads, "Such motion shall have precedence over motions to suspend the rules," shall be made to read, "Such motions shall not have precedence over motions to suspend the rules."

Mr. James R. Mann, of Illinois, objected to consideration of the resolution and made the point of order that it was not privileged.

Mr. Fuller submitted that the proposal was privileged under the constitutional provision authorizing the House to determine the rules of its proceedings.

After extended debate, the Speaker[2] ruled:

The gentleman from Illinois offers this resolution as a privileged resolution under the Constitution. To this resolution the gentleman from Illinois submits a point of order that it presents no such privileged question as would supersede business prescribed by the rules regulating the order of business.

The Chair would have no difficultly in promptly ruling in harmony with all the precedents, so far as the Chair is able to ascertain, from the beginning of this House in its sittings under the Constitution, save one, and but for that one. That precedent was made during the last session of the present Congress upon a resolution precisely similar in principle to this. The Clerk will read the resolution offered on the 17th day of March, 1910, by the gentleman from Nebraska, Mr. Norris, and the proceedings thereon.

The Clerk read the decision referred to and also read excerpts from the debate on that occasion from remarks by Mr. Champ Clark, of Missouri, and Mr. Oscar W. Underwood, of Alabama.

The Speaker resumed:

If the Chair follows the construction placed by a majority of this House at the last session of the Congress, the Chair would overrule the point of order. The object sought, as announced by the

[1] Third session Sixty-first Congress, Record, p. 684.

[2] Joseph G. Cannon, of Illinois, Speaker

gentleman from Missouri and the gentleman from Alabama in debate, was, by the adoption of rule which was adopted in the end, to remove the Speaker of the House from the Committee on Rules.

The complaint was that the rules could not be amended under the rules of the House if the Committee on Rules did not report the proposed amendment or resolution that might be submitted to it to amend the rules, and that there should be some way provided by which the House by a majority could amend the rules, whether the Committee on Rules might concur or not.

A resolution was adopted creating a new committee consisting of 10 Members, of which the Speaker was prohibited from being a member. That committee was appointed, chosen by the House, the gentleman from Pennsylvania, Mr. Dalzell, being its chairman, and the gentleman from Missouri, Mr. Clark, being at the head of the minority of this committee. Upon a unanimous report of that committee, reporting back a resolution introduced and referred to that committee by the gentleman from Missouri, the following change in the rules was made by the action of the House. The Chair will read that portion of it which is material:

"Any member may present to the Clerk a motion in writing to discharge a committee from further consideration of any public bill or joint resolution which may have been referred to such committee, etc."

The House will take notice that it says "any public bill or joint resolution." It stops there. That leaves out simple resolutions, and it is by simple resolutions referred to the Committee on Rules that that committee receives its jurisdiction to report provisions to the House for its consideration to amend the rules.

Under this rule there is still no way under the rules to amend the rules.

Now, the Chair desires to say in this connection that it is within the power of the House, acting by majority, to do anything that a majority votes for, having complete power in the premises, whether justified by the fixed law of the land, the Constitution, or otherwise. There was a way, however, without violating either the letter or the spirit of the Constitution, without violating any rule of the House, by which a majority of this House when this precedent was made might have worked its will. Jefferson's Manual, which is made a part of the rules of the House, and which but announces the spirit of the Constitution, provides that the House may choose a Speaker, and so forth, and reading from Jefferson's Manual we find:

"A Speaker may be removed at the will of the House and a Speaker pro tempore appointed."

Under that same rule, which is part of the rules of the House, former Houses have on several occasions removed officers of this House under resolutions that were privileged, and a resolution to declare vacant the Speaker's chair presents a question of high privilege, one expressly authorized by the rules of the House.

This is a Government through majorities, the people acting by a majority. Ordinarily there is no trouble about amendments of the rules through majority rule. In the whole history of the country in the main there has been a majority and a minority party, and the pendulum swinging back and forth the minority in the past frequently by the action of the people at the ballot box has become the majority, and no doubt that will happen again and again in the history of the Republic. Under normal conditions, there being a real majority, those matters are settled by the majority after consultation, and the practical settlement is by and through a caucus of the majority, the caucus action being sustained by the members of the majority. But in this Congress, the minority of the House substantially acting together, reinforced by a minority of the majority, made a new majority, and that new majority, under the leadership of the gentleman from Missouri, worked what he declared to be a revolution. Now, that could have been accomplished by a majority removing the Speaker from the Committee on Rules, declaring the place vacant and electing some Member who would work the will of the majority, but that course was not pursued.

The Speaker of the House of Representatives, as the Chair has already stated, is removable at any time as a question of privilege by the House of Representatives. In consideration of the rule which leaves the House powerless under its rules to discharge the new Committee on Rules from consideration of a resolution—a resolution being neither a bill nor a joint resolution—the Chair declines to follow the judgment of the House at the last session of this Congress under which it made the precedent. The Chair, therefore, in effect appeals to the House from a decision of that

same House made in great excitment, when the waves of partisanship were high, doing so after the wind has ceased and the billows have passed away and the sea is serenely blue.

The Chair, therefore, sustains the point of order.

Mr. Thetus, W. Sims, of Tennessee, appealed from the decision of the Chair, and the yeas and nays being ordered, the vote on the question was yeas 235, nays 53. So the decision of the Chair stood as the judgment of the House.

3378. A proposition to amend the rules is not privileged for immediate consideration.

Where enough of a proposition has been read to show that it is out of order, the question of order may be raised without waiting for the reading to be concluded.

On March 26, 1912,[1] Mr. S.A. Rodenberry, of Georgia, offered a resolution providing bills, and asked for immediate consideration on the ground that it was privileged.

The Clerk was proceeding to read the resolution when Mr. Martin D. Foster, of Illinois, interrupted and made the point of order that the resolution was not privileged.

The Speaker[2] sustained the point of order.

Mr. Roddenbery protested that the reading of the resolution had not been completed and a point of order could not be raised until it had been read in full.

The Speaker held that when enough of a proposition has been read to show that it is out of order, the question may be raised without waiting for the reading to be concluded.

3379. Propositions to change the rules in minor provisions have frequently been considered by unanimous consent.

On December 16, 1907,[3] the membership of 20 of the standing committees of the House was increased by the adoption of an order presented by Mr. John Dalzell, of Pennsylvania, and considered, on his motion, by unanimous consent.

3380. On May 27, 1913,[4] on motion of Mr. Oscar W. Underwood, of Alabama, by unanimous consent, the Committee on Expenditures in the Department of Labor was created, and the number of the members constituting various standing committees of the House was changed.

3381. On May 26, 1919,[5] on request of Mr. Claude Kitchin, of North Carolina, unanimous consent was granted permitting an additional member to be added to the Committee on Foreign Affairs.

3382. In the Senate it was held that while Jefferson's Manual was not to be regarded as a direct authority, it was to be considered as exercising an influence in Senate procedure.

On March 8, 1916,[6] the Senate was considering the bill S. 3331, the water power bill.

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[1] Second session Sixty-second Congress, Record, p. 3834.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixieth Congress, Record, p. 356.

[4] First session Sixty-third Congress, Record, p. 1784.

[5] First session Sixty-sixth Congress, Record, p. 247.

[6] First session Sixty-fourth Congress, Record, p. 3732.

During debate, Mr. John K. Shields, of Tennessee, interrupted Mr. Francis G. Newlands, of Nevada, with a point of order and in presenting his objection inquired of the Chair if Jefferson's Manual was to be considered as an authority in the procedure and practice of the Senate.

The President pro tempore [1] replied:

It has a certain degree of influence, but is not a direct authority.

3383. Before the adoption of rules the House proceeds under general parliamentary law.

The Speaker as a Member of the House may object to a request for unanimous consent.

A proposition to elect a Speaker is in order at any time and presents a question of teh highest privilege.

The rules and orders of a previous Congress are not in effect until adopted by the sitting House.

Under general parliamentary usage a Member having the floor may yield time for debate to others and retain the right to resume debate or move the previous question.

When the House is proceeding under general parliamentary law the Speaker is constrained to recognize any Member presenting a privileged motion.

On December 2, 1907,[2] following the organization of the House, Mr. John Dalzell of Pennsylvania, offered this resolution:

Resolved, That the rules of the House of Representatives of the Fifty-ninth Congress be adopted as the rules of the House of Representatives of the Sixtieth Congress, including the standing orders of March 8 and March 14, 1900 (relating to consideration of pension and claim bills on Fridays), which are hereby continued in force during the Sixtieth Congress.

After proceeding in debate, Mr. Dalzell yielded 20 minutes to Mr. David A. De Armond, of Missouri. At the conclusion of Mr. De Armond's remarks Mr. Dalzell proposed to move the previous question.

The Speaker [3] said:

The rules as yet have not been adopted, and we are proceeding under general parliamentary usage, the gentleman from Pennsylvania having the floor. When the gentleman from Pennsylvania yields the floor, if he does yield it, then any other gentleman is entitled to the floor. Holding the floor, the gentleman indicated that he would yield 20 minutes to the gentleman from Missouri. The Chair took that to be in substance notice to the gentleman from Missouri that, yielding to him, he still holds the floor, that he might move the previous question on resuming the floor. That is the effect, as the Chair understands it, of the gentleman yielding to the gentleman from Wisconsin, and also to the gentleman from Missouri, under general parliamentary usages.

Now, the Chair may be indulged one moment further. The Chair, the Speaker of the House, is a Member of the House the same as any other Member. Unanimous consent being asked, it would not be granted should any Member object. The usage in many Congresses in the past was that the Chair would submit the request to the House; and it is an open secret to gentlemen who have served in some of the former Congresses that the Chair, keeping track of the business of the

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[1] James P. Clarke, of Arkansas, President pro tempore.

[2] First session Sixtieth Congress, Record, p. 8.

[3] Joseph G. Cannon, of Illinois, Speaker.

House as the Speaker and at the same time exercising his right as a Member, would often indicate to some Member upon the floor, by messenger or otherwise, that he desired an objection to be made. The Chair has seen that frequently occur under both Democratic and Republican Speakers. The present occupant of the chair, ever since he has occupied that position, has thought the better way was to exercise his right as a Member to object to a request for unanimous consent. Therefore the practice has grown up that gentleman see the Speaker, and if he has objections then he invariably says that it is useless to recognize the Member for unanimous consent, because if nobody else objected the Chair in his capacity as a Member of the House would object.

Under the rules, if adopted, the Chair begs to call the attention of the gentleman to the fact that the right of a Member to be recognized can in most instances not be denied by the Chair. There are a large number of motions which are privileged in their nature, and a question of privilege, first, and a privileged motion, second, halts all business before the House, and the Chair has no discretion. Gentlemen who have had service in the House will recollect that those motions are many.

The Chair desires to state again that the Speaker of the House is the servant of the House, and it is in the power of the House of Representatives as a question of the highest privilege to at any time elect a successor to any Member of that body who may be holding this place. One further observation. When special orders or special rules are suggested, as they have been under all administrations, Democratic and Republican, at least for 20 years, those orders or rules can not be vitalized until a majority of the House has adopted them under the Constitution and the rules of the House.

3384. While the House is governed by general parliamentary usage prior to the adoption of rules, the Speakers have been inclined to give weight to the precedents of the House in the interpretation of that usage.

While the House was proceeding under general parliamentary law a motion to commit a pending resolution was admitted after the previous question had been ordered on the adoption of the resolution.

On April 7, 1913,[1] at the organization of the House, and while the House was proceeding under general parliamentary law, Mr. Robert L. Henry, of Texas, offered the following resolution:

Resolved, That the rules of the House of Representatives of the Sixty-second Congress be adopted as the rules of the House of Representatives of the Sixty-third Congress with the exception of Rule XXXI.

After debate, on motion of Mr. Henry, the previous question was ordered, when Mr. A. W. Lafferty, of Oregon, moved that the resolution be committed to a select committee, to be appointed by the Speaker, with instructions.

Mr. Swagar Sherley, of Kentucky, made the point of order that under general parliamentary law the motion to commit was not admissible after the previous question had been ordered.

After exhaustive discussion, the Speaker[2] held:

The Chair desires to call to the attention of the whole membership of the House the first two of three sentences in Jefferson's Manual:

"Mr. Onslow, the ablest among the speakers of the House of Commons, used to say 'It was a maxim he had often heard when he was a young man from old and experienced members that nothing tended more to throw power into the hands of administration and those who acted with the majority of the House of Commons than a neglect of or departure from the rules of proceeding; that these forms as instituted by our ancestors operated as a check and control on the actions of

[1] First session Sixty-third Congress, Record, p. 77.

[2] Champ Clark, of Missouri, Speaker.

the majority, and that they were in many instances a shelter and protection to the minority against the attempts of power.'"

Jefferson goes on to indorse that. The Chair would not feel that he is slavishly bound to follow the decisions of the Speaker, or even of all Speakers, if he were certain that he was right; but some things come to be a settled practice.

As the Chair stated awhile ago the House some years ago concluded that there ought to be a provision in the rules by which a Member by a motion to recommit could always get a vote upon his proposition. The Chair believes that is right, and he believes that all of these decisions by Mr. Speaker Carlisle, Mr. Speaker Crisp, and Mr. Speaker Reed are right. The first one is the decision by Mr. Speaker Crisp on a point of order made by Mr. O'Ferrall, afterwards Governor of Virginia. The Chair reads from Hinds' Precedents:

The Speaker then read sections 5604 and 6758 of Hinds' Precedents and continued:

It turns out that Mr. Speaker Reed's dictum, which agrees substantially with these two decisions, was made in an argument upon the floor of the House when he was not Speaker, but he took the same identical ground that these two great Speakers take, and so there are three.

The Chair overrules the point of order and recognizes the gentleman from Oregon.

3385. On March 9, 1933,[1] at the opening session of the Congress and prior to the adoption of rules, Mr. Joseph W. Byrns, of Tennessee, asked unanimous consent for the present consideration of the bill (H. R. 1491), to provide relief in the existing national emergency in banking.

Pending disposition of the request, Mr. William B. Bankhead, of Alabama, inquired as to the rules of procedure to be observed during the consideration of the bill.

The Speaker[2] held that unless objection was made, in the absence of other provision, the rules of the preceding Congress would be considered as in effect.

3386. Prior to the adoption of rules the House proceeds under general parliamentary law, but the Speaker has followed as closely as practicable the customs and practices of the House under former rules.

Before the adoption of rules the Speaker has declined to record the vote of a Member who failed to qualify as being in the Hall and listening when his name was called.

Members elect present at the organization of the House are not required to take the oath when their States are called, but may elect to wait and be sworn later.

Prior to adoption of rules, the motion for the previous question is admissible under general parliamentary law, but if ordered without prior debate the 40 minutes' debate prescribed by the rules of the previous Congress is not in order.

When the right of a Member elect to take the oath is challenged, the Speaker directs him to stand aside until the call of the roll is completed.

On December 5, 1923,[3] at the organization of the House and while the Speaker was administering the oath to Members elect, Mr. Henry T. Rainey, of Illinois,

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[1] First session Seventy-third Congress, Record, p. 76.

[2] Henry T. Rainey, of Illinois, Speaker.

[3] First session Sixty-eighth Congress, Journal, p. 14; Record, p. 16.

objected to the swearing in of Mr. Edward E. Miller, of Illinois, and was proceeding to give reasons upon which he based his objections when Mr. Martin B. Madden made the point that debate was not in order.

The Speaker [1] said:

The ordinary practice is, if any objection be made to an individual, he stands to one side until all of the others have been sworn in, and then the matter can be taken up.

Mr. Madden then asked if it would be in order for other Members elect of the Illinois delegation to wait until all could be sworn in together.

The Speaker replied that it was optional with the members of the delegation.

Upon objection of Mr. Fred A. Britten, of Illinois, to the administration of the oath to Mr. James R. Buckley, of Illinois, Mr. Buckley was also requested to step aside until other Members, whose right to be sworn was unchallenged, could take the oath.

The administration of the oath to other Members and Delegates having been concluded, Mr. Madden offered the following resolution, upon which he moved the previous question:

Resolved, That the gentleman from Illinois, Edward E. Miller, be permitted to take the oath.

Mr. Garrett, of Tennessee, asked, as a parliamentary inquiry, if it was in order to move the previous question prior to the adoption of rules by the House, and Mr. Thomas L. Blanton, of Texas, also inquired if the motion was in order before debate was had on the resolution. The speaker held the motion for the previous question in order under general parliamentary law and in order without debate prior to the adoption of a rule to the contrary.

At the conclusion of the roll call, on the ordering of the previous question, Mr. Thaddeus C. Sweet, of New York, asked to have his vote recorded. The Speaker, after inquiring if the gentleman was in the Hall and listening when his name was called, and being answered in the negative, said:

Then the gentleman does not qualify. The rule, the chair will state, is that when a person did not answer on either roll call he can not vote unless he will state that he was present and listening when the roll was called and did not hear his name called, the theory being that his name probably was not called. It is meant to correct an error on the part of the Clerk not calling the gentleman's name. So the Chair always, in accordance with the precedent, asks gentlemen if they were present and listening when their names were called. If they answer that question in the affirmative, they can vote; if they can not answer it on their conscience, they can not vote.

Mr. Otis Wingo, of Arkansas, submitted that the practice indicated by the Speaker was in conformity with rules heretofore adopted by the House but under general parliamentary law any person prior to the adoption of the rules may vote at any time before the result of the vote is announced.

The Speaker said:

The Chair will state that under parliamentary law the Chair recognizes that it is best, in accordance with our knowledge of parliamentary law, to follow as far as possible the practice that has prevailed in the House of Representatives, and that has been the practice of Speakers in the past.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

General parliamentary law has been followed here because Members are familiar with it, and in that way it has become the precedent of parliamentary law at this juncture. The Chair's feeling is that it is wise as far as possible to lean in favor of the custom of the House, because that is a custom that we are all familiar with.

On motion of Mr. Nicholas Longworth, of Ohio, by unanimous consent, the vote of Mr. Sweet was recorded in the affirmative. The vote having been decided in the affirmative and the resolution being agreed to, Mr. Britten withdrew his objection to the swearing in of Mr. Buckley, and both Mr. Miller and Mr. Buckley came forward and took the oath.

3387. A rule adopted by the House is not to be interpreted as retroactive unless so provided in express terms.

On December 15, 1920,[1] it being Calendar Wednesday, when the Committee on Agriculture was reached in the call of committees, Mr. Gilbert N. Haugen, of Iowa, from that committee, called up the bill (H. R. 13402) to acquire land occupied by certain experimental vineyards of the Department of Agriculture.

After debate, the clerk read as follows:

Be it enacted, etc., That the Secretary of Agriculture be, and he is hereby, authorized to purchase and acquire the lands occupied by the department's experiment vineyards near Fresno and Oakville, Calif., now maintained under contracts with the owners of said lands: *Provided,* That the land purchased for the Fresno vineyard shall not exceed 20 acres at a cost not to exceed $12,00 and for the Oakville vineyard not to exceed 20 acres at a cost not to exceed $15,000; for the payment of which the sum of $27,000, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the provision of the appropriation of $27,000 was in violation of the rule recently adopted inhibiting the reporting of an appropriation by a legislative committee.

Mr. Finis J. Garrett, of Tennessee, took issue with the views submitted in the point of order and pointed out that the pending bill was reported prior to the adoption of the rules referred to and that application of the rule to bills already reported would make it retroactive.

The Speaker[2] sustained Mr. Garrett's contention and ruled:

The bill under consideration was introduced in the House on April 1 and referred to the Committee on Agriculture. At the time the Committee on Agriculture had jurisdiction over appropriations for the support of the Department of Agriculture. The committee deliberated upon the bill, and on the 28th of April reported it from the committee and it went on the calendar. It remained there and was on the calendar on the 1st day of July when this rule was adopted:

"No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time."

The important question is as to whether or not the appropriating clause in the bill is subject to a point of order and therefore vitiates the bill under the new rule. The rules of the House are made for the purpose of enabling the House to expedite its business and the rules should have a reasonable construction. The Commission on Agriculture had jurisdiction over appropriations at the time the bill was referred to it and reported by it and placed on the calendar.

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[1] Third session Sixty-sixty Congress, Record, p. 392.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

The jurisdiction continued. The bill might have been acted upon at any time before the 1st of July without question. Shall an amendment to clause 5 of Rule XXI, effective on the 1st of July, be so construed as to render void all the business of the House of a similar character reported by the committees of the House prior to the 1st of July? The Chair is of the opinion that that would not be a proper interpretation of the rules of the House; it would not tend to expedite the business of the House. If this point of order were to be sustained, it would set aside all that has been done and send this bill back to the Committee on Agriculture. The Chair does not think where a committee having had jurisdiction, and having properly acted upon the subject matter of a bill at the time, that a rule subsequently adopted should be so construed as to retroact on work of committees already done under the rules. The Committee of the Whole House on the state of the Union is now undertaking to complete work that was properly done by the Committee on Agriculture and reported to the House on the 28th day of April last. The Chair, therefore, overrules the point of order.

3388. The Committee on Rules may report a resolution providing for the consideration of a bill which has not yet been introduced.

On December 9, 1920,[1] Mr. Philip P. Campbell, of Kansas, by direction of the Committee on Rules, submitted the follow:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 14461, being a bill "To provide for the protection of the citizens of the United States by the temporary suspension of immigration, and for other purposes." That there shall be not to exceed four hours of general debate, the time to be controlled, one-half by the gentleman from Washington, Mr. Johnson, one-half by any member of the minority of the committee opposing the bill, or if there be no member of the minority of the committee opposing the bill, then by any member of the committee opposing the bill. That after general debate the bill shall be considered under the five-minute rule. That upon the completion of such consideration the committee shall automatically rise and report the bill to the House with all amendments thereto, if any, whereupon the previous question shall be considered as ordered on the bill and all amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. Isaac Siegel, of New York, raised the question of order that the bill to which the resolution referred had not yet been introduced and its consideration could not be provided for prior to its introduction.

Mr. James R. Mann, of Illinois, dissented and said:

Mr. Speaker, the point of order is made during the consideration of the rule. It is quite within the privilege of the Committee on Rules and of the House afterwards to bring in and adopt a rule providing for the consideration of a bill that has not yet been introduced. A bill does not have to be reported or even introduced. The Committee on Rules can bring in a rule and the House can adopt a rule for the consideration of a bill that is yet to be introduced if it chooses to, so that no point of order would lie against the consideration of the rule. That is the only point of order that can be made at this time.

After further debate, the Speaker[2] held the resolution in order and put the question on its adoption. The question being taken it was decided in the affirmative, ayes 151, noes 9, and the resolution was agreed to.

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[1] Third session Sixty-sixth Congress, Record, p. 127.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

3389. The Committee on Rules may originate a resolution for the consideration of a bill regardless of whether the subject matter has been referred to it by the House.

On June 28, 1922,[1] Mr. Bertrand H. Snell, of New York, from the Committee on Rules, by direction of that committee, submitted for immediate consideration the following resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3425. "An act to continue certain land offices, and for other purposes"; that there shall be not to exceed two hours of general debate, to be divided equally between those favoring and those opposing the bill. Thereupon he bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment it shall be reported back to the House, whereupon the previous question shall be considered as ordered upon the bill and all amendments, if any, without intervening motion except one motion to recommit.

Mr. Louis C. Cramton, of Michigan, made the point of order that the resolution was not privileged for the reason that the subject matter thereof had not been referred to the Committee on Rules and the committee was therefore without jurisdiction.

The Speaker[2] overruled the point of order and said:

The Chair thinks that on the ground of right and justice and convenience, to which the gentleman from Michigan appeals, even if there were no precedents, the Chair would be inclined to overrule the point of order, because the Committee on Rules is the executive organ of the majority of the House. If it were held that it could not act until the subject matter had been referred to it, then it would be impossible for it in the morning before a session to make a new decision and bring in a rule which is often necessary and desirable at the first meeting of the House.

The long practice has been for the Committee on Rules to report rules without their being referred to them. Besides this precedent or custom there are expressed decisions, where the point has been made. Mr. Speaker Crisp explicitly overruled the point of order, and the Chair thinks the decisions to which the gentleman refers, of Mr. Speaker Reed and Mr. Speaker Randall, can be distinguished from this case, and that this point there was not necessarily decided. Moreover, the Chair thinks the history of the rules before the revision of 1880 and after point to the same result. Therefore, both on the ground of policy and on the ground of precedent, the Chair overrules the point of order.

3390. The Committee on Rules may report a resolution rescinding or modifying a special order of business.

The House may by majority vote on a resolution reported from the Committee on Rules revoke a unanimous-consent agreement.

On April 3, 1908,[3] Mr. John Dalzell, of Pennsylvania, reported from the Committee on Rules the following privileged resolution:

Resolved, That immediately on the adoption of this rule the House shall, without further motion, resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H.R. 20063, a bill making appropriations for the District of Columbia; the first reading of the bill shall be dispensed with; and then, after two hours of general debate (the time to be equally divided between the majority and minority), the bill shall be considered under the five-minute rule.

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[1] Second session Sixty-seventh Congress, Record, p. 9577.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixtieth Congress, Record, p. 4349.

Mr. David A. De Armond, of Missouri, made the point of order that the resolution proposed to modify the special order agreed to by unanimous consent on the previous day under which debate on the bill was fixed at eight hours.

Mr. Dalzell conceded that the purpose of the resolution was to rescind that particular provision of the special order, and took the position that the Committee on Rules under the jurisdiction conferred on it by the rules could report a resolution to change a special order at any time.

The Speaker [1] overruled the point of order and held:

The Chair does not assent to the proposition that what the House may do to-day may not be undone to-morrow. Even to the matter of where there was a vote of 232, which has just been given in the affirmative, and none in the negative, it is quite competent for the House, if it should desire to do so in a proper way, to reverse its action. The Chair overrules the point to order.

3391. On August 1, 1919,[2] Mr. Frank W. Mondell, of Wyoming, asked ananimous consent for the immediate consideration of the following:

Resolved by the House of Representatives (the Senate concurring), That the action taken under concurrent resolution of July 28, 1919, providing for an adjournment of the House from Saturday, the 2d day of August, until 12 o'clock meridian, Tuesday, the 9th day of September, 1919, be, and the same is hereby, rescinded.

Mr. Thomas L. Blanton, of Texas, objected to the request for unanimous consent.

Whereupon, Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported this resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider House Concurrent resolution No. 26, a resolution rescinding the action of the House heretofore taken providing for an adjournment from August 2, 1919, until September 9, 1919. Said resolution shall be considered under the general rules of the House.

Mr. Blanton made the point of order that the resolution was not privileged for the reason that it contravened the resolution agreed to by the House on the previous Monday under which it was ordered that when the House adjourned on August 2 it adjourn to meet on September 9.

The Speaker [3] said:

The Chair thinks it has been well settled by precedent that the Committee on Rules have authority to bring in this resolution. In fact, it has been done in a case exactly similar to this. The Chair overrules the point of order.

3392. The Committee on Rules may report a resolution authorizing consideration of a bill on which suspension of the rules has been denied by the House.

On June 5, 1933,[4] Mr. John E. Rankin, of Mississippi, moved to suspend the rules and pass the bill (H. R. 5767) to authorize the appointment of the Governor of Hawaii without regard to his being a citizen or resident of Hawaii.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 3542.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Seventy-third Congress, Record, p. 5023.

On a yea and nay vote, the yeas were 222, the nays were 114, and two-thirds not having voted in favor of the motion it was rejected.

Whereupon, Mr. Thomas L. Blanton, of Texas, inquired if it would be in order, notwithstanding the action of the House in refusing to suspend the rules and pass the bill, for the Committee on Rules to bring in a special order providing for its consideration under the rules of the House permitting its passage by majority vote.

The Speaker [1] replied in the affirmative.

3393. An instance of the exercise of the function of the Committee on Rules in affording the House a method of suspending the rules by majority vote.

A bill taken up as unfinished business is governed by the rules in force at the time of its consideration and not by those in force at the time it was first called up.

On April 20, 1908,[2] following prolonged obstruction, the House agreed to the resolution (H. Res. 341) reported by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, providing that for the remainder of the session it should be in order to suspend the rules by a majority vote instead of by a two-thirds vote.

Thereafter during that session all legislation was enacted under suspension of the rules, even a resolution authorizing a general extension of remarks in the Record being passed under suspension of the rules by majority vote.

On May 26, 1908,[3] the House was considering a motion to suspend the rules and pass the bill (H. R. 17228) to promote the safe transportation in interstate commerce of explosives when Mr. Swager Sherley, of Kentucky, made the point of order that the pending bill had first been taken up for consideration prior to the adoption of the order providing for suspension of the rules by majority vote and therefore the pending motion for suspension of the rules required a two-thirds vote.

The Speaker [4] said:

> The Chair will state to the gentleman from Kentucky that since the roll call began the Chair has examined the rule and the date and finds that the statement of the gentleman from Kentucky is correct; but while it took two-thirds to pass the bill, if it had been voted upon the day that it was considered, 20 minutes' debate on each side, yet since that time the House, as a matter of procedure, as it was competent for the House to do, has adopted a new rule, that during the remainder of this session the rules shall be suspended upon a majority vote.
>
> When this motion was made and the bill was debated, it became unfinished business. Since that time the House has changed its procedure and has provided that a motion to suspend the rules shall prevail by a majority vote.
>
> Upon this vote the yeas are 122, and nays are 68, present 16. A majority having voted in the affirmative, the rules are suspended, and the bill is passed.

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[1] Henry T. Rainey, of Illinois, Speaker.

[2] First session Sixtieth Congress, Record, p. 4505.

[3] Record, p. 7011.

[4] Joseph G. Cannon, of Illinois, Speaker.

3394. Provision in a special order conference shall be asked and the Speaker shall immediately appoint conferees without intervening motion, precludes the motion to instruct.

On August 15, 1912,[1] the House agreed to the following resolution reported by Mr. Robert L. Henry, of Texas, from the Committee on Rules:

Resolved, That immediately on the adoption of this rule it shall be in order to take from the Speaker's table H. R. 21279, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes, together with the Senate amendments thereto, and to disagree to all the Senate amendments en bloc and ask for a conference notwithstanding the general rules of the House, and the Speaker shall, on the adoption of the resolution, appoint the conferees without any intervening motion.

Following the adoption of the resolution, and before conferees had been appointed, Mr. James R. Mann, of Illinois, proposed a motion to instruct conferees.

The Speaker[2] called attention to the provisions of the special order under which conferees were to be appointed without intervening motions and declined to entertain the motion.

3395. On April 25, 1916,[3] Mr. Edward W. Pou, of North Carolina, by direction of the Committee on Rules, reported a resolution discharging the Committee on Military Affairs from further consideration of the bill (H. R. 12766) to increase the efficiency of the Military Establishment, with Senate amendments thereto. The resolution also provided for disagreement to the amendments and agreement to the conference asked by the Senate, conferees to be immediately appointed without intervening motions except one motion to recommit.

Mr. James R. Mann, of Illinois, submitted that the resolution was not in order for the reason that it did not admit a motion to instruct conferees.

The Speaker[2] overruled the point of order and said:

This particular phase of this aggravated question has been passed upon once or twice before by eminent Speakers; that is, the question as to what takes this matter in controversy away from the House. On July 27, 1886, section 6380 of Hinds' Precedents, in a comparatively long decision, a ruling was made upon it which it is not necessary to read, except as to one sentence of it. The decision was made by Mr. Speaker Carlisle. I read:

"But the Chair thinks even if the present motion of the gentleman from Kentucky prevails, at any time before the Chair actually appoints the conferees, which takes the matter away from the House, resolutions of instructions are in order, and the Chair will entertain them after this motion is disposed of."

The pending rule cuts out the privilege to instruct the conferees. But evidently Speaker Carlisle thought, and evidently Mr. Speaker Cannon thought, later on, because he quoted Speaker Carlisle's conclusion approvingly, making a very short decision, that the matter is not taken away from the House until the conferees are appointed.

In rendering that decision yesterday, the Chair did not guarantee to the gentleman from Illinois or anybody else a chance to offer a motion to instruct the conferees. What the Chair did decide was that the Committee on Rules could not cut out the privilege of offering the motion to recommit, with or without instructions.

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[1] Second session Sixty-second Congress, Record, p. 11039.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 6815.

If the gentleman from Illinois proposes a motion to recommit at the proper time—a motion that would be in order as an amendment—then the Chair will rule his motion in order, and if he does not do that, he will rule it out of order. The Chair overrules the point of order.

3396. A discussion of the jurisdiction and functions of the Committee on Rules.

On May 11, 1928,[1] Mr. Guy U. Hardy, of Colorado, under authority of leave to insert remarks in the Record, discussed the powers and functions of the Committees on Rules as follows:

Much power is lodged in the Rules Committee. In former days—in the days of Read and Cannon—the Speaker of the House exercised great influence over legislation—could exercise tyrannical power if so disposed. In those days the Speaker appointed committees, named committee chairman, and was chairman of the Rules Committee, which committee consisted of himself and two of his appointees.

Then can the parliamentary revolution of 1910, and changed the rules, taking the Speaker off the Rules Committee and taking from him power to appoint committees.

To-day committee assignments are made by the House through party committee on committees, and the Rules Committee is independent of the Speaker's influence, except as it is exerted diplomatically.

The Rules Committee has the authority to report to the House special at any time and when so reported such rules are privileged. That is, these special rules take precedence over anything before the House except conference reports. Such special rules providing for the consideration of a bill, limit the hours of debate, and may limit the offering of amendments to the bill, except one motion to recommit. Backed by the majority, the Rules Committee can pretty nearly say what legislation may come up and how it may or may not be amended in the House.

It is not unusual for 12,000 to 16,000 bills to be introduced during a session of Congress. A bill can not be considered in the House unless it is reported out by a committee. But even after being reported favorably by a committee a bill may linger on the calendar without being brought up in the House. Near the end of the session the calendar is full. Days are crowed with business. Appropriation bills have the right of way. Time will permit the consideration of only a few other measures. Somebody must decide what bills may be brought out in the House for consideration in that limited time. This is the function of the Rules Committee.

In the early stages of a Congress the Rules Committee does not function often. But as the Congress draws near a close, with calendars full and few days for consideration of the many bills reported out by regular committees the services of the Rules Committee is in great demand and many Members seek special rules for bills in which they are interested. The procedure is for the Rules Committee to hold meetings for discussion and sometimes hearings where proponents of bills appear and present their views. Sometimes these hearings are simple and informal and sometimes they are elaborate and extended. The committee then determines, usually in executive session, whether the circumstances warrant giving the bill in question preferred status.

However, the Rules Committee is not all powerful. It may report out rules for the consideration of measures, but a majority vote of the House is required to adopt the rule and again to pass the bill .the Rules Committee considers the merits of the bills and the sentiment of the House and the country. It listens to the wishes of the majority as expresses through the Speaker, the majority committee must pass over, and by, many measures, but it is pretty certain that the bills it does elect for presentation to the House are on the official legislative program for passage.

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[1] First session Seventieth Congress, Record, 8438.

Chapter CCLXXII.[1]

SUSPENSION OF THE RULES.

3397. The last six days of a session, in which motions to suspend the rules may be entertained under the rule, can not be determined, other than at the last session of a Congress, until a resolution fixing the date of adjournment has been agreed to in both Houses, and the fact that such resolution has been passed by one House is not to be construed as admitting the motion until the resolution has been adopted by the other House.

On October 4, 1917,[2] the House agreed to the following concurrent resolution.

Resolved by the House of Representatives (the Senate concurring), That the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session of the Congress by adjourning their respective Houses on Saturday, the 6th day of October, 1917, at 3 o'clock post meridian.

On the following day,[3] Mr. Richard W. Austin, of Tennessee, proposed to move to suspend the rules and pass a joint resolution authorizing payment of an extra month's salary to officers and employees of the House and Senate.

The Speaker[4] declined to recognize him for that purpose and said:

Not now. Whenever the Senate passes the adjournment resolution then a motion to suspend the rules would be in order; but there is no telling when they will pass it.

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[1] Supplementary to Chapter CXLII.

[2] First session Sixty-fifth Congress, Record, p. 7798.

[3] Journal, p. 428; Record, p. 7865.

[4] Champ Clark, of Missouri, Speaker.

3398. Where date of adjournment has been tentatively agreed upon but not formally designated, legislation in order during the last six days of the session has been authorized by consent.

On Tuesday, June 24, 1930,[1] Mr. Bertrand H. Snell, of New York, rising to a question of order, stated that it was generally understood that adjournment would be reached not later than Wednesday, July 2. He therefore submitted a request for unanimous consent that beginning with the following Friday, June 27, for the remainder of the session it should be in order for the Speaker to recognize for motions to suspend the rules as during the last six days of a session.

There being no objection, the request was agreed to.

3399. The House has on occasion, by resolution, provided for suspension of the rules by majority vote.

On February 26, 1909,[2] the House adopted a resolution reported from the Committee on Rules providing that for the remainder of the session the motion to suspend the rules should be agreed to by a majority instead of by a two-thirds vote.

In presenting the resolution, Mr. John Dalzell, of Pennsylvania, explained:

Mr. Speaker, the propriety of adopting this rule must be apparent to everyone. This is Friday night preceding the Thursday on which the Congress must adjourn. There are a great many bills necessary to be considered.

3400. Under the later of decisions it is held that the right of a Member to have read a paper on which the House is to vote may not be abrogated by a suspension of the rules.

On December 19, 1910,[3] Mr. James R. Mann, of Illinois, called up from the Calendar of motions to Discharge Committees a motion to discharge the Committee on the Post Office and Post Roads from the further consideration of the bill (H. R. 21321) to codify the postal laws.

During the reading of the bill, which was of great length, Mr. Eben W. Martin, of South Dakota, moved to suspend the rules and dispense with the further reading of the bill.

Mr. Mann interposed a point of order against the motion.

The Speaker[4] declined to entertain the motion and said:

The Chair is prepared, not to rule, but to call attention to the decisions that have been made heretofore on questions that seem to be somewhat similar to this. The decisions are in conflict. The Chair calls attention to section 5277 of Hinds' Precedents, volume 5:

"5277. One June 19, 1878, Mr. Joseph G. Cannon, of Illinois, moved to suspend the rules and pass a bill relating to post routes, which he sent to the desk. Mr. Cannon then asked that the reading of the bill be waived.

"Objection being made, the Speaker held:

"'So far as the experience of the Chair extends, and certainly according to his own uniform ruling, the right has always been conceded to a Member to have a proposition read upon which he was called to vote, so that he might know what he was to vote on.'

"Mr. Benjamin F. Butler, of Massachusetts, asked if the rules might be suspended so as to dispense with the reading.

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[1] Second session Seventy-first Congress, Record, p. 11631.

[2] Second session Sixtieth Congress, Record, p. 3310.

[3] Third session Sixty-first Congress, Record, p. 502.

[4] Joseph G. Cannon, of Illinois, Speaker.

"The Speaker said:

"'They can not.'"

Now, then, that is the latest ruling. The other rulings are in seeming conflict with this decision by Mr. Speaker Randall. Moreover, the situation now, while alike in principle to that of the precedent of 1878, has peculiar features of its own. There was then no such rule upon the book of rules as to make it in order to move to discharge committees and give such motions precedence over motions to suspend the rules. This rule now operating has taken off the floor a motion to suspend the rules and pass the pension bill, which was made in apt time.

So that a motion to suspend the rules on suspension day awaits the action of any Member to make a motion that would take precedence of it under this rule, and, in view of this being a new rule and these considerations, the Chair declines to recognize the gentleman from South Dakota to make the motion, because the practice has grown up for the last 25 or 30 years, or longer, under all Speakers, that a motion to suspend the rules, an exception to other motions in this respect, awaits recognition upon the part of the Speaker, and all Speakers have exercised the power that they have under the rule and under the practice of the House to recognize such motions. The Clerk will proceed with the reading of the bill.

3401. An exceptional instance in which, in the absence of a question of order, a bill was considered without reading.

On December 20, 1920,[1] Mr. Edward C. Little, of Kansas, by direction of the Committee on Revision of the Laws, moved that the rules be suspended and the bill (H. R. 9389) to consolidate, codify, revise, and reenact the general and permanent laws of the United States in force March 4, 1919, a bill of 10,747 sections, be passed, being read by title only.

There being no objection and the question of the reading of the bill not being raised, the motion was unanimously agreed to and the bill was passed.

However, the bill failed to receive the sanction of the Senate and in the following Congress, on May 16, 1921,[2] by direction of the Committee, Mr. Little again offered a motion to suspend the rules and pass the bill without reading.

Mr. Joseph Walsh, of Massachusetts, called attention to the irregularity of the motion and the necessity of reading any bill on which Members were required to vote.

The Speaker[3] said:

The Chair thinks if nobody demands the reading of the bill it can be done.
Without objection, a second will be considered as ordered.

There being no objection and no one having raised a question of order, the motion was unanimously agreed to and the bill was passed.

3402. Recognition to move suspension of the rules on days on which the motion is in order is within the discretion of the Speaker.

Instance wherein the Speaker near the end of a session requested that Members desiring to be recognized to move to suspend the rules submit their request in writing.

On January 28, 1931,[4] following a call of the House to ascertain the presence of a quorum, the Speaker[5] announced.

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[1] Third session Sixty-sixth Congress, Record, p. 574.

[2] First session Sixty-seventh Congress, Record, p. 1477.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] Third session Seventy-first Congress, Record, p. 3398.

[5] Nicholas Longworth, of Ohio, Speaker.

The Chair desires to make this further announcement: When the session draws to a close ordinarily there are quite a number of requests to the Speaker for recognition to move to suspend the rules. Those requests are now coming in rapidly. It is impossible for the Chair to keep in mind all of the requests and the merits of the bills. At the close of the last session the Chair requested all Members desiring to move to suspend the rules to put their requests in writing and to accompany their requests with the bill and report. The Chair will again make that request for the remainder of the session. It worked very well last year, and the Chair hopes that it will this year.

3403. Recognition for motions to suspend the rules is within the discretion of the Speaker.

On February 27, 1915,[1] it being within six days of adjournment, Mr. Patrick D. Norton, of North Dakota, proposed a motion to suspend the rules.

The Speaker[2] declined to entertain the motion.

Mr. Norton submitted that the motion to suspend the rules during the last six days of a session was privileged.

The Speaker said:

It is if the Chair recognizes the gentleman for that purpose, but it is solely within the discretion of the Chair.

3404. On February 21, 1921,[3] during the call of the Consent Calendar, Mr. Alben W. Barkley, of Kentucky, asked recognition to move to suspend the rules and pass the bill (S. 4682) to amend the judicial code.

The Speaker[4] declined recognition and said:

The Chair will not recognize any gentleman unless the Chair knows about the matter.
The Chair will not recognize the gentleman unless he consults the Chair in advance.

3405. The rule providing for the call of the Consent Calendar on the first and third Mondays does not preclude recognition within the discretion of the Speaker for a motion to suspend the rules, and such motion is in order before the calendar is called or at any time before the call is completed.

A motion may be withdrawn in the House before decision thereon and decision of a question of order is not such "decision" as will prevent withdrawal.

The withdrawal of a motion in Committee of the Whole is by unanimous consent only.

Instance wherein the Speaker of his own initiative submitted to the House for decision a question as to procedure.

On February 28, 1913,[5] in response to a question raised by Mr. Thomas W. Hardwick, of Georgia, the Speaker[6] held, tentatively, that on days on which it was in order to call the Calendar for Unanimous Consent the call of the calendar took precedence over motions to suspend the rules.

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[1] Third session Sixty-third Congress, Record, p. 4887.

[2] Champ Clark, of Missouri, Speaker.

[3] Third session Sixty-sixth Congress, Record, p. 3585.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

[5] Third session Sixty-second Congress, Record, p. 4328.

[6] Champ Clark, of Missouri, Speaker.

On the following day,[1] however, it being one of the last six days of the session the question was again raised by Mr. Oscar W. Underwood, of Alabama, who moved to suspend the rules and pass a resolution relating to the order of business.

Mr. Hardwick made the point of order that the motion could not be entertained until the call of the Calendar for Unanimous Consent had been completed.

Debate having been concluded on the point of order, the Speaker submitted the question to the House for its decision and said:

The proposition pending is the point of order made by the gentleman from Georgia against the motion to suspend the rules.

This rule, providing for unanimous consent and suspension of the rules and discharges of committees, is ambiguous. When this point was first raised the other day, the Chair said that if the rule were strictly construed, the contention of the gentleman from Georgia is correct, but that he did not believe that the authors of that rule ever intended to work the Unanimous Consent Calendar ahead of the suspensions in the last six days of the session.

Inasmuch as the House has the right to do what it pleases at any time, and the Chair has no pride of opinion whatever about that quasi ruling, the Chair submits to the House itself the question whether on the last six days of a session the Unanimous Consent Calendar shall take precedence of motions to suspend the rules.

Is the motion made by the gentleman from Alabama to suspend the rules in order at this time? Those who believe that will say "aye."

The question being taken, on a division requested by Mr. Underwood, the vote was yeas 189, noes 23.

The Speaker announced:

The ayes have it, and the House decides that the motion to suspend the rules is in order at this time.

Whereupon, Mr. Underwood explained that his purpose in submitting the motion to suspend the rules was to secure a decision on the question of order, and asked to withdraw his motion.

Mr. Hardwick objected that it was not in order to withdraw the motion except by unanimous consent.

The Speaker ruled:

The gentleman can withdraw it without permission in the House, although he could not in Committee of the Whole. In the House a Member making a motion may withdraw it at any time before it is voted on or amended.

3406. Adoption of a motion to suspend the rules suspends all rules, including the unwritten law and practice of the House.

A motion to suspend the rules and pass a conference report does not admit the point of order that the conference report contains matter not in disagreement between the two Houses.

On May 12, 1909,[2] Mr. George E. Foss, of Illinois, moved to suspend the rules and take from the Speaker's table the conference report on the naval appropriation bill and agree to the same.

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[1] Record, p. 4454.

[2] First session Sixtieth Congress, Record, p. 6147.

The conference report having been read, Mr. John Sharp Williams, of Mississippi, made the point of order that the report contained matter not in disagreement between the two Houses, relating to an increase in the pay of the Marine Corps.

Mr. James A. Tawney, of Minnesota, submitted that the incorporation in a conference report of provisions not in settlement of any dispute between the two Houses was merely a matter of custom and precedent and was not a formal rule of the House and therefore not affected by a motion to suspend the rules.

The Speaker [1] ruled:

The motion to suspend the rules, if agreed to by a proper vote of the House, suspends all the rules which otherwise would prevent the consideration of the pending matter. There is no rule of the House or the Senate touching this matter. The practice has grown up in the House—and the Chair believes it is a wise practice—that the Chair on a point of order being made that the conferees have acted without jurisdiction, or upon a matter of legislation not before them, shall rule on the point of order, which, if sustained, vacates the conference report as much as a vote of the House would vacate it.

Now, the Chair, acting in harmony with this rule, following the precedents of former Speakers, has rigidly, whenever the point of order has been made, sustained it, where the facts warranted the point of order. The practice in the Senate is different from what it is in the House. A point of order is only sustained by a vote of the Senate on the report itself. The presiding officer does not decide the point of order; it is for the Senate by vote to determine whether or not they will reject a report if the report covers matters not committed to the conferees.

Formerly the practice of the House was unsettled, but it has been very well settled for almost a generation.

This motion is to suspend all rules, which otherwise might forbid consideration of the report; and that includes all practice, all parliamentary precedents; for a precedent or practice manifestly is not of higher dignity than a formal rule of the House. Therefore, in the opinion of the Chair, the point of order under this condition is not well taken. The Chair overrules the point of order.

3407. On a motion to suspend the rules the Speaker in recognizing a Member to demand a second gives priority to one opposed to the motion, but if no one rises in opposition, recognizes for that purpose a member favoring the proposition.

On June 3, 1918,[2] Mr. John E. Raker, of California, was recognized to move to suspend the rules and pass the bill (S. 2380) granting to the Legislature of the Territory of Hawaii powers to authorize woman suffrage.

Miss Jeannette Rankin, of Montana, demanded a second.

The Speaker [3] inquired if the lady was opposed to the bill and, being told that she favored it, said:

The chair will recognize somebody who is opposed to it, if there is anybody, in accordance with the rule; otherwise the chair will recognize the lady from Montana.

The second being ordered, the Speaker announced:

The gentleman from California is entitled to 20 minutes and the lady from Montana is entitled to 20 minutes.

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[1] Joseph G. Cannon, of Illinois, Speaker.

[2] Second session Sixty-fifth Congress, Record, p. 7325.

[3] Champ Clark, of Missouri, Speaker.

3408. On a motion to suspend the rules a member of the committee opposing the bill is entitled to priority in demanding a second, but members of the committee favoring the bill yield to its opponents in the right to demand a second.

In qualifying for recognition to demand a second it is not sufficient to express conditional or partial opposition to the bill, but it is necessary to announce unconditional opposition.

On June 3, 1920,[1] the Speaker recognized Mr. Halvor Steenerson, of Minnesota, to move to suspend the rules and pass the bill (H. R. 14338) providing for the reclassification of post-office salaries.

Mr. John A. Moon, of Tennessee, the ranking minority member of the committee reporting the bill, asked recognition to demand a second.

Mr. Henry M. Goldfogle, of New York, not of the Committee, also sought recognition to demand a second.

In response to the Speaker's inquiry, Mr. Moon said that he was not opposed to the bill. Mr. Goldfogle said that he opposed certain provisions in the bill, but declined to state that he would vote against it.

The Speaker[2] held that Mr. Goldfogle had not qualified as an unconditional opponent of the bill and recognized Mr. Moon as the ranking member of the committee.

3049. On motion to suspend the rules one opposed to the bill has prior right to recognition to demand a second over a member of the committee reporting the bill who favors the motion.

On June 20, 1921,[3] Mr. Stephen G. Porter, of Pennsylvania, moved a suspension of the rules for the purpose of passing the joint resolution (S. J. Res. 34) creating a commission to represent the United States in the celebration of the first centennial of the proclamation of the independence of the Republic of Peru.

Mr. Henry D. Flood, of Virginia, the ranking minority member of the Committee on Foreign Affairs, which reported the joint resolution, and Mr. Thomas L. Blanton, of Texas, who was not a member of that committee, simultaneously requested recognition to demand a second.

The Speaker pro tempore[4] decided:

The gentleman from Texas, who is opposed to the bill, is recognized to demand a second.

3410. Under the later practice authorization by a committee is not requisite to recognition to move suspension of the rules on committee suspension day.

On February 21, 1921,[5] the third Monday of the month, the Speaker[2] recognized Mr. James S. Parker, of New York, to move to suspend the rules and pass the joint

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[1] Second session Sixty-sixth Congress, Record, p. 8383.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-seventh Congress, Record, p. 2774.

[4] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[5] Third session Sixty-sixth Congress, Record, p. 3576.

resolution (S. J. Res. 161) authorizing the operation of the New York State Barge Canal, with certain amendments.

Mr. Otis Wingo, of Arkansas, made the point of order that this being committee suspension day, motions to suspend the rules must be authorized by the committees having jurisdiction, and the proposed resolution as amended was without the sanction of the Committee on Military Affairs.

The Speaker held that authorization by the committee was not required and overruled the point of order.

3411. A motion to suspend the rules pending and undisposed of at adjournment recurs as unfinished business on the next day when such business is again in order.

On Monday, June 9, 1930,[1] Mr. Royal C. Johnson, of South Dakota, asked recognition to move to suspend the rules and pass the bill (S. 1372) for payment of the claims of certain Indian tribes, on which a second had been ordered at adjournment on the previous Monday.[2]

The Speaker[3] reminded:

> It is not necessary for the gentleman to make that motion. As the Chair understands the parliamentary situation, the gentleman moved last Monday to suspend the rules and pass the bill, S. 1372, and debate thereon had been exhausted. The question is on the motion of the gentleman from South Dakota to suspend the rules and pass the bill.

The question being taken, and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

3412. A motion to suspend the rules on which a second has been ordered remaining undisposed of at adjournment recurs as the unfinished business on the next day on which such motion is again in order.

Where a quorum fails on a vote by tellers on seconding a motion to suspend the rules and a count by the Speaker discloses the presence of a quorum, the second is ordered.

Debate on a motion to suspend the rules is limited to 20 minutes on each side, and if adjournment is taken before the 40 minutes have been consumed, the time remaining is available when the motion is again considered.

Reference to a discussion as to the function and importance of the motion to suspend the rules.

On February 28, 1931,[4] one of the last six days of the session, Mr. Thomas A. Jenkins, of Ohio, moved to suspend the rules and pass the joint resolution (H. J. Res. 500) further restricting for a period of two years immigration into the United States.

Mr. Samuel Dickstein, of New York, having demanded a second, and the vote being taken, the tellers announced 153 ayes and 2 noes.

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[1] Second session Seventy-first Congress, Record, p. 10337.

[2] Record, p. 9919.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Third session Seventy-first Congress, Record, p. 6575

Mr. Fiorello LaGuardia, of New York, made the point of order that a quorum was not present. The Speaker,[1] after counting, announced that 238 Members were present, a quorum, and the second was ordered.

Mr. Bertrand H. Snell, of New York, inquired what would be the status of the pending measure if the House adjourned after the second was ordered.

The Speaker held that in such event the motion to suspend the rules would be the unfinished business at the next meeting of the House.

The Speaker then recognized Mr. Jenkins, as the mover of the motion, and Mr. Dickstein, as the demander of a second, for 20 minutes each.

During debate Mr. Henry W. Temple, of Pennsylvania, as a parliamentary inquiry, asked what disposition would be made of the time remaining for debate if the House adjourned before the 40-minute period was concluded.

The Speaker replied that any portion of the 40 minutes remaining unconsumed at adjournment would be available when the House again convened.

Thereupon, on motion of Mr. Snell, the House adjourned.

When the House met on the next legislative day, the Speaker announced:

When the House adjourned on Saturday there was pending a motion by the gentleman from Ohio to suspend the rules and pass a bill. The gentleman from New York has 10 minutes remaining and the gentleman from Ohio has 12 minutes remaining.

The Speaker continued:

If the House will indulge the Chair, this mass of papers on the Chair's desk represents the requests for suspension of the rules, which the Chair has tentatively promised. Beyond that there are probably 40 or 50 Senate bills on the Speaker's table, similar House bills having been reported and now on the Calendar, for which the Chair will grant recognition at some time or another. Besides that, there are a number of conference reports pending, there may be messages from the President, and but few hours remaining before final adjournment.

Now, on Saturday night when the Chair recognized the gentleman from Ohio to suspend the rules, intimation was made that the Chair was unfair.

The situation was that some gentlemen were exercising their parliamentary rights, under the rules as they exist, to interpose objections to the passage of the bill and to delay it as much as possible. The Chair thinks that any Member is not only within his rights, but it is his duty, where he is opposed to a measure, to adopt all proper parliamentary methods to prevent the passage of the bill; but in the interest of the speeding up of the business of the House, it is equally the right of Members in favor of the bill to use all proper parliamentary methods to speed its passage. One of these parliamentary methods which has been repeatedly used is the motion to suspend the rules.

The Chair agrees that suspension of the rules is not a normal legislative procedure. In a sense it is a trifle unfair in that it limits debate and does not permit the right of amendment. If anybody thinks that the Chair covets the right to recognize or not to recognize motions to suspend the rules in the last six days of a session, he is far from being correct. It is one of the most burdensome, unpleasant duties that can fall to the lot of a Member of Congress. It is always unpleasant for the present occupant of the Chair to say no, four out of five times, as he is compelled to do.

But there are times when suspension of the rules is vitally necessary to dispatch public business. It is going to be vitally necessary in the next few hours because very few hours remain before adjournment, and the Chair must use his discretion, when he believes it is in the interest of a large majority of the House to use the right of suspension.

I think the Chair is safe in saying that not more than three of four times since his incumbency of his office for the past six years has the motion to suspend the rules, out of hundreds of cases, received less than the necessary two-thirds; in other words, the Chair was in fact aiding the House to carry out its will.

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[1] Nicholas Longworth, of Ohio, Speaker.

3413. On a motion to suspend the rules a demand for a second is not in order until the bill has been read.

On June 3, 1920,[1] Mr. Halvor Steenerson, of Minnesota, moved to suspend the rules and pass the bill (H. R. 14338) to reclassify postmasters and employees of the Postal Service and readjust their salaries and compensation.

The Clerk having read the title of the bill, Mr. Henry M. Goldfogle, of New York, demanded a second.

The Speaker[2] declined to entertain the demand and said:

A second can not be demanded until the bill has been read. The Clerk will report the bill.

3414. Instance in which the 40 minutes of debate allowed on a motion to suspend the rules were increased by unanimous consent.

On February 7, 1916,[3] the House was considering a motion made by Mr. Lemuel P. Padgett, of Tennessee, to suspend the rules and pass the bill (H. R. 9224) providing for an increase in the number of midshipmen at the United States Naval Academy.

Mr. Padgett, to whom 20 minutes had been allotted under the rule, yielded to Mr. Champ Clark, of Missouri, who had not completed his remarks when the 20 minutes expired.

On motion of Mr. James R. Mann, of Illinois, by unanimous consent, Mr. Clark was permitted to proceed without the time being taken from the 40 minute debate permitted under the rule.

3415. Where the time allowed for debate on a motion to suspend the rules was extended by unanimous consent, the Speaker divided the additional time on the ratio governing division of the original 40 minutes provided by the rule.

While the Speaker in recognizing Members to demand a second on a motion to suspend the rules, in the absence of the other considerations, gives priority to members of the committee and to the political minority, the determining qualification is opposition to the motion and members of the political majority opposing the proposition will be recognized in preference to members of the political minority favoring the proposition.

In the allotment of time for debate on a motion to suspend the rules and pass a bill, a member of the committee reporting the bill has prior to recognition over one not a member of the committee.

On June 27, 1921,[4] Mr. Andrew J. Volstead, of Minnesota, moved to suspend the rules and pass the bill (H. R. 7294) supplemental to the national prohibition act.

The Speaker[2] announced:

The Chair understands it has been agreed that there shall be 2 hours on a side instead of the usual 20 minutes on a side. The Chair thinks that the ordinary procedure to be followed is for the Chair to follow the same course that is adopted where there is 20 minutes on a side. The Chair would recognize some member of the committee to demand a second who is opposed to the bill.

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[1] Second session Sixty-sixth Congress, Record, p. 8381.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] First session Sixty-fourth Congress, Record, p. 2240.

[4] First session Sixty-seventh Congress, Record, p. 3095.

Mr. Hatton W. Sumners, of Texas, the ranking minority member of the committee favored the bill. Mr. Anthony J. Griffin, of New York, opposed the bill, but was not a member of the committee. Mr. David G. Classon, of Wisconsin, qualified both as a member of the committee and as opposed to the bill, and was recognized to demand a second.

Mr. Finis J. Garrett, of Tennessee, the minority leader, protested:

Mr. Speaker, on the bill that passed the House just a few minutes ago the parliamentary situation resulted in two gentlemen on the majority side of the Chamber having control of the time. Whether it was the result of that or not, the fact is that the minority side of the House received during that debate of 40 minutes 8 minutes of time, 5 minutes of that time being yielded to a gentleman in favor and 3 minutes to one opposed. Now, the present question before us is not a party question. All efforts that have been made to make it a party question have failed. It seems to me that it should be arranged so that we can be assured of an equal division of time between those in favor and those against the measure, and that the political minority of the House should have its proper recognition.

The Speaker replied:

The Chair has stated to gentlemen who approached him for recognition that he would prefer to recognize a member of the minority inasmuch as the gentleman from Minnesota is on the majority side, but inasmuch as there is no member of the minority of the committee opposed to the bill, the Chair feels constrained to recognize the gentleman from Wisconsin.

3416. Where the proponent of a motion to suspend the rules is opposed to the proposition, a Member who favors it will be recognized to control the 20 minutes of debate on that side.

If no one qualifies to demand a second on a motion to suspend the rules, and no minority Member seeks recognition for that purpose, the Speaker recognizes at his discretion.

Requests for recognition to demand a second to a motion to suspend the rules come too late after the second has been ordered.

On June 27, 1921,[1] Mr. Thomas B. Dunn, of New York, chairman of the Committee on Roads, which had reported the bill (S. 1072) providing Federal aid to the States in the construction of rural post roads, moved to suspend the rules and pass that bill with House amendments.

On demand of Mr. Robert I. Doughton, of North Carolina, a second was ordered.

Pending the motion, Mr. Dunn inquired.

I would like to have a ruling of the Chair as to whether anyone is entitled to take charge of the bill who is against the provisions of the bill, even though he is chairman of the committee?

Mr. Thomas L. Blanton, of Texas, raised a question of order and submitted that under the statement of the chairman of the Committee on Roads he was not entitled to control the time in debate allowed under the rule.

The Speaker pro tempore[2] said:

The Chair will state that it was within the right of the gentleman from New York as chairman of the Committee on Roads, to move a suspension of the rules and pass the bill, which he did. The question now is as to how the time of 40 minutes under the rule, 20 minutes in favor thereof and 20 minutes against, shall be allotted. It has been the uniform practice for a gentleman moving

[1] First session Sixty-seventh Congress, Record, p. 3085.

[2] William H. Stafford, of Wisconsin, Speaker pro tempore.

a suspension of the rules to have charge of the time in favor, because it is the presumption that as he moved to suspend the rules to pass the bill, he naturally favored the passage of the bill, else he would not have moved its passage.

But the Chair is confronted with an unusual condition, unknown to him in his 14 years of service in the House, wherein a like situation has never occurred.

It is within the power of the gentleman from New York to yield, if he desires, the 20 minutes to any Member he sees fit who is in favor of the bill, or to allot the time individually to those whom he believes are in favor of the bill.

Subsequently, however, he ruled:

Since the Chair has made his last statement in relation to the control of the time, he has had his attention called to a precedent that is somewhat in point. It is found in Second Hinds' Precedents, paragraph 1449, the syllabus of which is as follows:

"The chairman of a committee, having in committee opposed a bill, must in the House yield prior recognition to a member of his committee, who has favored the bill.".

The Chair holds that the gentleman from New York when recognized by the Speaker had the right to move the suspension of the rules, as he did to pass the bill, but upon his statement that he is opposed to the bill and the statement of the gentleman from Kentucky, Mr. Robsion, that he is in favor of it and was directed by the Committee on Roads to take charge of the bill, will recognize the gentleman from Kentucky for 20 minutes in favor of the bill, and the gentleman from New York Mr. Snyder in opposition for 20 minutes.

Mr. Finis J. Garrett, of Tennessee, made the point of order that Mr. Homer P. Snyder, of New York, was a member of the majority and was not entitled to recognition as against members of the minority who opposed the proposition.

The Speaker pro tempore reminded:

The Chair will refresh the memory of the leader of the minority by stating that when the motion of the gentleman from New York was made to suspend the rules and a second was demanded by the gentleman from North Carolina the Chair asked the gentleman from North Carolina if he was opposed to the bill and he said he was not. He did not qualify.

No member of the minority rose to claim recognition in opposition to the bill. If he had, the present occupant of the Chair would have recognized him under the uniform practice of party division. But no member of the minority having arisen to demand a second, the Chair recognized the gentleman from New York.

Whereupon, Mr. Garrett proposed to request recognition for Mr. Sam Rayburn, of Texas, a minority member opposed to the bill.

The Speaker pro tempore declined to entertain the request and said:

Ah, but the gentleman comes too late with that. The demand should have been made at the time when a second was demanded. The Chair cannot set aside the order of the House whereby a second has been considered as ordered, and dispossess the only gentleman rising in opposition and demanding recognition of the time, which under the invariable practice has been under his control.

3417. Time yielded by a Member in control of half of the 40 minutes of debate on motion to suspend the rules may not be reserved or yielded to a third Member.

On January 20, 1930,[1] the House was considering a motion by Mr. Schuyler Otis Bland, of Virginia, to suspend the rules and pass the bill (S. 1784) providing for the improvement of Wakefield, the birth place of George Washington.

[1] Second session Seventy-first Congress, Record, p. 1993.

Mr. Louis C. Cramton, of Michigan, who had been allotted 20 minutes of the 40 minutes of debate allowed under the rule, yielded 10 minutes to Mr. William H. Stafford, of Wisconsin.

At the expiration of five minutes, Mr. Stafford proposed to reserve the remainder of the time yielded to him.

Mr. Cramton made the point of order that time so yielded could not be reserved or yielded to another.

The Speaker [1] said:

The Chair thinks the gentleman can not yield the balance of the time yielded to him. The Chair thinks that the practice is, when two gentlemen are recognized to control the time—and in this case they are the gentlemen from Michigan, Mr. Cramton, and the gentleman from Virginia, Mr. Bland, no other gentleman can control any of the time that has been yielded to him by either one of those gentlemen.

3418. A motion to suspend the rules may be entertained although a bill on which the previous question has been ordered may be pending.

On April 20, 1908,[2] Mr. Dalzell, of Pennsylvania, submitted from the Committee on Rules, the resolution (H. Res. 344) providing for an investigation, by a special committee to be appointed by the Speaker, of the price of wood pulp and print paper.

On motion of Mr. Dalzell, the previous question was ordered on agreeing to the resolution, yeas 149, nays 114.

After debate Mr. John Sharp Williams, of Mississippi, proposed to demand a division of the question on the preamble and the various substantive propositions contained in the resolution.

Thereupon, Mr. Dalzell moved to suspend the rules and pass the resolution.

Mr. John J. Fitzgerald, of New York, made the point of order that after the previous question was ordered on a pending proposition a motion to suspend the rules was not in order until the pending proposition was disposed of.

The Speaker [3] directed attention to section 6827 of Hinds' Precedents and said:

The previous question was ordered on agreeing to the resolution. This motion to suspend the rules covers both the preamble and the resolution. Therefore the Chair again refers to Mr. Speaker Crisp's ruling, as follows:

"The Speaker overruled the point of order, holding that this being the first Monday of the month it was in order to entertain motions to suspend the rules: that the object of such motion was to suspend all the rules, and the effect was to bring the House to an immediate vote on the pending motion."

The Chair believes that that ruling of Mr. Speaker Crisp was correct, and this motion of the gentleman from Pennsylvania is to suspend all rules and pass not only the resolution but the preamble as well, upon which preamble the previous question has not been ordered. And in principle it comes within the ruling of Mr. Speaker Crisp. It is a proceeding to dispense with all rules of every nature and pass the bill. The Chair overrules the point if order.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixtieth Congress, Record, p. 5029.

[3] Joseph G. Cannon, of Illinois, Speaker.

3419. A motion to suspend the rules may be withdrawn at any time before a second is ordered, even after tellers are appointed on seconding the motion.

On December 19, 1921,[1] Mr. Albert Johnson, of Washington, moved to suspend the rules and pass the joint resolution (H. J. Res. 237) authorizing the Secretary of Labor to stay temporarily the deportation of certain aliens.

Mr. Finis J. Garrett, of Tennessee, demanded a second, and tellers were appointed, when, pending the count of the vote by the tellers, Mr. Johnson withdrew the motion.

Mr. Garrett raised a question of order on the right to withdraw the motion after tellers had been ordered.

The Speaker[2] held that withdrawal was in order at any time prior to the ordering of a second.

3420. After a second is ordered on a motion to suspend the rules the motion may be withdrawn or modified by unanimous consent only.

On June 9, 1930,[3] Mr. James S. Parker, of New York, moved to suspend the rules and pass the bill (S. 3619) to organize the Federal Power Commission, with amendments.

The Clerk having read the bill as proposed, a second was demanded and ordered, when Mr. Parker asked unanimous consent that section 2 of the bill be again read.

There was no objection, and section 2 of the bill was read a second time.

Mr. George Huddleston, of Alabama, raised the question of order that the section as read the second time did no conform to the section as originally read.

Mr. George S. Graham, of Pennsylvania, explained that there had been a change of but two words and that the substitution had been made to remedy an inadvertence.

Mr. Huddleston submitted that after a second was ordered the bill was not subject to amendment and insisted on his point of order.

The Speaker[4] sustained the point of order.

Mr. Carl E. Mapes, of Michigan, asked unanimous consent that the motion to suspend the rules be withdrawn.

Mr. Huddleston objected.

Whereupon, the proposal was considered in its original form and, two-thirds voting in the affirmative, passed as first read by the Clerk.

3421. A motion to suspend the rules may provide for the passage of a bill regardless of whether it has been reported or referred to any calendar or even previously introduced.

On July 19, 1909,[5] Mr. James R. Mann, of Illinois, being recognized for that purpose, moved to suspend the rules and pass a bill authorizing the construction of various bridges across certain navigable waters.

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[1] Second session Sixty-seventh Congress, Record, p. 634.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventy-first Congress, Record, p. 10331.

[4] Nicholas Longworth, of Ohio, Speaker.

[5] First session Sixty-first Congress, Record, p. 4511.

Mr. Thomas W. Hardwick, of Georgia, made the point of order that the bill had not been reported by a committee of the House and had not been placed on any calendar.[1]

The Speaker[2] ruled:

This is a motion to suspend the rules. It being the third Monday, it is in order to move to suspend the rules and pass a bill whether it has been reported by a committee or not. The Chair apprehends that this has never been introduced, but the Chair is not sure about that. Is a second demanded?

3422. Pending the decision of a question of order raised against a conference report it is in order to move to suspend the rules and agree to the report.

On February 25, 1911,[3] the House was considering the conference report on the District of Columbia appropriation bill, when Mr. Ben Johnson, of Kentucky, made the point of order that the conferees had exceeded their authority by including in the report a provision relating to the construction of street paving which had not been passed by either House.

After debate on the question of order and pending the decision of the Speaker, Mr. Albert S. Burleson, of Texas, moved to suspend the rules and agree to the conference report as submitted.

Mr. Johnson raised a further question of order against entertaining the motion to suspend the rules while the point of order was pending.

The Speaker[2] overruled the point of order and recognized Mr. Burleson as follows:

The gentleman has made a point of order, but if the rules should be suspended it will not be subject to the point of order. It is a motion to suspend the rules and give the House an opportunity to dispose of this report.

3423. A motion to suspend the rules and agree to a conference report proposes suspension of all rules inconsistent with the adoption of the report, including the rule requiring printing before consideration.

On May 23, 1908,[4] Mr. Frank W. Mondell, of Wyoming, moved that the rules be suspended for the calling up and adoption of the conference report on the bill (S. 6155) providing for an enlarged homestead.

Mr. Willliam A. Reeder, of Kansas, made the point of order that the conference report had not been printed as required by the rules and therefore was not subject to consideration.

The Speaker[2] overruled the point of order and said:

It is not necessary to print under the rules of the House, because this is the motion to suspend the rules of the House and agree to the conference report. And the motion to suspend all rules

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[1] No committee had yet been appointed except the Committees on Ways and Means, Accounts and Mileage.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Third session Sixty-first Congress, Record, p. 3418.

[4] First session Sixtieth Congress, Record, p. 6831.

means the suspension of such rules as otherwise would stand in the way of immediate consideration of the report. The rule requiring printing would stand in the way, but the motion now offered removes that obstacle.

3424. The fact that a proposition is subject to points of order does not preclude its passage under a suspension of the rules.

On February 21, 1910,[1] Mr. James A. Tawney, of Minnesota, by direction of the Committee on Appropriations called up the conference report on the urgent deficiency appropriation bill, and moved to pass the report as presented.

The report having been read by the Clerk, Mr. Charles B. Law, of New York, made the point of order that the conferees had exceeded their powers by including provisions relating to the salaries of certain Federal judges, not in disagreement between the two Houses.

The Speaker[2] ruled:

This is a motion to suspend all rules touching this report which would prevent its present consideration. The point of order made by the gentleman from New York would prevent the present consideration of the report. This is a motion to suspend the rules and agree to the report. There was a ruling in the last Congress, quite a lengthy one, and the Clerk will read from it.

The Clerk read as follows:

"This motion is to suspend all rules which otherwise might forbid consideration of the report; and that includes all practice, all parliamentary precedents; for the precedent or practice manifestly is not of higher dignity than a former rule of the House. Therefore, in the opinion of the Chair, the point of order under this condition is not well taken."

Having a precedent which the Chair thinks is a correct precedent, the Chair overrules the point of order.

3425. Instance wherein a motion to suspend the rules was utilized in taking a bill from the Speaker's table and agreeing to Senate amendments.

A Senate amendment is not subject to the point of order in the House that it is not germane to the House bill.

On March 3, 1931,[3] Mr. Gilbert N. Haugen, of Iowa, asked unanimous consent that the bill (H. R. 16836) imposing a tax on oleomargarine, with Senate amendment thereto, be taken from the Speaker's table, and the Senate amendments agreed to.

Objection being made, Mr. Haugen moved to suspend the rules, take the bill from the Speaker's table, and concur in the Senate amendments.

Mr. Adolph J. Sabath, of Illinois, made the point of order that the Senate amendments were not germane to the bill.

The Speaker pro tempore[4] ruled:

Senate amendments are not subject to a point of order in the House on the ground that they are not germane to the text of the House bill.

Thereupon a second was ordered, and, after debate, two-thirds having voted in the affirmative, the rules were suspended and the Senate amendments were agreed to.

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[1] Second session Sixty-first Congress, Record, p. 2177.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] Third session Seventy-first Congress, Record, p. 7196.

[4] Bertrand H. Snell, of New York, Speaker pro tempore.

3426. Suspension of the rules to pass a bill suspends all rules inconsistent with its purpose and the provision of clause 5 of Rule XXI admitting a question of order at any time is not applicable to the motion.

On February 7, 1921,[1] Mr. Sam R. Sells, of Tennessee, by direction of the Committee on Roads, moved to suspend the rules and pass the bill (H. R. 15873) authorizing appropriation of additional sums for Federal aid in construction of post roads.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the bill had been improperly reported and was not entitled to a place on the calendar, in that it proposed to dispose of money previously appropriated by Congress, making available funds which otherwise would be returned to the Treasury, and that the motion to suspend the rules did not preclude the point of order for the reason that it was specifically provided in section 5 of Rule XXI[2] that such question of order could be "raised at any time."

After debate the Speaker[3] overruled the point of order and said:

> The Chair would state that, in his judgment, the reason why the point of order is not valid is that the rule allowing suspension suspends all rules. The Chair thinks that applies to the rule relied upon by the gentleman from Massachusetts as well as others. It is not necessary that the bill should have been reported by the committee. The gentleman from Tennessee moves to suspend the rules and pass the bill which the Clerk had reported, and the Chair thinks that suspends every rule, and the point of order does not lie. Is a second demanded?

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[1] Third session Sixty-sixth Congress, Record, p. 2742.

[2] Now section 4 of Rule XXI.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

Chapter CCLXXIII.[1]

QUESTIONS OF ORDER AND APPEALS.

3427. It is not the duty of the Chair to construe the Constitution as affecting proposed legislation.

An appropriation for the administration of the national prohibition law was held to be authorized by law and in order on an appropriation bill.

On January 18, 1930,[2] during consideration of the Treasury and Post Office appropriation bill in the Committee of the Whole House on the state of the Union, the paragraph providing for the enforcement of the national prohibition act was reached.

Mr. Fiorello H. LaGuardia, of New York, made the point of order that there was no authorization for the proposed appropriation.

After debate, the Chairman[3] ruled:

The gentleman from New York has made a point of order against the appropriated carried in this section for the expenses of enforcing the provisions of the national prohibition act. He makes this point of order: First, that there is no authoritative law for the appropriation, because this appropriation is based on the laws that have been passed for the enforcement of the prohibition act, which act itself depends for its validity on the constitutionality of the eighteenth, or prohibition, amendment. In other words, his point of order is based on the supposition of fact that there is no operative eighteenth amendment at the present time. In the beginning of his argument he made the statement that he was not arguing the constitutionality of this law and that this is not the time or place to raise a constitutional question. With that part of the gentleman's argument the Chair entirely agrees. The Chairman of the Committee of the Whole, or even the Speaker of the House, is not called upon to decide a constitutional question or even render an opinion on a

[1] Supplementary to Chapter CXLIII.

[2] Second session Seventy-first Congress, Record, p. 1903.

[3] Betrand H. Snell, of New York, Chairman.

constitional question. Notwithstanding that statement by the gentleman from New York, he immediately launched into a very long, carefully prepared, and somewhat ingenious argument to uphold his contention that the eighteenth amendment is not operative at the present time.

Now, what is the practical situation before the Committee? We are governed by the rules and practices of the House, and as far as the Chair knows there are only one or two extreme occasions where we have ever relied upon the Constitution itself as authority for making an appropriation in one of the regular appropriation bills. The Chair has seen one decision in connection with appropriations for ambassadors to foreign countries, where the only authorization was the clause in the Constitution which provides for the appointment of ambassadors.

That was considered as sufficient authorization for making the appropriation. However, as a usual thing we are governed entirely by the rules and practices of the House. Clause 2 of Rule XXI reads as follows:

"No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law."

The subcommittee on appropriations has very carefully and fully set out in the first page and a half of this special section all of the laws that have furnished the authority for the appropriation. The Chair has examined some of these authorities and he believes there is sufficient and ample authority in the laws that are enumerated for making the appropriation. The gentleman from New York in his argument has not claimed that all of these laws have been repealed or, in fact, that any one of them has been repealed. As far as the present occupant of the chair is informed or knows, none of them have been repealed.

Therefore the Chair is of the opinion that there is ample authority of law for making the appropriation; that the Committee on Appropriations has not gone beyond the authority that is given it and therefore the point of order is overruled.

3428. A point of order being reserved, the pending question may be debated on its merits if no Member demands the regular order.

On August 23, 1918,[1] while the bill (H. R. 12731) amending the draft law, was under consideration in the Committee of the Whole House on the state of the Union, Mr. Dudley Doolittle, of Kansas, offered an amendment confirming the right of suffrage to soldiers in the service of the United States.

Mr. S. Hubert Dent, of Alabama, reserved a point of order on the amendment.

Mr. Doolittle inquired if the amendment was debatable after reservation of a point of order against it.

The Chairman[2] held that the point of order was in abeyance during reservation and the pending amendment was subject to debate on its merits if no Member demanded the regular order.

3429. Reservation of a point of order is by unanimous consent only and must be made or waived on demand for the regular order.

A point of order when reserved is not subject to debate.

A point of order being withdrawn, and Member may renew it.

On December 18, 1912,[3] an appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read a paragraph providing for the instruction of Indian women in household duties and the conduct of experiments in forestry on Indian agency farms.

Mr. James R. Mann, of Illinois, reserved a point of order on the paragraph, but after debate withdrew it.

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[1] Second session Sixty-fifth Congress, Record, p. 9457.

[2] Courtney W. Hamlin, of Missouri, Chairman.

[3] Third session Sixty-second Congress, Record, p. 878.

Thereupon, Mr. H. Robert Fowler, of Illinois, renewed the point of order and was proceeding in debate when Mr. Martin Dies, of Texas, objected that debate was not in order.

The Chairman [1] said:

The gentleman from Illinois is recognized under the familiar practice in the Committee of the Whole to extend recognition, when requested, to a Member reserving a point of order. Strictly speaking under this recognition the gentleman is not entitled to five minutes, if objection is made. But the usual practice allows him to proceed in the absence of objection for certainly as much as five minutes.

Mr. Fowler having concluded, Mr. Scott Ferris, of Oklahoma, proposed to debate the point or order which has been reserved.

The Chairman held that a point or order which has been reserved was not subject to debate and said:

The Chair does not see how the gentleman can be heard on a point of order that is reserved. There is nothing before the committee.

The point of order was reserved by the gentleman from Illinois, and his rights, if any, were exhausted in the opinion of the Chair, at the expiration of five minutes. There is no point of order to discuss, none having been made.

Mr. Marlin E. Olmsted, of Pennsylvania, demanded the regular order.

The Chairman referred to section 6869 of Hinds' Precedents and said:

In conformity with the authority quoted, the Chair rules now, as it has ruled heretofore, that the reservation of a point of order is not a matter of right under the rules, but of general acquiescence. All proceedings under such a reservation are a form of unanimous consent. Objection having been made, the gentleman from Illinois is requested to state his point or order.

3430. A point or order may be reserved but must be decided or withdrawn on the demand of any Member for the regular order.

If reservation of a point or order is withdrawn another Member may renew it.

Debate under reservation of a point of order is by unanimous consent and may be terminated at any time by a demand for the regular order.

A proposition to be accepted as a substitute must relate to the same subject and propose a related objective.

On October 24, 1921,[2] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 8762) to create a commission authorized to refund foreign obligations.

Mr. James A. Frear, of Wisconsin, offered as an amendment a proposal to incorporate in the bill the following proviso:

Provided, That the total amount of interest payable on any such obligation received hereunder shall not be less than an amount equal to interest on the principal thereof at the rate of 5 per cent per annum.

Mr. James W. Collier, of Mississippi, offered as a substitute for the amendment the following:

Provided, That no agreement or agreements so entered into with respect to any matter herein authorized shall be deemed to have been completed nor to have force and effect until it shall have been submitted to the Congress of the United States and embodied in a law passed by Congress.

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[1] Edward W. Saunders, of Virginia, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 7468.

Mr. Nicholas Longworth, of Ohio, objected that the purported substitute was not in fact a substitute in that it differed from the pending amendment both in subject matter and purpose.

At the request of Mr. Collier, Mr. Longworth, consented to reserve the point of order to permit debate on the merits of the proposal.

After debate Mr. Eugene Black, of Texas, demanded the regular order and the Chairman [1] announced:

The Chair understands the gentleman demands the regular order. Does the gentleman from Ohio press his point or order?

The Chair will state for the information of the committee that debate on a reservation of a point of order is by unanimous consent, and it is within the privilege of any member of the committee at any time to demand the regular order, when it is incumbent on the member who has made the point of order to either withdraw the point of order or make it. I understand the gentleman from Texas demands the regular order, and the Chair is inquiring of the gentleman from Ohio whether he desires to withdraw the point of order or make it.

Thereupon, Mr. Longworth, not insisting on the point of order, Mr. Albert Johnson, of Washington, renewed it.

The Chairman held that the proposal was not a substitute and said:

The amendment of the gentleman from Wisconsin provides that "the total amount of interest payable on any such obligation received hereunder shall not be less than an amount equal to interest on the principal thereof at the rate of 5 per cent per annum." The object of the amendment of the gentleman from Wisconsin is for the sole purpose of restricting the discretion of the commission as to the interest arrangements that may be entered into. The substitute offered by the gentleman from Mississippi goes much further. In fact, it makes no references whatsoever to the purport, directly or indirectly, of the amendment of the gentleman from Wisconsin. It relates to agreements that may be entered into. It has a much broader scope that the pending amendment. In fact, it has no relation to it except in a very distant degree, and therefore it can not be considered a substitute, and the Chair sustains the point or order.

3431. On December 22, 1932,[2] the Committee of the Whole House on the state of the Union was considering the Interior Department appropriation bill, when Mr. Samuel S. Arentz, of Nevada, offered an amendment making provision for schoolroom equipment in Indian schools.

Mr. William W. Hastings, of Oklahoma, reserved a point of order on the amendment.

After debate, Mr. Hastings having withdrawn the point of order, Mr. Philip D. Swing, of California, proposed to renew the reservation.

Mr. Arentz made the point or over that debate had intervened and the amendment was no longer subject to a point of order.

The Chairman [3] dissented and held that the reservation of a point of order withdrawn by one Member might be renewed immediately by another Member.

3432. Submission of a question of order precludes further consideration until disposed of.

On January 14, 1913,[4] the Post Office appropriation bill was ordered to be engrossed and was read a third time, when Mr. Victor Murdock, of Kansas, moved to

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[1] William H. Stafford, of Wisconsin, Chairman.

[2] Second session Seventy-second Congress, Record, p. 925.

[3] Schuyler Otis Bland, of Virginia, Chairman.

[4] Third session Sixty-second Congress, Record, p. 1519.

recommit the bill to the Committee on the Post Office and Post Roads with instructions to report it back instanter with an amendment interdicting the transportation of mail matter advertising intoxicating liquors.

Mr. Swagar Sherley, of Kentucky, objected that the amendment embodied in the motion to recommit was not germane and pending the point of order demanded a division of the question on the various substantive propositions presented in the motion.

Mr. Murdock made the point of order that the demand for a division of the question could not be made until the pending point of order had been decided.

The Speaker [1] sustained the point of order and addressed himself to the question of germaneness raised by Mr. Sherley.

3433. The previous question may not be demanded on a proposition against which a point of order is pending.

On January 16, 1917,[2] the House had under consideration the Post Office appropriation bill with amendments recommended by the Committee of the Whole House on the state of the Union.

Mr. Charles H. Randall, of California, moved to recommit the bill to the Committee on the Post Office and Post Roads, with instructions to report it back forthwith with an amendment prohibiting the transmission through the mails of matter advertising intoxicants.

Mr. Swagar Shirley, of Kentucky, made the point of order that the amendment proposed legislation on an appropriation bill.

Mr. Randall demanded the previous question on the motion to recommit, when Mr. James R. Mann, of Illinois, raised the question of the right to move the previous question while a point of order was pending.

The Speaker [1] sustained the point of order and held the demand for the previous question could not be entertained until the question of order was disposed of.

3434. An amendment read for information is not pending and reservation of points of order is not required to preserve rights thereon.

On February 22, 1910,[3] the Indian appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

A section making provision for the expense of the Five Civilized Tribes being read, Mr. John H. Stephens, of Texas, gave notice that at the proper time he proposed to offer an amendment requiring the commission to enroll and provide for certain members of the Choctaw Tribe.

On request of Mr. James R. Mann, of Illinois, the amendment was read for information.

Mr. Charles D. Carter, of Oklahoma, proposed to raise a question of order against the amendment.

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[1] Champ Clark, of Missouri, Speaker.

[2] Second session Sixty-fourth Congress, Record, p. 1484.

[3] Second session Sixty-first Congress, Record, p. 2216.

The Chairman[1] declined to entertain the reservation and held that as the amendment was merely read for information it was not pending and a point of order was not required to preserve the rights of Members to object when it was offered.

3435. An instance wherein the Chair after announcing a decision subsequently reversed the opinion.

Where a Government agency was required by law to fix salaries in accordance with the classification act, a proposal under which it would be possible to fix salaries in excess of the maximum provided by the classification act was held to constitute legislation.

On January 12, 1927,[2] the independent offices appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

The Clerk read:

For every expenditure requisite for and incident to the work of the Board of Tax Appeals as authorized under Title IX, section 900, of the revenue act of 1924, approved June 2, 1924, as amended by Title X of the revenue act of 1926, approved February 26, 1926, personal services (including 12 employees at rates of compensation to be fixed by the board, not in excess of $7,500 each per annum), stenographic reporting services to be obtained on and after the passage of this act by the board in its discretion, through the civil service or by contract, or renewal of existing contract, or otherwise, rent at the seat of government and elsewhere, traveling expenses, car fare, stationery, furniture, office equipment, purchase and exchange of typewriters, law books and books of reference, periodicals, and all other necessary supplies, $682,740.

Mr. Eugene Black, of Texas, made a point of order that the language—

Including 12 employees at rates of compensation to be fixed by the board, not in excess of $7,500 each per annum.

was a proposition to enact legislation.

Mr. Black cited section 910 of the code as follows:

The board is authorized, in accordance with the civil service laws, to appoint, and in accordance with the classification act of 1923 to fix the compensation of such employees, and to make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, and for law books, books of references, periodicals, etc.

and contended that the authorization to fix salaries at a figure not in excess of $7,500 was a proposal to fix them in excess of the maximum provided in the statute cited.

The Chairman[3] overruled the point of order, but subsequently asked the attention of the Committee and announced.

The Chair finds himself in a rather peculiar position and hopes that he is not the only occupant of the chair who has so found himself. A few moments ago a point of order was made to lines 2 and 3, and the Chair overruled the point or order. Now an amendment is offered, which in addition to the language found in lines 2 and 3, includes the words "stenographic reporting services." On further investigation the Chair has come to the conclusion that the revenue act of 1926 authorizes the board to appoint these employees under civil-service rules and fix their salaries only in accordance with the reclassification act.

When the Chair made his first ruling he took snap judgment apparently, in holding that the language, "compensation to be fixed by the board," did not change existing law. But after careful consideration the Chair is compelled to reverse that ruling and hold that this does change the basic law, since apparently it permits the fixing of the salaries of these 12 employees without reference to

[1] Marlin E. Olmsted, of Pennsylvania, Chairman.

[2] Second session Sixty-ninth Congress, Record, p. 1513.

[3] James T. Begg, of Ohio, Chairman.

the reclassification act. The Chair therefore sustains the point of order made against the amendment.

3436. If a portion of paragraph is out of order the entire paragraph may be stricken from the bill, but after that portion has been ruled out it is too late to lodge the point of order against the paragraph as a whole as if the objectionable matter had not been stricken from the bill.

On January 31, 1921,[1] the Committee of the Whole House on the state of the Union had under consideration the river and harbor bill.

The Clerk read the paragraph:

For the preservation and maintenance of existing river and harbor works, and for the prosecution of such projects heretofore authorized as may be most desirable in the interests of commerce and navigation, $15,000,000: *Provided,* That allotments from this sum shall be made by the Secretary of War upon the recommendation of the Chief of Engineers: *Provided further,* That at the beginning of the second session of the Sixty-seventh Congress a special report shall be made to Congress by the Secretary of War showing the amount allotted under this appropriation for each work of improvement or maintenance.

Mr. Thomas L. Blanton, of Texas, having submitted a point of order against the two provisos, the Chairman sustained the point of order and the provisos were stricken from the paragraph.

Whereupon Mr. Blanton lodged a point of order against the remainder of the paragraph on the ground that if a portion was out of order the entire paragraph was subject to a point of order.

Mr. James R. Mann, of Illinois, objected and argued:

The gentleman might have made a point of order against the whole paragraph. The gentleman did make a point of order against the two provisos. Before the Chair ruled upon that he might have made a point of order against the whole paragraph, but he did not attempt to make a point of order against the whole paragraph until the Chair ruled out the two provisos. Now, the gentleman is entitled to make a point of order against the balance of the paragraph, but the provisos are out of it, and he can not sustain the point of order now on the ground that it has the provisos in it, because they are already out.

The Chairman[2] acquiesced and said:

That is exactly the position taken by the Chair, as the Chair has already stated. The paragraph is not now subject to a point of order for the reason stated by the gentleman from Illinois.

3437. An amendment being offered, and the reading having begun, a point of order may interrupt the reading and the Chair may rule the amendment out if enough has been read to show that it is out of order.

On April 7, 1980,[3] while the Committee of the Whole House on the state of the Union was considering the District of Columbia appropriation bill, the Clerk read:

Attendance officers: For two attendance officers, authorized by the act providing for compulsory education in the District of Columbia, approved June 8, 1906, at $600 each; one attendance officer, $900; in all, $2,100.

Mr. Andrew J. Peters, of Massachusetts, sent the desk and amendment which the Clerk reported as follows:

That from and after the passage of this act the labor of children—

At this point Mr. Martin B. Madden, of Illinois, rose to submit a point of order.

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[1] Third session Sixty-sixth Congress, Record, p. 2349.

[2] James W. Husted, of New York, Chairman.

[3] First session Sixtieth Congress, Record, p. 4483.

The Chairman [1] declined recognition and said:

As soon as there is sufficient of the amendment read to indicate what the purpose is, the Chair will rule on the point of order. The Clerk will continue the reading.

The Clerk continued:

That from and after the passage of this act the labor of children in the District of Columbia shall be subject to the following regulations—

The Chairman interposed:

The Clerk will cease reading. That is clearly out of order. It is legislation, pure and simple. The point of order is sustained.

3438. On January 26, 1917,[2] during the consideration of the river and harbor bill in the Committee of the Whole House on the state of the Union, Mr. Murray Hulbert, of New York, offered an amendment which he sent to the desk to be reported by the Clerk.

The Clerk read:

Sec. 9. That the following amendment to section 7, Article I, of the Constitution is hereby proposed and submitted to the several States, as follows.

Mr. James R. Mann, of Illinois, interrupted and demanded to be heard on a point of order against the amendment.

The Chairman reminded that the reading of the amendment had not yet been concluded.

Mr. Mann submitted:

Enough has been read to show that the amendment is a proposed amendment to the Constitution of the United States. I make the point of order so as to prevent showing what it is.

The Chairman [3] entertained the objection and sustained the point of order.

3439. On October 30, 1919,[4] the bill (S. 2775), the mineral leasing bill, was being considered in the Committee of the Whole House on the state of the Union.

Mr. John E. Raker. of California, offered an amendment in the nature of a substitute.

After a portion of the amendment had been read, Mr. Thomas L. Blanton of Texas, interposed a question of order.

The Chairman [5] objected:

The Chair can not decide the point of order on a matter that he knows nothing about.

It is manifest that any point of order against this amendment can not be given consideration by the Chair until the Chair knows what is contained in the amendment. The Chair is no mind reader——

The Clerk continued until section 40 of the amendment was read, prohibiting one corporation from acquiring or controlling the stock of another corporation, when Mr. Blanton again interrupted and made the point of order that the amendment was not germane.

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[1] John Dalzell, of Pennsylvania, Chairman.

[2] Second session Sixty-fourth Congress, Record, p. 2082.

[3] Henry T. Rainey, of Illinois, Chairman.

[4] First session Sixty-sixth Congress, Record, p. 7783.

[5] Martin B. Madden, of Illinois, Chairman.

The Chairman entertained the point of order and said:

The reading having disclosed that section 40 of the amendment offered by the gentleman from California is contrary to the spirit of the provisions of the bill, and seeks to prevent the acquisition of stock in a corporation by individuals or stockholders of another corporation, and provides for punishment under certain circumstances, and indicates by the provisions of the section that it has no relation whatever to the provisions of the bill, wishes to say that the former Speaker of the House, Mr. Speaker Clark, on December 5, 1912, having ruled upon a question on all fours with this, on a point of order made to a bill providing for the physical valuation of railroads, when a provision dealing with the future issuance of stocks and bonds was pending, and held the amendment not to be germane, and held the point of order made against it as good, and sustained it, so the chair under the present circumstances feels constrained to rule that the amendment of the gentleman from California offered at this stage of the bill, covering cases already having been passed upon during the consideration of the bill, is out of order, and the point of order is sustained.

3440. It is too late to raise a question of order against the consideration of a proposition after debate on it has begun.

On March 25, 1910,[1] the House was in the Committee of the Whole for consideration of bills on the Private Calendar.

The bill (S. 4040) to grant land to the city of Cheyenne was taken up for consideration.

After debate, Mr. Charles L. Bartlett, of Georgia, made the point of order that the bill was a public bill and was improperly on the Private Calendar.

Mr. James R. Mann, of Illinois, objected that the bill had been debated and the point of order came too late.

The Chairman[2] ruled:

After the bill now under consideration had been read by the Clerk the gentleman from Illinois took the floor and discussed the merits of the measure for something like forty minutes, and a number of other gentlemen took part in the colloquy. The gentleman from Georgia then made the point of order that the bill was not properly on the Private Calendar, and that, therefore, the consideration of the measure should be suspended. The Chair would refer the committee to the precedents on this point, which are numerous.

The Chairman cited section 6895 of Hinds' Precedents as particularly applicable and concluded:

There are numerous other precedents coming down to within the last Congress to the same effect, that a point of order as to the place of a bill on the calendar should be made when the bill is first called, and, as in the first case quoted, a mere parliamentary inquiry was held to be intervening debate.

Exactly the same point is decided in a number of other cases, and the decisions from the Chair are based on the fact that it was not necessary for the Chair to consider the merits of a point of order, as the point of order came too late, it having considered the measure. In this case, as the consideration lasted for a full hour, the Chair overrules the point of order.

3441. On January 26, 1932,[3] in the course of the consideration of the Agriculture Department appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Fiorello H. LaGuardia, of New York, offered an amendment to the pending paragraph of the bill.

The Clerk having read the amendment, Mr. LaGuardia said in debate:

If the chairman will accept my amendment, I will not take any time of the committee.

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[1] Second session Sixty-first Congress, Record, p. 3777.

[2] Henry S. Boutell, of Illinois, Chairman.

[3] First session Seventy-second Congress, Record, p. 2743.

Mr. James P. Buchanan, of Texas, the Chairman of the subcommittee reporting the bill, declined to accept the amendment.

Whereupon, Mr. John Taber, of New York, proposed a point of order against the amendment.

The Chairman [1] refused recognition and said:

The Chair will state that the point of order of the gentleman from New York should have been before the gentleman from New York began his remarks. The Chair overrules the point of order because debate has intervened between the reading of the amendment and the raising of the point of order.

3442. A point of order against the motion to strike out the enacting clause must be made before debate has begun,.

On December 5, 1919,[2] the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 9755) to establish the standard of weights and measures for wheat-mill and corn-mill products.

Mr. William B. Bankhead, of Alabama, moved to strike out the enacting clause, and being recognized consumed five minutes in debate.

Mr. Frank W. Mondell, of Wyoming, was recognized for five minutes in opposition to the motion.

Thereupon, Mr. Nicholas J. Sinnott, of Oregon, made the point of order that the motion to strike out the enacting clause was not admissible under the terms of the special order under which the bill was being considered.

Mr. Otis Wingo, of Arkansas, objected that a point of order against a motion to strike out the enacting clause came too late after it had been debated.

The Chairman [3] ruled:

The question raised here is rather involved, but the Chair has consulted several authorities referred to in the debate and feels clear on the point. The gentleman from Oregon refers to the paragraph 3215 of Hinds' Precedents, in support of his contention. It seems to the Chair that in the decision referred to in that paragraph, the whole matter hinged on whether or not the point of order was made before debate had begun. We must concede in the point of order now before the committee that debate had taken place before the point of order was made. The gentleman from Alabama had made his motion to strike out the enacting clause and had debated it for a number of minutes. Therefore, as debate had taken place, in the Chair's opinion the citation of paragraph 3215 does not parallel the question now under discussion, because debate had already been had, while in that reference the decision was based on the fact that debate had not taken place previous to the point of order being made.

The Chair now refers to Hinds' Precedents, section 6902. It seems to the Chair that this case is almost a parallel case to the one now presented to the committee. The Chair will not repeat the ruling rendered at that time, a ruling on which he founds his own ruling, but will insert it as part of his decision, as the reason why he is going to overrule the point of order. The Chair therefore overrules the point of order made by the gentleman from Oregon on the ground that the point comes too late.

The question now is on the motion made by the gentleman from Alabama to strike out the enacting clause.

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[1] John W. McCormack, of Massachusetts, Chairman.

[2] Second session Sixty-sixth Congress, Record, p. 209.

[3] Frederick C. Hicks, of New York, Chairman.

3443. A point of order against a proposition must be made before an amendment is offered.

On September 19, 1918,[1] the revenue bill was being considered in the Committee of the Whole House on the state of the Union, when the Clerk read:

SEC. 1200. That there is hereby created a board to be known as the "Advisory Tax Board," hereinafter called the board, and to be composed of five members to be appointed by the President of the United States, by and with the advice and consent of the Senate. The board shall remain in existence during the continuance of the present war with the Imperial German Government and for a period of 12 months after the termination of such war as declared by proclamation of the President.

Mr. William P. Borland, a Missouri, proposed this amendment.

The members of the board first appointed shall be appointed for terms of one, two, three, four, and five years, respectively, and thereafter the term of each member shall be five years.

Mr. Martin B. Madden, of Illinois, made a point of order against the amendment, which was overruled by the Chair.

Whereupon Mr. Madden lodged a point of order against the paragraph to which the amendment was proposed.

Mr. Borland submitted that the point of order against the paragraph came too late after an amendment had been proposed and was under consideration.

The Chairman[2] ruled:

The gentleman can not direct a point of order against the entire paragraph after an amendment has been offered.

The paragraph was read. It was then before the House and open first for a point of order, and then for amendment. Anyone making, or reserving a point of order would have entitled to prior recognition to the gentleman from Missouri. No one made a point of order to the paragraph. Hence the gentleman from Missouri asking recognition to offer an amendment, was in order. He was recognized, and submitted an amendment to the paragraph to which an amendment was directed.

The Chairman then read from sections 6899 and 6902 of Hinds' Precedents and concluded:

In this case no point or order was made to the paragraph, or sought to be made, before the amendment was offered. After the amendment was offered, and held to be in order, it was too late to make a point of order to the paragraph. This ruling in the judgment of the Chair conforms to the precedents, and practice of the House.

Subsequently, the Chairman supplemented his decision (Record, p. 10519):

The Chair will ask the indulgence of the committee. A few moments ago the Chair had to rule on a question of order of interest to every Member of the House, and with respect to which he had no opportunity to look up the precedents and cite same in connection with his ruling. The Chair since that time has found the following precedent which is precisely in point. The situation presented when the Chair made its ruling, was as follows:

The first paragraph in the section relating to the advisory tax board had been read without any objection, or point of order, or reservation of a point of order. An amendment was then offered to which a point of order was made. The point of order as overruled, and the gentleman from Illinois undertook to make a point of order to the original paragraph to which the amendment of the gentleman from Missouri had been offered. The Chair held that under the rules this motion

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[1] Second session Sixty-fifth Congress, Record, p. 10517.

[2] Edward W. Saunders, of Virginia, Chairman.

came too late, briefly giving the reasons sustaining the ruling. The Chair now desires to put into the Record the following decision which is precisely in point:

The Chairman then read section 6911 of Hinds' Precedents and continued:

In the case cited the amendment was rejected on a point of order. In the case before the House the point of order to the amendment was overruled, and the amendment thereby held to be in order.

The committee will note that while the case cited is not so strong a case on the facts as the case upon which the Chair had occasion to rule, it fully sustains the ruling of the Chair to the effect that after an amendment is offered to a paragraph it is then too late to make a point of order to the paragraph to which that amendment relates.

3444. On April 22, 1932,[1] the Navy Department appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read the paragraph providing for the naval reserve, when Mr. William A. Ayres, of Kansas, offered an amendment.

Before the amendment could be read by the Clerk, Mr. Fred A. Britten, of Illinois, proposed to reserve a point of order on the paragraph.

The Chairman[2] declined to entertain the reservation and said:

The gentleman's point of order comes too late. An amendment has been offered and is in the hands of the Clerk.

3445. A point of order may not be raised against a proposition after an amendment is offered and even a pro forma amendment precludes a question of order.

On June 26, 1916,[3] during the consideration of the river and harbor bill in the Committee of the Whole House on the state of the Union, the Clerk read this paragraph.

For the construction of a navigable waterway of suitable depth and width to answer the needs of commerce, connecting the waters of the Flint and Ocmulgee Rivers in the State of Georgia.

Mr. Charles Pope Caldwell, of New York, moved to strike out the last word for the purpose of asking a question, and then raised a question of order against the paragraph.

The chairman[4] overruled and point of order on the ground that it came to late after the pro forma amendment had been offered.

3446. Debate on a point of order is for the information of the Chair, and therefore within his discretion.

A resolution of the House may not by amendment be changed to a bill.

A proposition in the form of a bill may not be offered as a substitute for a proposition in the form of a simple resolution.

On November 6, 1919,[5] the House was considering the resolution (H. R. 362) directing the Secretary of War to deliver surplus motor trucks to the Secretary of Agriculture for use in the construction of roads.

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[1] First session seventy-second Congress, Record, p. 8704.

[2] Claude A. Fuller, of Arkansas, Chairman.

[3] First session Sixty-fifth Congress, Record, p. 4317.

[4] Pat Harrison, of Mississippi, Chairman.

[5] First session Sixty-sixth Congress, Record, p. 8049.

The question being put on agreeing to the resolution, Mr. Charles Pope Caldwell, of New York, moved to recommit the resolution to the Committee on Expenditures in the War Department with instructions to report it back instanter with an amendment in the nature of a substitute for the entire resolution.

Mr. Sydney Anderson, of Minnesota, made the point of order that a bill could not be offered as a substitute for a resolution of the House.

Mr. Caldwell, being recognized to debate the point of order, was discussing the merits of the proposed amendment when admonished by the Speaker [1] that debate should be confined to the subject.

Mr. Caldwell insisted that he was within his rights in stating the predicate on which he based his argument, and that he was entitled to make a statement of fact.

The Speaker dissented:

The Chair does not desire the gentleman to discuss the merits of it. The Chair will say to the gentleman that the gentleman's discussion is entirely in the discretion of the Chair.

Mr. Caldwell took issue on the germaneness of his argument, when the Speaker ruled:

The Chair refuses to hear the genleman further.

3447. On February 11, 1921,[2] the naval appropriation bill was being considered in the Committee of the Whole House on the state of the Union.

Mr. Fred A. Britten, of Illinois, lodged a point of order against an item in the bill.

After debate on the question of order had proceeded for some time, Mr. James V. McClintic, of Oklahoma, made the point of order that debate had been exhausted.

The Chairman [3] said:

The Chair overrules the point of order. Debate on points is in the discretion of the Chair.

3448. Debate on a point of order is at the discretion of the Chair and Members may speak as often as recognized.

On May 31, 1910,[4] during consideration of the sundry civil appropriation bill in the Committee of the Whole House on the state of the Union, Mr. Albert Douglas, of Ohio, offered an amendment providing for the general expenses of the Bureau of Mines.

Mr. James A. Tawney, of Minnesota, made a point of order against the amendment, and spoke repeatedly in the debate on the subject, until Mr. Politte Elvins, of Missouri, submitted a parliamentary inquiry asking how often a gentleman was entitled to speak on the same point of order.

The Chairman [5] replied:

Just as many times as the Chair will recognize the gentleman.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Third session Sixty-sixth Congress, Record, p. 3012.

[3] Joseph Walsh, of Massachusetts, Chairman.

[4] Second session Sixty-first Congress, Record, p. 7163.

[5] James R. Mann, of Illinois, Chairman.

3449. 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.

On August 12, 1919,[1] Mr. Thomas L. Blanton, of Texas, called up a privileged resolution of inquiry requesting certain information from the Secretary of Labor.

Mr. Joseph Walsh, of Massachusetts, directed a point of order against the resolution, and Mr. Blanton in debating the point of order touched on the merits of the proposition involved.

The Speaker[2] admonished:

> The gentleman must not discuss the merits of the case, but the gentleman must confine himself to the point of order.

3450. Points of order are usually reserved when appropriated bills are referred to the Committee of the Whole in order that portions in violation of rules may be eliminated by raising points of order in committee.

On March 7, 1922,[3] Mr. S. Wallace Dempsey, of New York, by direction of the Committee on Rivers and Harbors, reported the river and harbor bill.

Mr. John N. Garner, of Texas, submitted a parliamentary inquiry as to whether it was necessary to reserve points of order on the bill, and to the general appropriation bills when reported, or whether it was merely a custom without a reason.

In discussing the inquiry, Mr. Finis J. Garrett, of Tennessee, said:

> Mr. Speaker, there is considerable reasoning about the matter in Hinds' Precedents; it seems to be a precedent based on very good reason, as I have read the statements of Mr. Hinds in regard to it. Immediately upon being presented, the matter is referred to the Committee of the Whole House on the state of the Union, and he argues, and it seems to me with a good deal of force, that that being the case it is necessary that all points of order shall be reserved in the House.

In response to the inquiry the Speaker[2] said:

> It is simply a matter of precedent. It has always been the custom that points of order must be reserved in the House in order that they may be then made in the Committee of the Whole.

Whereupon, Mr. Garner reserved all points of order on the bill.

3451. On July 15, 1919,[4] the sundry civil service appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read a paragraph authorizing the Secretary of Labor to maintain a national system of employment offices in the several States.

Mr. Thomas L. Blanton, of Texas, made the point of order that the paragraph comprised new legislation and was not in order on an appropriation bill.

Mr. James W. Good, of Iowa, submitted that the point of order came too late, inasmuch as no points of order had been reserved on the bill when it was reported.

Mr. Blanton replied that while it was the custom to reserve points of order on the general appropriation bills when reported to the House, such reservation was a

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[1] First session Sixty-sixth Congress, Record, p. 3804.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Sixty-seventh Congress, Record, p. 3935.

[4] First session Sixty-sixth Congress, Record, p. 2662.

mere formality and was not essential, and a point of order, if meritorious, could be presented when the paragraph to which it applied was reached as the bill was read for amendment.

The Chairman [1] held:

The Chair holds that unless there is a reservation under circumstances of this kind a point of order can not be entertained to a part or a section of the bill. It seems to the Chair clear that points of order must be reserved, else it is the duty of the committee to report the bill as it is.

3452. An amendment may not be offered to a paragraph in a bill while a point of order against the paragraph is pending.

On April 2, 1908,[2] the Agricultural appropriation bill was under consideration in the Committee of the Whole House on the state of the Union.

The Clerk read a paragraph authorizing the Secretary of Agriculture to inquire into additional sources of raw material for paper making.

Mr. Edgar D. Crumpacker, of Indiana, reserved a point of order against the paragraph.

Thereupon, Mr. Champ Clark, of Missouri, proposed an amendment placing all raw materials entering into the manufacture of paper on the free list.

The Chairman [3] declined to entertain the amendment and said:

Amendments are not in order. The gentleman from Missouri has the floor, but the gentleman from Missouri has not the floor to offer an amendment, because no amendment is in order until the point of order is disposed of.

3453. An appeal from the decision of the Chair is debatable both in the House and in the Committee of the Whole, but debate may be closed in the House by a motion to lay on the table and in the Committee of the Whole by a motion to close debate or to rise and report.

Debate on an appeal in the Committee of the Whole is under the 5-minute rule subject to the will of the committee.

On June 16, 1917,[4] while the river and harbor bill was being considered in the Committee of the Whole House on the state of the Union, Mr. Martin D. Foster, of Illinois, raised a question of order against a paragraph providing for the purchase of the Cape Cod Canal.

The Chairman [5] sustained the point of order and Mr. J. Hampton Moore, of Pennsylvania, having appealed from the decision of the Chair, Mr. Irvine L. Lenroot, of Wisconsin, was recognized to debate the question raised by the appeal.

Mr. Richard W. Austin, of Tennessee, made the point of order that an appeal from the decision of the Chair was not debatable.

The Chairman held:

It is debatable. The present occupant of the chair some time ago made an erroneous statement, saying that it was not debatable, but afterwards corrected that statement by saying an appeal was debatable, subject to the will of the committee.

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[1] Horace M. Towner, of Iowa, Chairman.

[2] First session Sixtieth Congress, Record, p. 4298.

[3] David J. Foster, of Vermont, Chairman.

[4] First session Sixty-fifth Congress, Record, p. 3727.

[5] Pat Harrison, of Mississippi, Chairman.

The committee can close it in the committee or rise and close debate in the House. In the House debate is avoided by moving to lay the appeal on the table, but no such rule applies in the committee, so the only way to close debate is by moving that it be done.

Mr. William H. Stafford, of Wisconsin, being recognized to debate the question, protested against being limited to five minutes and submitted that debate on an appeal in the Committee of the Whole was under the hour rule. He further insisted that debate on appeal could be limited only by a vote that the committee rise.

The Chairman overruled the contention and held:

Let the Chair state to the gentleman right here that debate can be closed any time by the gentleman having the floor moving to close debate. It can be done either way.

Under the precedents, and there are not very many of them, he is led to believe that the question of appeal does not come under the one-hour rule but under the five-minute rule, the same as discussions upon amendments. So the Chair hold that it is under the five-minute rule.

There is no question in the mind of the Chair, so far as the right to control debate is concerned. That has been decided as shown by paragraph 6949 of volume 5 of Hinds' Precedents.

It is within the province of the committee to close debate when it sees fit, or the chairman of the committee in charge of the bill has the right to move that the committee rise and go into the House and so close debate.

3454. Debate on an appeal in the Committee of the Whole is under the 5-minute rule.

On January 29, 1919,[1] the Committee of the Whole House on the state of the Union was considering the sundry civil appropriation bill.

Mr. Leonidas C. Dyer, of Missouri, proposed to amend the bill by inserting the following proviso:

Provided, That no part of the appropriation herein shall be used unless all former Government employees who have been drafted or enlisted in the military service of the United States in the war with Germany shall be reinstated on application to their former positions appropriated for herein if they have received an honorable discharge and are qualified to perform the duties of the position.

Mr. Swagar Sherley, of Kentucky, made the point of order that the amendment was a proposition to incorporate legislation in an appropriation bill.

Mr. Dyer took the position that while it provided legislation it was admissible as a limitation.

The Chairman[2] overruled the point of order.

Mr. Edward W. Saunders, of Virginia, having appealed from the decision of the Chair, Mr. James R. Mann, of Illinois, asked to be recognized for one hour to debate the appeal.

The Chairman[3] held that the Committee of the Whole was proceeding under the 5-minute rule and that debate on an appeal was no exception, and recognized Mr. Mann for five minutes.

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[1] Third session Sixty-fifth Congress, Record, p. 2324.

[2] John N. Garner, of Texas, Chairman.

[3] Charles R. Crisp, of Georgia, Chairman.

3455. Debate in an appeal in the Committee of the Whole is under the 5-minute rule and many be closed by committee.

In recognizing for debate on an appeal in the Committee of the Whole the Chairman alternates between those favoring and those opposing.

The motion to lay on the table is not in order in Committee of the Whole.

On May 21, 1926,[1] Mr. Cassius C. Dowell, of Iowa appealed from the decision of the Chair on a question, giving a motion to rise and report to the House recommending reference priority over a motion to rise and report to the House recommending passage.

Mr. Ernest R. Ackerman, of New Jersey, moved to lay the appeal on the table.

The Chairman[2] called attention to the fact that the motion to lay on the table was not in order in the Committee of the Whole.

Members having been recognized to debate the question raised by the appeal Mr. David H. Kincheloe, of Kentucky, submitted as a parliamentary inquiry, that one 5-minute speech had been made in favor of sustaining the decision of the Chair and one 5-minute speech in opposition, and that debate had now been exhausted.

The Chairman ruled:

> The suggestion of the gentleman is as to the right for the debate to continue after 10 minutes has been exhausted by reason of the fact that no amendment can be offered as in the usual case under 5-minute rule in the consideration of the bill. The Chair is advised that former Speaker Crisp ruled that debate on an appeal from the decision of the Chair proceeded under the 5-minute rule. Under a strict construction of the rules, possibly there could be no debate at all. The practice has been—which this present incumbent of the chair feels inclined to follow—to permit the debate to proceed under the 5-minute rule until debate is exhausted or the committee sees fit to close the debate, and it will be the desire of the Chair while the debate continues to alternate in granting recognition.

After further debate, Mr. Bertrand H. Snell, of New York, moved that debate on the pending appeal do now close.

The motion was agreed to.

3456. On May 24, 1921,[3] the second deficiency bill was under consideration in the Committee of the Whole House on the state of the Union, when the Clerk read an item providing for salaries in the General Land Office at annual rates during the fiscal year 1922.

Mr. Thomas L. Blanton, of Texas made the point of order that the appropriation was not a deficiency appropriation.

The Chairman[4] having sustained the point of order and;

Mr. James W. Good, of Iowa, having appealed from the decision of the Chair, Mr. Joseph W. Byrns, of Tennessee, inquired if the question of appeal was debatable.

The Chairman held it to be debatable under the five-minute rule.

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[1] First session Sixty-ninth Congress, Record, p. 9855.

[2] Louis C. Cramton, of Michigan, Chairman.

[3] First session Sixty-seventh Congress, Record, p. 1697.

[4] Joseph Walsh, of Massachusetts, Chairman.

Mr. Finis J. Garret, of Tennessee, as a parliamentary inquiry, asked if it were in order to move to lay the appeal on the table.

The Chairman said:

The Chair would state that that motion is not in order in Committee of the Whole. It has been construed that the motion to adjourn or the motion to lay on the table is not in order in Committee of the Whole. In Hinds' Precedents, section 4719, the Chairman ruled that, the motion to lay on the table is not in order in Committee of the Whole. It was an appeal from the decision of the Chair. A Member from Massachusetts moved to lay the appeal on the table. The appeal was taken from the decision of the Chair. Mr. Fowler, of Massachusetts, moved to lay the appeal on the table, and the Chairman held that the motion was not in order in Committee of the Whole. That ruling was followed by the Chairman of the committee as late thereafter as 1902, and has been followed, the Chair thinks, several times since that time. The question is, Shall the decision of the Chair sustaining the point of order stand as the judgment of the committee?

The question being taken, the committee voted to sustain the decision of the Chair.

3457. An appeal may not be taken from a response of the Speaker to a parliamentary inquiry.

On April 3, 1908.[1] Mr. David A. De Armond, of Missouri, raised a question of order against a resolution submitted by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules, providing for the consideration of the District of Columbia appropriation bill. Mr. De Armond based his objection on the ground that it contravened a special order agreed to by unanimous consent on the previous day.

The Speaker overruled the point of order and Mr. De Armond propounded a parliamentary inquiry as to whether it would be in order under consideration.

The Speaker[2] replied:

It has to be done under a rule, and such motion would not be in order under the rules as they stand, but under the Constitution the House can make its rule and regulations, and change them, or amend them; and this, as the rules provide, is a report from the Committee on Rules, which is a privileged committee, and proposes to the House not only to do away with the unanimous consent, but to impose other terms that would exist under the rules as we now have them; and the very object of the organization of the House, with a Committee on Rules with that privilege, is to give the House an opportunity to do anything in the event the House, proceeding in an orderly way, desires so to do.

From this response by the Chair Mr. De Armond proposed to appeal to the House.

The Speaker ruled:

The gentleman can hardly appeal from an answer to a parliamentary inquiry.

3458. The Chair does not rule on the consistency of a proposed amendment.

The consistency of a proposed amendment with the text is a question to be passed on by the House and not by the Speaker.

On June 4, 1929,[3] the Committee of the Whole House on the state of the Union was considering the bill (S. 312), the apportionment bill.

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[1] First session Sixtieth Congress, Record, p. 4350.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Seventy-first Congress, Record, p. 2349.

The Clerk read as follows:

SEC. 2. That the period of three years beginning the 1st day of July next preceding the census provided for in section 1 of this act shall be known as the decennial census period, and the reports upon the inquires provided for in said section shall be completed within such period: *Provided,* That the tabulation of total population by States as required for the apportionment of Representatives shall be completed within 12 months and reported by the Director of the Census to the Secretary of Commerce and by him to the President of the United States.

Mr. Clarence J. McLeod, of Michigan proposed to insert after the word "months" the following:

after the beginning of the above-described period.

Mr. John E. Ranking, of Mississippi, objected that the amendment was in the nature of a duplication and was inconsistent with the text.

The Chairman [1] declined to pass on the question and said:

There is no rule of the House under which duplication is subject to the point of order as far as the Chair is aware. Unless the amendment violates one of the specific rules of the House, the Chair is not empowered to rule it out of order. The Chair overrules the point of order.

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[1] Carl R. Chindblom, of Illinois, Chairman.

Chapter CCLXXIV.[1]

THE CONGRESSIONAL RECORD.

3459. Official stenographers to the standing committees of the House shall not furnish transcripts of testimony adduced before such committees without written authorization from the chairman of the committee.

The Speaker exercises jurisdiction over the Official Reporters of the House and the committee stenographers and their assistants and substitutes.

On June 30, 1926,[2] the Speaker,[3] addressing the House by consent, said:

The attention of the Chair has recently been drawn to a practice which, it seems, is of at least doubtful propriety, if not quite reprehensible. The practice to which the Chair refers, and apparently there has been no ruling against it, concerns the sale by committee stenographers and their assistants or substitutes of transcripts of their notes, taken before committees of the House, to interested parties before the transcripts have been submitted to the witnesses or to members of the committee for revision, and certainly without asking permission of the chairmen of the different committees.

A special case was called to the attention of the Chair a few days ago, where a committee, having held public hearings and heard certain testimony, decided that it was unwise to print the testimony for various reasons of public policy. In the meantime, however, it developed that a committee substitute stenographer had sold the transcript of his notes to an interested party. It occurs to the Chair that that is an extremely reprehensible practice. In the first place, the Chair is unable to see what right of property the committee stenographer has in these notes, and an even more serious situation presents itself in such an occasion as that to which the Chair has referred, where the committee thought it inadvisable to make public the testimony taken at the hearing. Certainly the committee should have the right to say that testimony should not be made public, and if a committee stenographer or a substitute may, immediately after transcribing his notes, sell a transcript of them to interested parties, then the functions and powers of the committee, in so far as publicity is concerned, are nil.

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[1] Supplementary to Chapter CXLIV.

[2] First session, Sixty-ninth Congress, Record, p. 12395.

[3] Nicholas Longworth, of Ohio, Speaker.

The Chair understands that the Speaker has entire jurisdiction with regard to both the Official Reporters of the House and the committee stenographers and their assistants or substitutes. As there is no rule, so far as the Chair can ascertain, that would apply to this situation, he will make the ruling here and now that no committee stenographer or assistant committee stenographer or any substitute may, either for or without consideration, dispose of a transcript of his notes to anyone without first receiving from the chairman of the committee permission in writing, specifying the person or persons to whom such transcript is to be delivered; and if any case is called to the attention of the Chair in the future where anyone has violated that rule, his sphere of usefulness in the south end of the Capitol will be at once ended.

3460. A Member may not demand the reading of the reporter's notes.

On February 6, 1918,[1] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5667) providing for the deportation of certain aliens.

Mr. William B. Bankhead, of Alabama, offered this amendment:

Strike out the words "or with any of the other central powers of Europe" and insert in lieu thereof "Austria-Hungary, Bulgaria, or Turkey."

After brief debate the amendment was agreed to.

Shortly thereafter, Mr. Martin B. Madden, of Illinois, whose attention had been temporarily distracted, submitted that the amendment had not been voted on.

Being assured that the vote had been taken and that it had been decided in the affirmative, Mr. Madden asked that the reporter's notes be read to sustain his contention.

The Chairman[2] declined to entertain the request and held that a demand for the reading of the reporter's record of the proceedings was out of order.

3461. A Member may, with the approval of the Speaker, revise his remarks before publication in the Record; but may not change the notes of his speech in such a way as to affect the remarks of others without securing their consent.

In revising remarks for the Record a Member may insert the words "laughter", "applause", etc., when they reflect actual proceedings on the floor, although the practice is deprecated.

Revisions of remarks which do not materially alter the purport of the Member's statements or affect colloquies with others are admissible, but alterations or omissions productive of statements substantially different from those submitted by the Official Reporters of the House are not in order.

A question of privilege takes precedence of a motion to resolve into the Committee of the Whole.

Instance wherein a question involving the right to revise remarks for the Record was submitted to a special committee.

On January 27, 1917,[3] Mr. Swagar Sherley, of Kentucky, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the fortifications appropriation bill.

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[1] Second session Sixty-fifth Congress, Record, p. 1788.

[2] Joseph J. Russell, of Missouri, Chairman.

[3] Second session Sixty-fourth Congress, Record, p. 2124.

Pending that motion, Mr. J. Willard Ragsdale, of South Carolina, claimed the floor for a question of privilege and offered the following resolution:

Whereas the report of the colloquy between Messrs. Norton of North Dakota, Fess of Ohio, Heflin of Alabama, and Ragsdale of South Carolina as printed in the Record of January 25, 1917, differs from the official reports of the colloquy, as will be shown by reference to the typewritten reports now on file and the printed report of the record of January 25, 1917:

Resolved, That the Record of January 25, 1917, be amended by printing the colloquies between Messrs. Norton of North Dakota, Fess of Ohio, Heflin of Alabama, and Ragsdale of South Carolina as reported by the Official Reporters of the House.

Mr. Sherley made the point of order that the resolution was not privileged.

The Speaker [1] decided:

The Chair thinks it is a privileged resolution, as it goes to the good order of the House. The Chair investigated that matter yesterday.

After debate Mr. Claude Kitchin, of North Carolina, moved to refer the resolution to a special committee of three to be appointed by the Speaker.

On an aye and no vote the motion was agreed to, yeas 147, nays 137, and the Speaker appointed as members of the committee so authorized, Mr. Lincoln Dixon, of Indiana, Mr. Alfred G. Allen, of Ohio, and Mr. Frank Wheeler Mondell, of Wyoming.

On March 3, 1917,[2] Mr. Dixon presented the report of the special committee as a matter of privilege and asked for its immediate consideration.

By direction of the Speaker the Clerk read the report in full.

The question submitted to the special committee is thus set forth in the report:

This resolution involves the question of the right of a Member of the House to demand that the words of another Member spoken in debate or discussion on the floor of the House be entered in the Record as reported by the Official Reporters of the House; but, by reason of the circumstances of the particular case in question, the issue is narrowed to that of the right of a Member to demand the printing in the Record words spoken in colloquial debate as reported by the Official Reporters of the House, including the interlineations made by the Official Reporters indicating laughter and applause during the course of the discussion.

The question at issue is divisible to two parts: First, the question of the right of a Member to demand that words shall be printed in the Record as reported by the official Reporters, together with the official interlineations indicating laughter and applause where there is no controversy as to the substantial accuracy of the report; and, second, the right of a Member to demand that the words spoken in debate and the interlineations relative to laughter and applause as reported by the Official Reporters of the House shall be printed in the Record even though the substantial accuracy of the report as presented may be questioned.

The unwritten law governing the revision of remarks for the Record is outlined by the committee as follows:

The practice of editing and revising remarks, either with or without specific authority from the House in the particular case, is long established and quite generally—oftentimes quite freely—indulged in. When the revision involves no substantial modification of a statement, but simply improves or amplifies the form of statement or argument, your committee is of the opinion that such revision has the sanction of long and quite general practice.

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[1] Champ Clark, of Missouri, Speaker.

[2] Record, p. 4927.

The more specific issue presented for the consideration of the special committee is submitted in this language:

In the case in question, however, the debate became colloquial and personal, and the question is as to the right of the Member or Members who participated in such a debate to insist that when a portion of the debate has been printed in the Record as reported by the Official Reporters of the House, without substantial modification, erasure, or addition, the remainder of the debate shall also be printed substantially as reported.

The report then proceeds to apply the rule to the case in point:

After a careful reading of the official notes of the debate and the debate as printed in the Record, your committee finds that the remarks made by the gentleman from South Carolina, as printed in the daily Record January 25, 1917, pages 2271, 2272, 2276, and 2277, are substantially as reported by the Official Reporters of the House, and the interruptions and interlineations denoting laughter and applause are printed exactly as shown by the reporters' notes of his remarks.

We find that the remarks made by the gentleman from Alabama in reply to the gentleman from South Carolina, as printed in the Record of the aforesaid date, on page 2276, are substantially correct as to the words uttered and the statements made as reported by the Official Reporters of the House, the changes being such as are reasonably allowable in a revision.

Particular attention is given in the report to the charge that the words "laughter" and "applause" were inserted after the reporter's notes were submitted for revision. The committee find:

We do find, however, that in connection with the remarks of the gentleman from Alabama, printed on page 2276, the words "laughter," the words "applause and laughter," the word "applause," and the words "applause on the Democratic side" appear in the printed Record where no such words are found in the official report of the reporters of the House. Relative to these words, however, it is claimed that while they did not appear in the official reports their insertion in the Record was justified by what actually occurred. Your committee is of the opinion, from statements of Mr. Heflin and other Members of the House, that some laughter and applause did greet the speech of the gentleman from Alabama, as indicated in the printed Record.

On this question the committee conclude:

As to the interlineations in this part of the remarks of the gentleman from Alabama indicating "laughter," "laughter and applause," "applause," and "applause on the Democratic side," your committee is inclined to the opinion, from the statements of the gentleman from Alabama and other Members of the House who were present when the remarks were made, that there was some laughter and applause, as indicated in the Record, which the Official Reporters failed to note, and that, therefore, the insertion of these words in the Record was possibly justifiable under the practice of the House, though your committee respectfully suggests that the insertion of the words "applause" and "laughter and applause" is a practice that should be discontinued.

As to the matter of omission of words spoken in debate, however, the committee find:

The closing remarks of the gentleman from Alabama as printed at the top of the second column of page 2277 differ substantially both as to the language used and as to the character of the interlineations relative to interruption, laughter, and applause. The remarks of the gentleman from Alabama as printed in the Record are not only substantially different from those reported by the Official Reporters, but a considerable portion of the remarks of the gentleman from Alabama, as reported by the Official Reporters, does not appear in the printed Record, and the interruption by the gentleman from Oregon is omitted from the printed Record, and the interlineations relative to laughter and applause differ.

The committee therefore decide:

In view of the facts thus stated, your committee begs to recommend and does recommend that, so far as the remarks of the gentleman from Alabama first referred to and printed on page 2276 of the Record are concerned, they should be held and considered as having been inserted in the Record without substantial modification or such change of statement as may properly give offense or justify a demand for the printing of the words spoken as reported by the Official Reporters, although it is admitted that the words as reported were substantially as uttered.

However, the committee further conclude:

As to the portion of the remarks of the gentleman from Alabama printed in the Record on page 2277, at the top of the second column, your committee is of the opinion that the remarks as printed in the Record admittedly differ so substantially from the words spoken as reported by the Official Reporters of the House that it presents a case in which it is the privilege of any Member of the House, feeling that the dignity of the House or of any Member of the House is affected, to demand the printing in the Record of the language as reported by the House Reporters, the same being admittedly a substantially correct report of what was said. There may be some ground for difference of opinion as to correctness of the interlineations—at least some of them—but in the main the context and the words of the gentleman from Alabama himself in the debate clearly indicate that the interlineations relative to laughter and applause were substantially correctly reported by the reporters. Furthermore, the omission of the colloquy with the gentleman from Oregon is contrary to the established practice of the House.

In conclusion the committee unanimously recommend:

We therefore recommend that in lieu of the remarks of the gentleman from Alabama as printed at the top of the second column on page 2277 of the daily Record of January 25, 1917, there be inserted in the permanent Record the remarks of the gentleman from Alabama as reported by the Official Reporters of the House, a copy of which is herewith transmitted.

The reading of the report having been completed, Mr. Dixon moved the adoption of the report, including this resolution:

Resolved, That the Record of January 25, 1917, be amended by printing the colloquies between Messrs. Norton of North Dakota, Fess of Ohio, Heflin of Alabama, and Ragsdale of South Carolina as reported by the Official Reporters of the House.

The report was adopted and the resolution was agreed to without debate.

3462. While a Member may revise the reporter's notes of his remarks with the approval of the Speaker, he may not extend his remarks in the Record without the express consent of the House.

A Member may not in the revision of his remarks alter language affecting the context or colloquies with other Members without their approval.

Permission to extend remarks applies to the Member's remarks only and the incorporation of other matter requires specific permission from the House.

On March 1, 1928,[1] Mr. Finis J. Garrett, of Tennessee, rising to a parliamentary inquiry, called attention to recent instances in which questions had arisen as to the extent to which a Member might revise language in colloquies between Members, and asked the Chair to make a concrete statement on the subject.

[1] First session Seventieth Congress, Record, p. 3863.

The Speaker [1] replied that he had lately had occasion to examine the precedents on the subject and said:

The Chair thinks that the inquiry of the gentleman from Tennessee is timely and pertinent. A few days ago the question arose, but the Chair was not called upon to decide it because unanimous consent was asked and given. The Chair at the time took occasion to look up the precedents and has one or two before him.

The Chair is not advised of any rule of the House that covers the situation directly. The general theory as to the revision and extension of remarks can be put in this language: Although a Member has the right to revise his remarks with the approval of the Speaker, he has not the right to extend those remarks except in the case where the House has expressly given permission to do so.

That has been held by several speakers, among them Speaker Kiefer and Speaker Randall. Therefore in order to extend remarks the Chair thinks that permission must be given by the House; but on the question of revision of remarks a Member may do so without permission of the House, but must have consent of the Speaker.

On a further development of the question, where remarks are made in colloquy during the running debate, what is the proper rule with reference thereto? The present occupant of the chair, on May 17, 1926, ruled as follows in response to a parliamentary inquiry:

"Generally speaking, the Chair understands the rule to be that a Member in the course of debate may not alter any language that he used which affects the context or affects the remarks of the gentleman who interrupts him."

There are quite a number of decisions upon which that decision was based, all primarily laying down the proposition that a Member may not revise his remarks in such a way as to affect the remarks of another.

The Chair thinks that the mere change of a word or two could be made in the remarks during colloquy, but that change must not be such as would affect the position of either gentleman engaged in the debate, or the purport of the debate. Mr. Speaker Reed on December 13, 1897, said:

"It has always seemed to the Chair that when the Record was to be corrected, and where there was a controversy upon a particular point, either the correction should be made with the consent of the other Member or Members participating or should not be made at all."

Mr. Speaker Randall on one occasion said:

"I think it wise that permission in such cases should be under the control of the Chair."

On the whole, the Chair thinks that under the precedents the proper procedure should always be that no correction be made in the remarks made during a colloquy between Members which would in any way affect the position of either Member, without the approval of the other.

The Chair holds that where remarks are made during a colloquy or debate, no change is permissible in the remarks either of the gentleman himself or the gentleman with whom he was engaged in debate without the full consent and approval of the other gentleman.

The Chair thinks that extension is limited to an extension of the remarks the gentleman himself makes, and that specific authority would be necessary to extend remarks by printing newspaper and magazine articles or other documents. The Chair thinks a Member would not have that right unless he receives specific authority from the House.

The Chair thinks it is unquestionable that that is the practice, that were merely the general request is made to have the privilege to revise and extend, a Member may not incorporate anything except his own remarks, and the only circumstances under which he can insert something other than his own remarks is where he asks specific leave and refers specifically to the documents he desires to insert.

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[1] Nicholas Longworth, of Ohio, Speaker.

3463. A motion to correct the Record is privileged.

A Member having so revised his remarks as to affect the import of words uttered by another Member, the House corrected the Record.

On April 8, 1909,[1] following the approval of the Journal Mr. William H. Calderhead, of Kansas, prefacing a motion to correct the Record, explained that during debate on a previous day, Mr. Rufus Hardy, of Texas, had asked this question:

> If protection is a righteous proposition, ought it not to prevail for every locality and in favor of every State?

To which he had replied:

> It does, without question.

However, in correcting the manuscript, Mr. Hardy has interpolated these words:

> If the principle is right, is it not just as right if used to protect Texas and Wisconsin against New England as when used to protect New England against old England?

Mr. Calderhead submitted that his reply conveyed a different meaning when considered as a response to the amended question and moved that the Record be corrected by revising the question propounded by Mr. Hardy to conform to the reporter's notes.

Mr. James L. Slayden, of Texas, proposed to delay action on the motion.

The Speaker[2] held the motion to be privileged and entitled to immediate consideration.

3464. A question as to the accuracy or propriety of the report of proceedings as printed in the Record may be submitted to the House as a matter of privilege.

While correction of the Record is usually proposed informally, a motion or resolution must be submitted if a question of order is raised.

On July 23, 1909,[3] Mr. Robert B. Macon, of Arkansas, rising to a question of privilege, read the following paragraph appearing in a report of a colloquy between himself and Mr. Atterson W. Rucker, of Colorado, in the Record of the preceding day:

> I hope that the gentleman from Arkansas, in his anxiety, will for the present withhold his resignation, so that his constituents may at the next election write it for him. [Great applause.]

Mr. Macon stated that the paragraph was inserted in the typewritten notes of debate in handwriting and that the official reporters disclaimed having reported it. Mr. Macon therefore moved to correct the Record by striking out the paragraph.

Mr. Thomas W. Hardwick, of Georgia, demanded the regular order.

The Speaker[2] held that the question submitted involved a question of privilege and was in order.

The question on the motion to correct the Record being taken, it was decided in the affirmative and the paragraph was stricken from the Record.

Whereupon, Mr. Rucker informally requested a correction of the Record on a similar insertion by Mr. Marlin E. Olmsted, of Pennsylvania.

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[1] First session Sixty-first Congress, Record, p. 1191.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixty-first Congress, Record, p. 4594.

Mr. James R. Mann, of Illinois, rose to a question of order.

The Speaker said:

The question arises of a matter of privilege in the House. The gentleman should state it. We are in the habit of calling attention to a correction of the Record pro forma, but if objection is made, the gentleman should state or present or a resolution covering the correction he desires to make.

3465. A Member having the floor and yielding for a question may not in revising the manuscript of his speech omit the interruption; but if he declines to yield for interruption, may in revision strike out such words interpolated by another without his consent.

After the House had voted to resolve into the Committee of the Whole the Speaker entertained a question of personal privilege.

On April 29, 1918,[1] Mr. Martin D. Foster, of Illinois, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of the bill (H. R. 11259) to control the distribution of ores, metals, and minerals for war purposes.

The question being put and the yeas and nays being ordered, it was decided in the affirmative.

The Speaker announced the result of the vote, when Mr. Fred A. Britten, of Illinois, claimed the floor on a question of personal privilege.

Mr. Otis Wingo, of Arkansas, made the point of order that the House had just voted to go into the Committee of the Whole House on the state of the Union.

The Speaker[2] overruled the point of order and held the question of privilege took precedence, and recognized Mr. Britten.

Mr. Britten stated that in a speech appearing in the Record of the previous Friday Mr. J. Thomas Heflin, of Alabama, had charged that a bill introduced by Mr. Britten had been written by one George Sylvester Viereck, editor of a mazagine characterized as disloyal.

During the discussion of the question by Mr. Britten, Mr. Heflin interpolated statements without waiting for Mr. Britten to yield.

Mr. Britten addressed a parliamentary inquiry to the Chair asking if in revising his remarks for the Record he would be within his rights in striking such statements from the manuscript.

The Speaker ruled:

The rule is this: Speaker Reed taught me a lesson in regard to it. One day I was making a speech, and I thought I was making a good one. I wound up with a long rhetorical sentence, and right in the middle of it, Mr. Steele, of Indiana, asked me a question which had nothing to do with it. I answered his question and then went back and repeated the sentence, and then when it was brought to me I struck his question and my answer out. The next morning he rose to a question of privilege and wanted to know why it was stricken out. Mr. Reed asked me, and I told him it had nothing in the world to do with my speech, and I did not propose to have a good sentence like that ruined by Governor Steele or anybody else. Then, as I say, the Speaker taught me a lesson. He said that when a man has the floor and another gentleman interrupts him to ask him a question and he answers it he has no right to strike it out, but that if a man breaks in without permission on the

[1] Second session Sixty-fifth Congress, Record, p. 5777.

[2] Champ Clark, of Missouri, Speaker.

gentleman who has the floor and gets his remarks in, the gentleman making the speech has a perfect right to cut them out, or if he declines to yield and the man insists on interrupting he has a right to cut them out.

3466. The Speaker may order stricken from the notes of the reporters remarks made by Members who have not been recognized and to whom the Member having the floor has declined to yield.—On August 4, 1991,[1] Mr. Charles N. Fowler, of New Jersey, rising to a parliamentary inquiry, asked if remarks made by a Member who had not received recognition from the Chair and to whom the Member having the floor had declined to yield, were properly incorporated in the Record.

The Speaker[2] replied:

> The rule has been that if the gentleman from Illinois, for instance, is addressing the House, and some other Member asks leave to interrupt him, and the gentleman from Illinois declines to be interrupted, and the other Member persists in talking, the Speaker has the right to strike out what the interrupting Member said after he had been notified that interruptions were not desired. But it takes all of that to get it out.

3467. While remarks in order may not be stricken from the Record, remarks interjected into the speech of a Member by another to whom he has not yielded, may be stricken out by the Member himself in revising the manuscript of his speech; or if allowed to remain and printed in the Record, may be stricken from the Record by the House.—On November 1, 1919,[3] immediately after the reading and approval of the Journal, Mr. Edward J. King, of Illinois, moved to correct the Record by striking out language used by Mr. Thomas L. Blanton, of Texas, without recognition from the Chair or from Mr. King, who had the floor at the time.

The language claimed to have been improperly incorporated in the Record was as follows:

> No. Only the autocratic, anarchistic leaders who preach revolution against our Government.

Mr. King raised no question against the purport and character of the language but based his motion on the right of a Member to speak without interruption from others to whom he had not yielded.

The Speaker[4] entertained the motion and said:

It seems to the Chair at first blush that it is in order to strike out the words as a question of privilege. If a Member without permission interjects a statement into another Member's speech, the House has a right to determine whether it should be stricken out. The Chair is disposed to think that if another gentleman interjects a statement into a Member's speech, the Member himself has the right to strike that out, but that is a matter of procedure rather than of parliamentary law, and the Member might not have the opportunity to strike it out or even to see it.

The question being put it was decided in the affirmative and the motion was agreed to.

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[1] First session Sixty-second Congress, Record, p. 3603.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 7843.

[4] Frederick H. Gillett, of Massachusetts, Speaker.

3468. Where the remarks of another are not affected, a Member in revising a speech for the Record may strike out any portion or may omit the speech in its entirety.—On May 17, 1926,[1] Mr. James B. Aswell, of Louisiana, rose to a question of privilege and called attention to the omission of remarks made by Mr. Charles Brand, of Ohio, in a colloquy on the preceding Friday.

During the ensuing debate, Mr. J. N. Tincher, of Kansas, inquired of the Chair if Members were authorized under the practice of the House to omit questions or answers in revising their remarks for the printer.

The Speaker[2] replied:

Generally speaking, the Chair understands the rule to be that a Member in the course of debate may not alter any language that he used which affects the context or affects the remarks of the gentleman who interrupted him. Of course, the mere leaving out of a sentence in speech is not improper. Members frequently leave out a speech in its entirety.

3469. The House may not strike from the Record the remarks of a Member made in order.

A charge that a Member has "violated the rules of the House" was held not to give rise to a question of privilege.

On April 15, 1910,[3] Mr. William S. Bennett, of New York, claiming the floor for a question of privilege, read from the Record remarks made by Mr. Henry T. Rainey, of Illinois, on the preceding day, as follows:

I am aware of the fact that a few days ago the Attorney General of the United States had read into the record, in violation of the rules of this House, by the gentleman from New York a remarkable statement.

Mr. Bennett moved to strike from the Record the phrase "in violation of the rules of this House."

Mr. Charles L. Bartlett, of Georgia, raised a question of order against the motion on the ground that the words sought to be expunged were actually delivered on the floor and were in order.

The Speaker[4] ruled:

The general rule is that where a Member is speaking, if some other Member conceives him to be not in order in what he is saying, he is called to order, and then it is his duty to take his seat, under the rule, until the House orders that he proceed, or otherwise.

Words spoken in debate, under the practices of the House ordinarily, have not been expunged, and yet there are exceptions. The most notable case was during the last Congress, when the gentleman from New York, Mr. Willett, made a speech in which he made some charges and personal reflections upon the President. He was called to order, but not until he had proceeded for some time; and afterwards the House on resolution, struck out matters that he had stated in the floor of the House without being called to order. That case was exceptional, in that it involved the relations of the House to a coordinate branch of the Government, the President. The present case involves the relation of Members of the House to one another.

As a general proposition it is in order for the House to control the Record by resolution, as was done in the Willett case. If a member, being called to order, proceeds not in order, then,

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[1] First session Sixty-ninth Congress, Record, p. 9527.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Sixty-first Congress, Record, p. 4739.

[4] Joseph G. Cannon, of Illinois, Speaker.

under the practice of the House and the rules, the Speaker, on his own motion, may expunge from the Record what is stated out of order. This is not that case.

When Mr. Randall was Speaker, on February 1, 1878—

"Mr. John H. Baker, of Indiana, made certain changes against the Doorkeeper of the House, presenting certain affidavits reflecting on his character, which were made a part of the speech.

"After action on the charges, Mr. Charles C. Ellsworth, of Michigan, moved that the affidavits, which were ex parte, be stricken from the record of debates. This motion was agreed to, but was subsequently reconsidered.

"Thereupon, Mr. Baker protested that the affidavits were a part of his speech made on the floor in support of his motion, and that a majority on the floor had no right to expurgate the Record, thus saying by resolution what sentiments a Member should utter on the floor of the House.

"The Speaker said:

"'The Chair thinks that the position taken by the gentleman from Indiana * * * is the correct one, that the House can not eliminate from the remarks of a Member what has been permitted to be made part of his remarks in order.'

"No appeal was taken from this decision, but Mr. James A. Garfield, of Ohio, said that the decision seemed just to all concerned, and that in all his service on the Committee on Rules he remembered but two instances where the House had struck from the Record what had been said, and in each case it was done because the words were spoken against order."

Yet the Chair was inclined to hesitate about sustaining the point of order, but the gentleman from New York states that when he first presented the motion he was under the impression that these words were not stated in actual debate, but were printed by leave of the House, the ordinary leave to print. He has subsequently stated that he is informed and is satisfied that the words were actually spoken by the gentleman from Illinois.

While ordinarily the Chair would submit the question to the House to determine by vote whether the words covered by the motion should be stricken from the Record, yet under all the conditions, each case resting upon its own merits, the Chair is inclined to sustain the point of order.

3470. On May 29, 1933,[1] Mr. Louis T. McFadden, of Pennsylvania, in the course of general debate, quoted from "the protocols of Zion." On May 31,[2] Mr. Joseph W. Byrns, of Tennessee, speaking by unanimous consent, read a communication denying the authenticity of the matter quoted by Mr. McFadden and asking that the denial be placed in the Record.

Whereupon, Mr. John J. Boylan, of New York, moved that this portion of Mr. McFadden's speech be expunged from the Record.

The Speaker[3] declined recognition for the motion and said:

That requires unanimous consent.

3471. In exceptional instances words flagrantly disorderly have been excluded from the Record by direction of the Speaker.—On March 30, 1926,[4] in debating impeachment charges against Judge George English, United States judge for the eastern judicial district of Illinois, Mr. John N. Tillman of Arkansas, quoted language used by Judge English which was represented in the Record as follows:

I will be ——— ——— if you are going to pass the buck to this court. I have power to call out a thousand men to enforce my injunctions, and if you do not cooperate, I will remove every ——— one of you from office.

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[1] First session Seventy-third Congress, Record, p. 4539.

[2] Record, p. 4712.

[3] Henry T. Rainey, of Illinois, Speaker.

[4] First session Sixty-ninth Congress, Record, p. 6602.

And again:

I will not try any case where Mr. Karch appears as counsellor or attorney. I will not try any cases when that ——— ——— ——— ——— ——— ——— appears as an attorney.

At the conclusion of the speech, the Speaker [1] addressed the House and said:

The Chair has been in doubt on one or two occasions this afternoon whether he should permit the use of certain language even by way of quotation. The Chair at the time realized, of course, that the members of the majority of the committee might think the use of this language would be material in describing an individual. The Chair hopes that it will not be used further during this debate and suggests also that those words be stricken from the Record.

The Chair thinks his ruling ought to be regarded as a precedent as far as these proceedings in the House are concerned. If the Chair should be officially advised that the use of this language is actually necessary, he might order the galleries cleared.

3472. Where one paragraph of a speech inserted in the Record under leave to print contained unparliamentary language, the entire speech was stricken out.—On October 24, 1921,[2] on motion of Mr. Frank M. Mondell, of Wyoming, a speech by Mr. Thomas L. Blanton, of Texas, inserted under leave to print, was stricken from the Record, on the ground that one paragraph quoted an affidavit by an employee of the Government Printing Office couched in unparliamentary language.

3473. Instance wherein proceedings in the Senate were ordered excluded and expunged from the Record.

On October 11, 1929,[3] (legislative day of September 30), in the Senate on motion of Mr. James E. Watson, of Indiana, by unanimous consent, a telegram was read from the desk by the Chief Clerk.

In the course of the reading, Mr. William H. King, of Utah, interrupted and raised the question of order that the communication was a personal attack on Mr. Henry F. Ashurst, of Arizona.

Whereupon, on motion of Mr. Joseph T. Robinson, of Arkansas, it was ordered that it be excluded and expunged from the Congressional Record.

3474. The Speaker has no control over the Congressional Record and no authority to censor or exclude speeches of Members.—On May 26, 1921,[4] Mr. Tom Connally, of Texas, rising to a parliamentary inquiry, said:

What is the parliamentary procedure by which remarks, delivered in the Committee of the Whole House, that do not come within the rule as reflecting on any individual, but reflect on the dignity and honor of the country, may be stricken out in the House? Does it simply require a motion or does it require a resolution? I will state that my inquiry is prompted by the fact that while we were sitting in the Committee of the Whole House on the state of the Union this afternoon we were treated to a most disgraceful reflection on the course the American Government and American people pursued during the World War that has lately come to an end. If there is no way under the rules of this House by which it can protect itself and the dignity and the honor of the country from such a slimy, slanderous, disgraceful, outrageous assault as was made by the gentleman from Illinois, Mr. Michaelson—and that language is used only because parliamentary law

[1] Nicholas Longworth, of Ohio, Speaker.

[2] First session Sixty-seventh Congress, Record, p. 6687.

[3] First session Seventy-first Congress, Senate Journal, p. 165.

[4] First session Sixty-seventh Congress, Record, p. 1818.

requires its use—if there is no way by which the House and the country can be protected from these outrageous slanders on its dignity and its honor, there ought to be some way by which the House can exclude from its Record this slimy exudation of one who is not worthy to sit in this Chamber.

The Speaker [1] held that a parliamentary inquiry had not been submitted.

Whereupon, Mr. Connally inquired:

Mr. Speaker, is it not true that under the rule of the House the Speaker has jurisdiction to control the Record, and in case a point of order is made can exercise the right to withhold those remarks until the House can take action in that regard?

The Speaker ruled:

The Chair does not think the Speaker has such control of the Record as would justify him in keeping a speech out of the Record.

3475. It is for the House and not the Speaker to determine whether matter inserted in the Congressional Record under leave to print is in violation of the rules.

A resolution to expunge from the Record a speech alleged to be an abuse of the leave to print must be entertained as a matter of privilege.

An instance in which the Speaker deferred ruling on an unusual point of order until time could be had to consult the precedents.

A Member, having inserted articles from a magazine under leave to extend his own remarks, was given unanimous consent to expunge the unauthorized matter on condition that it not be reprinted by the Public Printer as frankable.

On June 20, 1919,[2] Mr. Eugene Black, of Texas, claiming the floor on a question of privilege of the House, offered this resolution:

Resolved, That whereas it appears from the publication of the Congressional Record of Thursday, June 19, 1919, that Hon. James A. Gallivan, of Massachusetts, addressed the House during general debate on the sundry civil appropriation bill and was granted leave to revise, extend, and correct his remarks; and whereas under such grant he has caused to be published seven printed articles from the New Republic written by William Hard, covering about nine closely printed pages of the Congressional Record, said articles attacking the official acts of the Postmaster General, A. S. Burleson.

Resolved, That the publications of said articles are without sanction of the House and in contravention of the special order granting to the gentleman from Massachusetts leave to revise, extend, and correct his remarks, and that said articles be expunged from the Record and the Public Printer be directed to omit them from the public Record and be prohibited from issuing any copy or copies thereof in pamphlet or other form from the columns of the daily Record.

Mr. Black read the authorization for the extension of remarks granted Mr. James A. Gallivan, of Massachusetts, on the previous day, as follows:

Mr. Chairman, I ask unanimous consent to revise, extend, and correct my remarks in the Record.

The Chairman. Is there objection? [After a pause.] The Chair hears none.

and submitted that the leave to print did not include the magazine articles accompanying the extension in the Record.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 1459.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the resolution was not privileged.

The Speaker [1] said:

This is a rather important question. The Chair offhand was under the impression that a Member who obtains the right to extend his remarks in the Record may print not only his remarks but extracts which he chooses to append thereto, unless he is limited, as is often done, by somebody objecting to any extraneous matter, but the Chair would like to examine the authorities, so that we may be sure that a proper precedent is set. The Chair will ask the gentleman from Texas if he is willing to let this matter go over until tomorrow?

On the following day,[2] Mr. Black again called up the resolution.

The Speaker ruled:

A question of order was raised that this was not privileged. The Chair has examined the precedents and thinks that the rule is very well settled, and some of the old cases are very entertaining. According to the precedents this is a privileged resolution, but the Chair also is glad to find it laid down by Mr. Speaker Carlisle, in a case which has been followed ever since, that the question whether the matter alleged is a violation of the rules of the House is a matter not for the Speaker to decide but for the House to decide. The resolution is now before the House, and it is for the House to decide whether the matter inserted violates the rules of the House and should be expunged.

Mr. Gallivan asked unanimous consent that the extension objected to be stricken from the Record.

Mr. Black asked to have coupled with that request provision that the extension should not be printed by the Public Printer for distribution.

The Speaker put the question:

The question is on the unanimous consent asked by the gentleman from Massachusetts.
He asked unanimous consent to strike out all the matter published except his own remarks.
That it will not be printed as frankable matter. Is there objection?

There was no objection.

3476. The period within which Members may extend remarks under leave to print begins with the day on which permission is granted.

On December 21, 1932,[3] pending adjournment, Mr. William B. Bankhead, of Alabama, referred to a general leave to extend remarks for five legislative days which had been granted on the previous day, and inquired if the 5-day period began on the day on which granted or on the succeeding day.

The Speaker [4] said:

It dates from the day the consent was given.

3477. Individual permission to extend remarks permits but one extension, and Members proposing to insert more than one speech in the Record are required to secure separate leave for each extension.

On July 13, 1932,[5] a number of requests were made by Members for leave to extend their remarks in the Record.

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] Record, p. 1508.

[3] Second session Seventy-second Congress, Record, p. 868.

[4] John N. Garner, of Texas, Speaker.

[5] First session Seventy-second Congress, Record, p. 15234.

Mr. Robert G. Simmons, of Nebraska, as a parliamentary inquiry, asked if under leave granted to extend remarks a Member might insert more than one extension.

The Speaker[1] replied that under general permission to extend remarks, a Member might make as many insertions as he desired, but under permission granted to Members individually, only one insertion was permissible and it was necessary to secure specific permission for each insertion.

3478. General leave to print extended at the close of a session authorizes Members to extend remarks without restriction as to the number of extensions.

On June 30, 1932,[2] Mr. Bertrand H. Snell, of New York, asked unanimous consent that all Members be permitted to extend their own remarks in the Record until the close of the session.

In submitting the request, Mr. Snell specified:

Mr. Speaker, I ask unanimous consent that each Member may have from now until the time of the printing of the last Record in which to extend his own remarks and in order that there may be no misunderstanding I mean that if I individually want to extend my own remarks on two different subjects I may do it in two different extensions.

The Speaker[1] said:

That is the rule. Is there objection?

3479. Authorizations to extend remarks in the Record are strictly construed and it is not in order under leave to print to insert other material than that designated in the request.

A resolution to expunge from the Record material inserted without authorization is privileged and entitles the proponent to recognition to debate it.

If a Member in debate transgress the rules it is the duty of the Speaker to intervene and require that he proceed in order.

On March 23, 1908,[3] Mr. James R. Mann, of Illinois, offered as privileged the following resolution:

Resolved, That the Congressional Record of March 21, 1908, be corrected by striking out, on pages 3820, 3821, 3823, 3824, 3825, and 3826, the speech purporting to have been delivered by the gentleman from New York, Mr. Sulzer, and inserting in lieu thereof the transcript of the notes of the official reporters of the House of the speech actually made, together with the copy of any record referred to in such speech.

The resolution was read by the Clerk and Mr. Mann was proceeding in debate, when Mr. Charles L. Bartlett, of Georgia, made a point of order that Mr. Mann was not entitled to the floor.

The Speaker[4] overruled the point of order and held that the resolution must be entertained as privileged and that Mr. Mann having been recognized to present such a resolution was entitled to the floor.

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[1] John N. Garner, of Texas, Speaker.

[2] First session Seventh-second Congress, Record, p. 14388.

[3] First session Sixtieth Congress, Record, p. 3748.

[4] Joseph G. Cannon, of Illinois, Speaker.

Subsequently, during debate on the resolution, Mr. William Sulzer, of New York, referring to Mr. Mann, charged:

I stand on the Record. I abide by the Record, and I say to the gentleman from Illinois that he barks and gets bitten and then whines; and I am surprised that the gentleman has appeared to-day in his mean, little, pettifogging way, whining and squealing—because he deceived the House and he deceived the country the other day when he said he originated the "idea"; that he was the author of the "law" to create the Bureau of Corporations. His claim was preposterous and ridiculous, and nobody knew it better than the gentleman from Illinois when he said it; but he did it deliberately, and when he was told he was deceiving the House he refused to give me permission to reply to correct the misstatement.

The Speaker interposed;

The gentleman will suspend. The gentleman is out of order in his remarks, and it is the duty of the Chair to so state to the gentleman. And the gentleman will proceed in order.

Later in the same address, Mr. Sulzer said:

Now, Mr. Speaker, the gentleman from Illinois, like a pettifogging lawyer, has dodged all around this question—

The Speaker again interrupted and reiterated:

The Chair desires to say to the gentleman from new York that it is not in order to use such terms toward any Member of the House, and it is the duty of the Chair to call the gentleman to order. The gentleman will proceed in order under the rules of the House.

3480. Leave to print authorizes extensions of the Member's remarks only and other matter may not be included without specific permission.

On March 27, 1933,[1] Mr. Bertrand H. Snell, of New York, rising to submit a parliamentary inquiry, called attention to instances in which Members in extending their remarks in the Record under leave to print had included extraneous matter without having secured permission, and asked for a statement of the practice of the House in that respect.

The Speaker[2] said:

The Chair will make the announcement now. Under permission to extend remarks a Member obtains permission to extend his own remarks only, unless he receives specific permission from the House to include in his remarks the documents that he desires to incorporate.

3481. Leave to extend remarks in the Record may be granted conditionally.

Instance wherein it was stipulated that matter inserted under leave to print should be limited to the Member's own remarks and should not include newspaper articles or other extraneous matter.

On January 12, 1920,[3] following the announcement of the result of the vote on the passage of the bill (H. R. 7158) to provide for the expenses of the government of the District of Columbia, Mr. Carl E. Mapes, of Michigan, submitted a request for unanimous consent that all Members have five legislative days in which to extend remarks on the bill.

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[1] First session Seventy-third Congress, Record, p. 882.

[2] Henry T. Rainey, of Illinois, Speaker.

[3] Second session Sixty-sixth Congress, Record, p. 1467.

Mr. Joseph Walsh, of Massachusetts, under reservation of the right to object, proposed to consent with the stipulation that matter so inserted should be restricted to the Member's own remarks and should not include newspaper articles or other dissertations.

The Speaker [1] put the question.

With the restriction suggested by the gentleman from Massachusetts, is there objection?

There was no objection.

3482. On September 11, 1919,[2] at the conclusion of a speech delivered under an order previously made by the House, Mr. Thomas L. Blanton, of Texas, asked unanimous consent to extend his remarks in the Record by including facts and figures and certain communications bearing out his argument.

Mr. Otis Wingo, of Arkansas, stipulated:

Mr. Speaker, I have no objection to the gentleman extending his remarks by printing an official communication such as he suggests. If the gentleman will ask leave to extend his remarks by inserting such facts and figures and communications, I shall not object. If they are official communications, I shall not object.

The Speaker [1] qualified:

The gentleman will proceed under the limitations suggested.

3483. Remarks extended in the Record under leave to print are inserted as of the date on which permission is granted.

Under leave to extend remarks a Member may not insert reference to proceedings subsequent to the date on which leave to extend was granted.

The Speaker has no authority over the Congressional Record, and it is for the House to say when the rules have been violated and to enforce their observance.

On October 26, 1918,[3] when the House met, following a recess of the legislative day of October 24, Mr. Frederick H. Gillett, of Massachusetts, gave notice that he desired to correct the Record with reference to remarks extended in the Record of October 25 by Mr. J. Thomas Heflin, of Alabama, without having secured leave to print.

Mr. Heflin stated that he had received permission to extend remarks during the previous week.

Mr. Gillett pointed out that the remarks included a copy of an order by the Director General of Railroads which was not issued until October 19, a day subsequent to the date on which Mr. Heflin obtained leave to print.

The Speaker [4] ruled:

The rule is plain enough. If a gentleman rises and simply gets leave to extend remarks, he can extend them any time before the 4th of March, but he can not put into the extended remarks

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[1] Frederick H. Gillett, of Massachusetts, Speaker.

[2] First session Sixty-sixth Congress, Record, p. 5238.

[3] Second session Sixty-fifth Congress, Record, p. 11478.

[4] Champ Clark, of Missouri, Speaker.

anything that happened after the date that he got his leave. That has been the practice of the House. Of course, the rule has not been invoked very frequently.

Mr. Gillett moved to strike from the extension of remarks all reference to proceedings subsequent to the date on which leave to print was granted.

Mr. Joe H. Eagle, of Texas, inquired why a motion was necessary when the Speaker had just stated the rule and was authorized to enforce it.

The Speaker said:

The Congressional Record is a matter entirely in the hands of the House and not in the hands of the Speaker. The Speaker stated the rule.

3484. On June 1, 1920,[1] following the reading and approval of the Journal, Mr. Eugene Black, of Texas, referred to an extension of remarks in the Record inserted by Mr. John M. Baer, of North Dakota, on the adjusted pay for service men, and called attention to the fact that the House had refused all requests for permission to extend remarks on the subject.

In Mr. Baer's absence, Mr. Thomas L. Blanton, of Texas, explained that the speech was evidently extended under a leave to print which he recalled having been granted Mr. Baer some time previously.

Mr. James R. Mann, of Illinois, expressed the option that the extension was a breach of order in that a speech delivered on one date could not be inserted in the Record as of a different date or under prior leave to print.

Mr. Finis J. Garrett, of Tennessee, concurred in that view and discussed complications arising from the practice of Members utilizing leave to print previously obtained and extending remarks on bills which had not been considered at the time leave to print was granted.

Mr. Louis C. Cramton, of Michigan, referred to instances in which difficulty had been experienced in determining whether extensions of remarks in the Record were authorized due to insertion under dates other than those on which delivered.

The Speaker[2] ruled:

The Chair would like to suggest that the Chair thinks whenever a Member extends remarks he should extend them as of the date when the permission was granted.

3485. Matter inserted in the Record under leave to print, if in continuation of remarks actually delivered on the floor, appears in connection with the speech in the body of the Record, but where the Member has not actually occupied the floor such extensions of remarks are printed in the Appendix.—On January 8, 1929,[3] Mr. Marvin Jones, of Texas, being recognized to submit a parliamentary inquiry, asked why remarks, newspaper articles, documents, petitions, and other matter inserted in the Record by Members under leave to extend remarks was printed in the Appendix in the House proceedings but appeared in the body of the Record in the proceedings of the Senate.

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[1] Second session Sixty-sixth Congress, Record, p. 8089.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventieth Congress, Record, p. 1351.

The Speaker[1] replied:

It is a matter for each body to determine for itself; but the Chair has stated on a number of occasions that he thinks the proper distinction is this, that if a Member obtains the right to extend remarks which he is actually making by placing therein a document which he gets leave to print, that document is printed with those remarks in the main part of the Record. If, however, he asks leave to extend remarks not actually made by printing a certain document, that goes in the Appendix.

If the gentlemen is making remarks on the floor of the House and obtains leave to print any document which helps his argument or refers to matters he is discussing, the Chair thinks that properly becomes a part of his remarks in the main body of the Record; but if he rises and asks unanimous consent to extend his remarks and to incorporate therein a document, letter, or editorial—whatever it may be—that must be printed in the Appendix.

3486. On January 7, 1930,[2] Mr. Bertrand H. Snell, of New York, rising to a parliamentary inquiry, called attention to an extension of remarks inserted in the body of the Record of the preceding day under leave to print granted Mr. Sol Bloom, of New York, no part of which had actually been delivered on the floor.

Mr. Snell asked for a ruling of the Chair differentiating between extension of remarks which were entitled to incorporation in the body of the proceeding and those to be printed in the Appendix.

The Speaker[1] said:

That question has been several times ruled upon by the present occupant of the Chair. The latest ruling was in January, 1929. The Chair will request the Clerk to read the colloquy on that occasion, because if covers the subject very fully.

The Clerk having read from the Record[3] the colloquy referred to, the Speaker continued:

The Chair thinks that is a fair statement of the proper practice which should exist in the House. In other words where a Member actually takes the floor and makes a speech and asks unanimous consent to add to his remarks, either by way of continuing his own remarks or by the publication of a document or documents relating to the subject which he has actually discussed on the floor, that that addition might properly go into the body of the Record. But when he merely rises and asks leave to extend his remarks by printing a document or documents, and has made no speech, and has not occupied the floor for that purpose, the Chair thinks that those documents should be printed in the Appendix. The Chair hopes that Members will follow this rule, and also that officials connected with the printing of the Record will follow the rule.

3487. On February 11, 1910,[4] Mr. Henry Allen Cooper, of Wisconsin, submitted a parliamentary inquiry as to the proper method of correcting minor errors in the Record.

The Speaker[5] replied:

If it is a correction of words in a speech, the gentleman could have it corrected without bringing it to the attention of the House. If it concerns another Member, it would be better to submit the question in the House.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-first Congress, Record, p. 1187.

[3] Section 3485 of this work.

[4] Second session Sixty-first Congress, Record, p. 1768.

[5] Joseph G. Cannon, of Illinois, Speaker.

3488. General leave to print may be granted only by the House, although in Committee of the Whole a Member, by unanimous consent, may be given leave to extend his remarks.—On February 24, 1931,[1] during debate on the joint resolution (H. J. Res. 292) proposing an amendment to the Constitution of the United States fixing the time of the assembling of Congress, Mr. Lamar Jeffers, of Alabama, requested unanimous consent that all Members have permission to extend their remarks in the Record on the subject.

The Chairman[2] declined to recognize Mr. Jeffers to submit the request and said:

The Chair can not entertain that request, because it must be made in the House.

Thereupon, Mr. Jeffers modified his request and asked that he be granted permission to revise and extend his remarks.

The Chairman put the request and, there being no objection, it was agreed to.

3489. On January 18, 1921,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 14498) for the apportionment of Representatives in Congress under the Fourteenth census, when Mr. Issac Siegel, of New York, asked unanimous consent that all members who had spoken on the subject be permitted to extend their remarks in the Record.

The Chairman[4] declined to entertain the request and said:

That is a request that can not be acted upon in Committee of the Whole. The committee can grant leave to one Member, but no general leave.

Whereupon, Mr. Siegel asked unanimous consent to extend his own remarks on the pending bill.

The Chairman having submitted the request to the House, there was no objection.

3490. On April 10, 1908,[5] during consideration of the naval appropriation bill the Committee of the Whole House on the state of the Union, Mr. Lemuel P. Padgett, of Tennessee, asked leave to extend his remarks in the Record.

Whereupon, Mr. George E. Foss, of Illinois, asked that the request be amended to include all Members speaking on the bill.

The Chairman[6] said:

Under the rule, the committee can not give unanimous consent. The gentleman from Tennessee asks unanimous consent to extend his remarks on this subject in the Record. Is there objection?

There was no objection.

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[1] Third session Seventy-first Congress, Record, p. 5895.

[2] Frederick R. Lehlbach, of New Jersey, Chairman.

[3] Third session Sixty-sixth Congress, Record, p. 1642.

[4] Philip P. Campbell, of Kansas, Chairman.

[5] First session Sixtieth Congress, Record, p. 4581.

[6] James A. Mann, of Illinois, Chairman.

3491. A motion to expunge unparliamentary language inserted under leave to print was entertained as privileged.

Insertion of improper language under leave to print was held to sustain a question of the privilege of the House.

A question of privilege takes precedence of a report from the Committee on Rules.

A committee appointed to investigate the propriety of a Member's remarks appearing in the Record affords the Member an opportunity to be heard in person or by counsel.

On March 24, 1916,[1] Mr. Edward W. Pou, of North Carolina, by direction of the Committee on Rules, reported the resolution (H. Res. 182) providing for the consideration of the immigration bill.

During debate on the resolution, Mr. Martin B. Madden, of Illinois, rising to a question of privilege, moved to expunge from the Record certain remarks inserted by Mr. James H. Davis, of Texas, on a previous day under leave to print.

Mr. John L. Burnett, of Alabama, submitted that a question of privilege could not be entertained during consideration of a report from the Committee on Rules.

The Speaker[2] held that the question of privilege took precedence of a report from the Committee on Rules.

After debate, Mr. Madden modified his motion to provide for the appointment by the Speaker of a select committee to investigate the propriety of the speech referred to.

Mr. Davis inquired what opportunity would be given him to justify his remarks.

The Speaker said:

> The House will act under the general practice of the House and under the general rules of the House. The Chair will explain to the gentlemen that if the gentleman from Illinois stood on his first resolution to expunge it from the Record, the matter would come up immediately. If it follows the practice, so far as the Chair recollects since he has been here, to appoint a committee to investigate it, which was done on three different occasions, then the gentleman can appear before the committee either in person or by counsel.

The question on the motion being taken, it was agreed to; and the Speaker appointed on the committee so authorized Mr. Edwin Yates Webb, of North Carolina, Mr. Alben W. Barkley, of Kentucky, Mr. Andrew J. Montague, of Virginia, Mr. Henry Allen Cooper, of Wisconsin, and Mr. Edmund Platt, of New York.

On March 27, 1916,[3] Mr. Webb from the select committee presented the report of the committee, stating that Mr. Davis had been invited to submit a statement and had been heard, and had approved the recommendation of the committee that certain portions of the speech be omitted from the permanent Record.

The committee therefore submitted the following resolution:

> *Resolved,* That the foregoing language referred to in the speech of Mr. J.H. Davis, Representative in Congress from the State of Texas, and printed in the daily Congressional Record of March 22, 1916, be stricken from the permanent Record.

The resolution was agreed to.

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[1] First session Sixty-fourth Congress, Record, p. 4769.

[2] Champ Clark, of Missouri, Speaker.

[3] Record, p. 4931.

3492. On February 20, 1931,[1] a resolution (H. Res. 364) presented by Mr. John J. Boylan, of New York, as involving the privilege of the House, was agreed to without division or debate as follows:

Whereas in the Congressional Record of February 18, 1931, on page 5472, there appears in the remarks purporting to be made by the gentleman from Pennsylvania, Mr. McFadden, certain language reflecting upon the integrity, honesty, reputation, and conduct of Members of the Senate, individually, in their representative capacity; and

Whereas the said statements were not, as a matter of fact, made upon the floor; and

Whereas the said statements were unparliamentary, out of order, and a violation of the privileges of the House, and if the same had been uttered upon the floor of the House would have been subject to a point of order: Now, therefore, be it

Resolved, That the said remarks be stricken from the Record (February 18, 1931) and the Public Printer be prohibited from issuing copies of thereof from the columns of the Congressional Record.

3493. A resolution providing for the appointment of a committee to consider the propriety of remarks inserted under leave to print was entertained as privileged.—On March 9, 1912,[2] Mr. Martin D. Foster, of Illinois, offered as privileged the following:

Whereas the speech of Mr. Akin, of New York, printed in the Congressional Record of March 7, 1912, contains language improper and in violation of the privilege of debate: Be it

Resolved, That a committee of five Members be appointed to consider the remarks aforesaid and to report thereon to the House within 10 days.

The Speaker[3] recognized Mr. Foster to present the resolution, which after debate was agreed to without division.

On the next legislative day,[4] on request of Mr. Wyatt Aiken, of South Carolina, the remarks referred to in the resolution, and reflecting on the President of the United States, were stricken from the Record.

Whereupon, on motion of Mr. Foster, by unanimous consent the proceedings whereby the resolution was agreed to were vacated.

3494. On February 4, 1910,[5] Mr. George F. Burgess, of Texas, rising to a question of the privilege of the House, submitted the following resolution:

Whereas the speech of the Hon. Rufus Hardy, printed in the Congressional Record of February 2, 1910, and delivered in the House on January 28, 1910, and purporting to print a speech delivered by him on October 18, 1909, at Cameron, Tex., contains language improper and in violation of the rules and the privilege of debate, in that it contains criticism of the proceedings in the Senate and the action of a Senator, who is specified by name: Be it

Resolved, That this resolution be referred to the Committee on the Judiciary, with instructions to report in 10 days what action shall be taken.

After debate, in which Mr. Hardy participated, the resolution was agreed to without division.

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[1] Third session Seventy-first Congress, Temporary Record, p. 5633.

[2] Second session Sixty-second Congress, Record, p. 3095.

[3] Champ Clark, of Missouri, Speaker.

[4] Record, p. 3148.

[5] Second session Sixty-first Congress, Record, p. 1496.

Subsequently,[1] on motion of Mr. Hardy, by unanimous consent, the speech referred to in the resolution was withdrawn.

Whereupon, Mr. R. Wayne Parker, of New Jersey, offered the following:

Resolved, That inasmuch as the speech of the Hon. Rufus Hardy, mentioned in said resolution as referred to the Committee on the Judiciary, has on his motion been stricken from the permanent Record, the Committee on the Judiciary are hereby discharged from further consideration of said resolution so referred, and that the same do lie upon the table.

The resolution was agreed to without debate.

3495. A resolution providing for an investigation of the propriety of remarks, alleged to be an abuse of the leave to print, is entertained as a matter of privilege.

An abuse of the leave to print in the Congressional Record gives rise to a question of privilege.

When a Member, under leave to print, places in the Congressional Record that which would not have been in order if uttered on the floor, the House may exclude the language.

Intimation that Members were influenced by mercenary considerations in the exercise of their official duties was held to give rise to a question of privilege.

On July 21, 1916,[2] Mr. John Jacob Rogers, of Massachusetts, offered as privileged the following resolution:

Whereas in the Congressional Record of June 1, 1916, page 10410, the following language appears in a speech made by Hon. Oscar Callaway, of Texas, to wit:

"The Maxims, Gardners, and Thompsons have attempted to frighten the people into the belief that we were in danger of invasion. This is not the fear that disturbs the peace of mind of the gentlemen on the Naval Affairs Committee who heard the evidence. The fear that disturbs the peace of mind of the gentlemen from Pennsylvania, New York, and Massachusetts is not that our homes will be invaded, our cities bombarded, or our coasts laid waste; it is that the stocks of the Bethlehem, Midvale, Carnegie, Pennsylvania, Maryland, and New Jersey steel, ordnance, and ship manufacturing concerns will shrink when the foreign war closes unless a new market is developed. Bethlehem Steel stock increased, due to the war, from $30 a share to $530 a share. Certain powder stocks increased from $8 a share to $1,100 a share." Be it

Resolved, That a special committee of five be appointed by the Chair to investigate and report to the House whether or not said language ought to be expunged from the Record.

After brief debate the resolution was agreed to and the Speaker[3] appointed as members of the committee so authorized Mr. Robert N. Page, of North Carolina, Mr. John E. Raker, of California, Mr. Edward T. Taylor, of Colorado, Mr. Frank W. Mondell, of Wyoming, and Mr. Horace M. Towner, of Iowa.

On August 22,[4] Mr. Page submitted a report[5] from the special committee recommending that the language referred to be stricken from the Record.

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[1] Record, p. 1845.

[2] First session Sixty-fourth Congress, Record, p. 11402.

[3] Champ Clark, of Missouri, Speaker.

[4] Record, p. 12995.

[5] House report No. 1170.

The report cited the rules involved as follows:

The rules of the House provide that in addressing the House Members must avoid personalities (par. 1, rule 14), and this rule is amplified by the following statement in Jefferson's Manual:

"The consequences of a measure may be reprobated in strong terms; but to arraign the motives of those who propose to advocate it is a personality, and against order." (House Manual and Digest, secs. 354, 355, 356, and note, pp. 136 and 137, and Hinds' Precedents, vol. 5, secs. 5147–5155).

The application of the rules to the case at bar was thus made:

This rule has been enforced even by Speakers interrupting a Member on the floor and challenging a Member for the use of personalities. In the case in question there was no opportunity either for the Member to himself object or for the Presiding Officer or another Member to call attention to the violation of the rule, because of the fact that the record shows that the words complained of were not uttered on the floor but were inserted in the revision and extension of the speech for printing in the Record.

The special committee therefore unanimously reported that the language as set forth in the resolution "was a personality, arraigned the motives of a Member, and was for that reason in violation of the rules of the House," and recommended that "the said language be expunged from the Record."

On motion of Mr. Page, the recommendations of the committee were agreed to without debate or division.

3496. A motion for the correction of the Congressional Record may be made properly after the reading and approval of the Journal.

Instance wherein a Member produced and read the reporter's notes of remarks not reflecting on himself delivered by another Member but not withheld for revision.

A motion to correct the Record, undisposed of at adjournment, was held to be in order as the unfinished business if called up when the House next convened.

On March 27, 1924,[1] following conclusion of the consideration of the War Department appropriation bill, Mr. Ben Johnson, of Kentucky, moved to correct the Record by striking out certain alterations made by Mr. Fiorello H. LaGuardia, of New York, as follows:

Colonel Hunt may have been guilty of bad judgment. It was pointed out here that he permitted this prisoner to go without handcuffs, but all gentlemen know that if Colonel Hunt or any other Army officer would put handcuffs on a prisoner, there would be 20 or 30 gentlemen on the floor of this House protesting against the brutality of that officer.

Mr. Johnson then read the remarks as appearing in the Record in this form:

Colonel Hunt may have exercised bad judgment. It was pointed out here that he permitted this prisoner to go without handcuffs, but all gentlemen know that if Colonel Hunt or any other Army officer would put handcuffs on a prisoner "while on a train or traveling," there would be 20 or 30 gentlemen on the floor of this House protesting against the brutality of that officer.

[1] First session Sixty-eighth Congress, Record, p. 5115.

Mr. Johnson also read the following excerpt from Mr. LaGuardia's remarks as given in the reporter's notes:

After 30 years of service I think it is not fair, it is unjust, to brand an officer as a traitor because he was guilty of using bad judgment in a case with which he had no personal contact—

which had appeared in the Record as follows:

After 30 years of service I think it is not fair, it is unjust, to brand an officer as a traitor because he was guilty of using bad judgment, and in the actual desertion he had no personal contact with the prisoner at the time.

Mr. Nicholas Longworth, of Ohio, raised a question of order and objected that a Member is not entitled to inspect the reporter's notes of remarks which do not contain reflections on himself delivered by another Member and withheld for revision.

Mr. Johnson replied that the rule did not apply for the reason that the notes produced were not withheld for revision.

The Speaker pro tempore did not pass on the point of order, but Mr. LaGuardia again read the excerpts from the notes and submitted that the alterations were not material.

Mr. Johnson dissented and moved that the alterations be expunged from the Record.

The question being taken, on a division, the yeas were 18, noes 30, and Mr. Johnson made the point of order that there was not a quorum present.

Mr. Longworth moved that the House adjourn.

Pending the motion to adjourn, Mr. Johnson propounded a parliamentary inquiry as to the status of the motion to expunge when the House next met.

The Speaker pro tempore said:

It will be the first business in order, as the Chair understands it, tomorrow morning, if the gentleman from Kentucky calls it up.

Whereupon, the House adjourned and the matter was not again called up.

3497. Alterations of a Member's own remarks which place a different aspect on the remarks of a colleague may be made only on authorization by the House, but mere typographical errors or minor changes in phraseology may be made informally by notifying the Record Clerk.—On June 4, 1930,[1] Mr. Fiorello H. LaGuardia, of New York, rising to a parliamentary inquiry, asked if the practice of the House permitted the correction of typographical errors and other minor amendments of a Member's own remarks through notification of the Record clerk.

The Speaker[2] replied:

The Chair thinks the rule is that anything that corrects the remarks of another Member or puts a different aspect on a Member's own remarks requires consent, but corrections such as the two just made, the Chair thinks can be made in the manner suggested by the gentleman.

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[1] Second session Seventy-first Congress, Record, p. 10039.

[2] Nicholas Longworth, of Ohio, Speaker.

3498. While a motion to correct the Record is privileged, a motion to strike from the Record words in order, actually spoken in debate, is not admissible.—On October 28, 1921,[1] under consent to proceed for one minute, Mr. Finis J. Garrett, of Tennessee, speaking for Mr. Thomas L. Blanton, of Texas, asked unanimous consent that certain words used by the latter in debate on the preceding day be omitted in the printing of the permanent Record.

Mr. Frank W. Mondell, of Wyoming, having objected to the request, Mr. Meyer London, of New York, submitted an inquiry as to whether it would be in order to move to omit the words in the printing of the permanent Record.

The Speaker pro tempore [2] held that the motion could not be entertained.

3499. Provisions for the printing of the Congressional Record is statutory and motions mandatory thereto are not in order.

A motion to correct the Congressional Record is entertained as a matter of privilege.

On March 15, 1910,[3] immediately following the reading and approval of the Journal, Mr. Thetus W. Sims, of Tennessee, called attention to the omission of a number of speeches from the proceedings of the preceding day, as reported in the Congressional Record, and moved that the proceedings of the House on that day be printed in full and in their appropriate order in the current Record as of the day on which transacted.

Mr. William H. Stafford, of Wisconsin, objected that the motion was not in order.

The Speaker [4] sustained the point of order and said:

The Chair suggests, a point of order being made, that the Record is printed under law and under the direction of the Joint Committee on Printing. Now, it seems to the Chair that it is somewhat doubtful as to whether yesterday's Record can be printed to-morrow morning so far as the proceedings of the House are concerned, leaving out any reference to the Senate. It is perfectly patent to the Chair that the Record can be corrected, so that the permanent Record will be exactly as the proceedings were yesterday.

And that would happen, probably, without any action on the part of the House. The Chair, as at present advised, would have to sustain the point of order.

Whereupon, Mr. William Hughes, of New Jersey, moved that the Record of the preceding day be corrected to conform to the notes of the official reporters.

The Speaker entertained the motion as follows:

The gentleman moves that the Record be corrected by inserting the proceedings of yesterday—those that are omitted—according to the notes of the official reporters.

The motion was agreed to.

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[1] First session Sixty-seventh Congress, Record, p. 6968.

[2] Joseph Walsh, of Massachusetts, Speaker pro tempore.

[3] Second session Sixty-first Congress, Record, p. 3193.

[4] Joseph G. Cannon, of Illinois, Speaker.

3500. The rules governing the publications of the Congressional Record prescribe the conditions under which Members may revise their remarks.

Rules governing the furnishing of copy under leave to print in the Congressional Record.

The insertion of maps or diagrams in the Congressional Record is within the control of the Joint Committee on Printing.

The arrangement, style, type, etc., of the Congressional Record is prescribed by the Joint Committee on Printing.

On December 10, 1924, the Joint Committee on Printing [1] adopted the following rules for the publication of the Congressional Record.

1. The Public Printer will arrange the contents of the Record as follows: First, the Senate proceedings; second, the House proceedings; third, the Appendix: *Provided,* That when the proceedings of the Senate are not received in time to follow this arrangement, the Public Printer may begin the Record with the House proceedings.

2. The Public Printer shall begin the proceedings of each House and the Appendix on a new page, with appropriate headings centered thereon.

3. The Public Printer shall print the verbatim report of the proceedings and debates of the Senate and House of Representatives, as furnished by the official reports of the Congressional Record, in 8-point type, solid; and all matter included in the remarks or speeches of Members of Congress, other than their own words, and all reports, documents and other matter authorized to be inserted in the Record shall be printed in 6-point type, leaded; and all roll calls and lists of pairs shall be printed in 6-point type, solid.

4. When copy is submitted to Members for revision it should be returned to the Government Printing Office not later than 9 o'clock p.m., in order to insure publication in the Record issued on the following morning; and if all of said copy is not furnished at the time specified, the Public Printer is authorized to withhold it from the Record for one day. In no case will a speech be printed in the Record of the day of its delivery if the copy is furnished later than 12 o'clock midnight.

5. The copy of speeches containing large tabular statements to be published in the Record shall be in the hands of the Public Printer not later than 6 o'clock p.m. on the day prior to their publication.

6. Proofs of "leave to print" and advance speeches will not be furnished the day the copy is received, but will be submitted the following day, whenever possible to do so without causing delay in the publication of the regular proceedings of Congress. Advance speeches shall be set in the Record style of type, and not more than six sets of proofs may be furnished to Members without charge.

7. If copy or proofs have not been returned in time for publication in the proceedings, the Public Printer will insert the words "Mr. ——— addressed the Senate (House or committee). His remarks will appear hereafter in the Appendix," and proceed with the printing of the Record.

8. The Public Printer shall not publish in the Congressional Record any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days (exclusive of Sundays and holidays) from the date when its printing was authorized: *Provided,* That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

9. When leave has been obtained to print (1) a speech not delivered in either House, (2) a newspaper or magazine article, or (3) any other matter not germane to the proceedings, the same shall be published in the Appendix, but this rule shall not apply to quotations which form part of

[1] For discussion of the statute authorizing the Joint Committee on Printing to prescribe rules for governing the publication of the Congressional Record see footnote to section 7024 of Hinds' Precedents.

a speech of a Member, or to an authorized extension of his own remarks. The official reporters of each House shall indicate on copy and prepare headings for all matter to be printed in the Appendix, and shall make suitable reference thereto at the proper place in the proceedings. Any Member may, upon request noted on the manuscript, have an authorized extension of his own remarks printed in the Appendix.

10. Illustrations shall not be inserted in the Record without the approval of the Joint Committee on Printing. Requests for such approval should be submitted to the Joint Committee on Printing through the chairman of the Committee on Printing of the respective House in which the speech desired to be illustrated may be delivered. Illustrations shall not exceed in size a page of the Record and shall be line cuts only. Copy for illustrations must be furnished to the Public Printer not later than 12:30 p.m. of the day preceding publication.

11. The permanent Record is made up for printing and binding 30 days after each daily publication is issued; therefore all corrections must be sent to the Public Printer within that time: *Provided,* That upon the final adjournment of each session of Congress the time limit shall be 10 days unless otherwise ordered by the committee.

The Public Printer shall insert the contents of the daily Appendix in its regular place in the proceedings of each House when printing the bound edition of the Congressional Record.

3501. The statute requires that requests for permission to insert illustrations in the Record be submitted to the Joint Committee on Printing through the chairman of the respective House in which the speech desired to be illustrated may be delivered,[1] and motions for the insertion of illustrations are not in order in the House.

On Monday, February 23, 1931,[2] in pursuance of an order of the House, Mr. James M. Beck, of Pennsylvania, was recognized to deliver an address on George Washington.

At the conclusion of the address, Mr. John J. Boylan, of New York, asked unanimous consent that a picture of George Washington, the first President of the United States, be printed in the Record in connection with the speech.

The Speaker[3] said:

The Chair can not recognize the gentleman for that purpose, as that is contrary to law.

3502. On June 23, 1930,[4] during the call of the Consent Calendar, Mr. John J. Boylan, of New York, asked unanimous consent to extend his remarks in the Record by printing a cartoon appearing in a daily newspaper.

The Speaker pro tempore,[5] declined to submit the request to the House and said:

The Joint Committee on Printing has charge of that matter under the statute. The Chair can not entertain a request of that kind.

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[1] Section 181 of Title 44 of the United States Code.

[2] Third session Seventy-first Congress, Record, p. 5742.

[3] Nicholas Longworth, of Ohio, Speaker.

[4] Second session Seventy-first Congress, Record, p. 11541.

[5] C. William Ramseyer, of Iowa, Speaker pro tempore.

Chapter CCLXXV.[1]

AMENDMENTS TO THE CONSTITUTION.

3503. The vote required for passage of a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership.—On May 13, 1912,[2] the House was considering the Senate amendments to the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

A motion by Mr. William W. Rucker, of Missouri, that the House concur in the Senate amendment being put, and the yeas and nays being ordered, the yeas were 238, nays 39, answering present 5, not voting 110.

Mr. Thomas U. Sisson, of Mississippi, submitted that the constitutional requirement had not been complied with and the motion had not been agreed to. He cited Article V of the Constitution providing that two-thirds of the two Houses might submit amendments to the Constitution and took the position that under this provision more than 260 votes would be required for affirmative action, whereas only 238 had voted in the affirmative.

The Speaker[3] said:

> Two-thirds of the House means two-thirds of a quorum.
>
> It has been held uniformly, so far as the Chair knows, that two-thirds of the House means two-thirds of those voting a quorum being present.
>
> When the phrase or collocation of words, "the House of Representatives," is used, it means a quorum of the House. If it can do one thing with a bare quorum it can do anything; and what precedents there are, both of the Supreme Court and of the Speaker—because Mr. Speaker Reed rendered an opinon—held that in a situation like this "two-thirds" meant two-thirds of those voting, provided it was a quorum.
>
> By the vote just taken the House votes to recede from its disagreement to the Senate amendment and to concur in the Senate amendment, two-thirds having voted therefor.

[1] Supplementary to chapter CXLV.

[2] Second session Sixty-second Congress, Record, p. 6368.

[3] Champ Clark, of Missouri, Speaker.

3504. Proposed amendments to the Constitution may be amended by a majority vote.—On February 24, 1931,[1] the House had under consideration the joint resolution (H. J. Res. 292) proposing an amendment to the Constitution of the United States, fixing the commencement of the terms of the President and Vice President and Members of Congress and fixing the time of the assembling of Congress.

The sixth section of the joint resolution having been read, Mr. John J. O'Connor, of New York, proposed an amendment changing the requirement that at least one branch of the ratifying legislatures be elected subsequent to the date of submission of the proposed amendment, to a requirement that all branches should have been elected prior to the date of submission.

The question being put by the Speaker, Mr. John C. Ketcham, of Michigan, submitted a parliamentary inquiry as to whether the amendment required a majority vote or a two-thirds vote for agreement.

The Speaker[2] held that a majority vote was sufficient.

3505. A two-thirds vote is required to agree to amendments of the other House to joint resolutions proposing amendments to the Constitution.—On December 18, 1917,[3] the Vice President laid before the Senate with House amendments the joint resolution (S. J. Res. 17) proposing an amendment to the Constitution of the United States, prohibiting the manufacture, sale, or transportation of intoxicating liquors.

Mr. Morris Sheppard, of Texas, moved that the Senate concur in the amendments of the House.

Whereupon, Mr. William E. Borah, of Idaho, rising to a parliamentary inquiry, asked if a two-thirds vote was required to agree to the motion.

The Vice President[4] replied:

> That is the opinion of the Chair. It is the view of the Chair that an amendment to a resolution proposing an amendment to the Constitution of the United States needs only a majority in order to be adopted; but the resolution having once been adopted by the Senate and gone to the House and returned here for the final action of the Senate, it is necessary to have a two-thirds vote on the amendments of the House, for this constitutes the final passage of the resolution.

3506. The yeas and nays are not necessarily taken on the passage of a resolution proposing an amendment to the Constitution.—On March 9, 1928,[5] the House was considering the joint resolution (S. J. Res. 47) proposing an amendment to the Constitution of the United States fixing the time of the assembling of Congress.

Consideration having been concluded and the question being on the passage of the joint resolution, Mr. John Q. Tilson, of Connecticut, inquired if a yea-and-nay vote was not required on resolutions proposing amendments to the Constitution.

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[1] Third session Seventy-first Congress, Record, p. 5906.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] Second session Sixty-fifth Congress, Record, p. 477.

[4] Thomas R. Marshall, of Indiana, Vice President.

[5] First session Seventieth Congress, Record, p. 4430.

The Speaker [1] said:

There is no rule which provides for a yea-and-nay vote, and the Chair will quote from the Manual, section 224:

"The ayes and nays are not required to pass a resolution amending the Constitution."

The question is on the passage of the resolution.

3507. The original notice of ratification of a constitutional amendment by a State is transmitted to the Secretary of State and a copy to the House, where it is laid before the House by the Speaker and filed in its archives.

On December 5, 1932,[2] the Speaker laid before the House a communication from the Governor of Alabama announcing the ratification by that State of the proposed twentieth amendment to the Constitution fixing the terms of the President, Vice President, and Members of Congress and the time of the assembling of Congress.

Mr. Charles L. Underhill, of Massachusetts, as a parliamentary inquiry, asked if the notice of ratification should not properly go to the Secretary of State rather than to the House of Representatives.

The Speaker [3] said:

The original goes to the Secretary of State and a copy comes to the House of Representatives for its archives.

3508. The law makes no provision for notifying the States of the submission of a constitutional amendment and a concurrent resolution requesting the President to transmit to the States such proposed amendments is without privilege.—On July 19, 1909,[4] Mr. Charles L. Bartlett, of Georgia, asked unanimous consent for the consideration of concurrent resolution (H. Con. Res. 20) as follows:

Resolved by the House of Representatives (the Senate concurring), That the President of the United States be, and he is, requested to transmit forthwith to the executives of the several States of the United States copies of the article of amendment proposed by Congress to the State legislatures to amend the Constitution of the United States, passed July 12, 1909, as contained in Senate joint resolution No. 40, providing that "the Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration," to the end that said States may proceed to act upon the said article of amendment; and that he request the executives of each State that may ratify said amendment to transmit to the Secretary of State a certified copy of such ratification.

Consent for consideration being denied, Mr. Bartlett again proposed consideration of the concurrent resolution on June 23 [5] and was again refused.

On July 26, however, the concurrent resolution (S. Con. Res.) identical in language with the House concurrent resolution proposed by Mr. Bartlett, was messaged over from the Senate and by unanimous consent was taken from the Speaker's table and agreed to.

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[1] Nicholas Longworth, of Ohio, Speaker.

[2] Second session Seventy-second Congress, Record, p. 35.

[3] John N. Garner, of Texas, Speaker.

[4] First session Sixty-first Congress, Record, p. 4514.

[5] Record, p. 4597.

Chapter CCLXXVI. [1]

CEREMONIES.

3509. Form of resolution thanking the Speaker of the adjournment of a Congress.—On March 4, 1919,[2] at the close of the session, Mr. James R. Mann, of Illinois, preferred this request:

Mr. Speaker, I ask that the Speaker call to the chair the former Speaker of this House, Mr. Joseph G. Cannon.

Accordingly former Speaker Cannon assumed the chair amid applause, the Members rising.

Whereupon, Mr. Mann, offered as of highest privilege, the following:

Resolved, That the cordial thanks to this House are presented to the Hon. Champ Clark, its honored and distinguished Speaker, for the able, impartial, courteous, and dignified manner in which he has presided over its deliberations and performed the arduous and important duties of the Speakership during the present term of the Congress now about to end.

[1] Supplementary to Chapter CXLVI.

[2] Third session Sixty-fifth Congress, Record, p. 5082.

The resolution was unanimously adopted and the Speaker, resuming the chair, addressed the House in response.

The hour of 12 o'clock noon having arrived, the Speaker declared the House adjourned without day.

3510. On March 4, 1925,[1] following the report of the committee appointed on the part of the House to wait on the President, Mr. Edward W. Pou, of North Carolina was called to the chair.

Whereupon, Mr. Finis J. Garrett, of Tennessee, the minority leader, offered the following resolution:

Resolved, That the thanks of the House are presented to the Hon. F. H. Gillett, Speaker of the House of Representatives, for the able, impartial, and dignified manner in which he has presided over its deliberations and performed the arduous and important duties of the Chair during the present term of Congress.

After appropriate remarks by Mr. Garrett and other Members, the resolution was unanimously agreed to.

The Speaker resumed the chair amid applause and, having responded to the resolution, declared the House adjourned without day.

3511. On March 4, 1931,[2] Mr. Joseph W. Byrns, of Tennessee, was called to the chair, when Mr. Charles R. Crisp, of Georgia, offered the following:

Resolved, That the thanks of the House are presented to the Hon. Nicholas Longworth, Speaker of the House of Representatives, for the able, impartial, and dignified manner in which he has presided over the deliberations and performed the arduous duties of the Chair during the present term of Congress.

The resolution was unanimously agreed to, and the Speaker, having resumed the chair, addressed the House and at the conclusion of his remarks declared the House adjourned sine die.

3512. On March 4, 1933,[3] Mr. Willis C. Hawley, of Oregon presiding as Speaker pro tempore, the House, on motion of Mr. Bertrand H. Snell, of New York, the minority leader, agreed to a resolution extending thanks to the Speaker,[4] identical in phraseology with those passed in preceding sessions.

3513. The Speaker being absent at adjournment sine die, the House transmitted to him a resolution of sympathy.

Form of resolution thanking the Speaker at the adjournment of Congress.

On March 4, 1923,[5] following the report of the committee appointed on the part of the House to wait on the President and inform him that the two Houses had completed the business of the session and were ready to adjourn, the House agreed to the usual resolution extending the thanks to the House to the Speaker as follows:

Resolved, That the thanks of this House are presented to the Hon. F. H. Gillett, Speaker of the House of Representatives, for the able, impartial, and dignified manner in which he has presided

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[1] Second session Sixty-eighth Congress, Record, p. 5622.

[2] Third session Seventy-first Congress, Record, p. 7395.

[3] Second session Seventy-second Congress, Record, p. 6565.

[4] John N. Garner, of Texas, Speaker.

[5] Fourth session Sixty-seventh Congress, Record, p. 5712.

over its deliberations and performed the arduous and important duties of the Chair, during the present term of Congress.

Whereupon, Mr. Finis J. Garrett, of Tennessee, the minority leader, offered this resolution:

Resolved, That it has been a source of profound sorrow to the House that during the last week of the session the Hon. F. H. Gillett, Speaker of the House, has been ill and unable to be in attendance. The Members send him their greeting, and sincerely trust that his health may be speedily and fully restored.

The resolution was unanimously agreed to and the Speaker pro tempore,[1] having addressed the House, declared it adjourned without day.

3514. Proceedings on the occasion of the birthday of a former Speaker.—On May 6, 1916,[2] under an order previously[3] made by the House, a period was devoted to speeches in eulogy of Joseph G. Cannon, of Illinois, former Speaker of the House, and to a response by him.

3515. An instance wherein the House extended felicitations to a former Speaker.—On May 7, 1924,[4] Mr. Finis J. Garrett, of Tennessee, the minority leader, offered the following resolution which was considered by unanimous consent.

Resolved, That the felicitations of the House of Representatives are hereby cordially extended to the former Speaker, Hon. Joseph G. Cannon, on the eighty-eighth anniversary of his birth, and that he is assured of its best wishes for his continued health and happiness; and

Resolved further, That the Clerk of the House be directed to transmit this resolution to Mr. Cannon by telegraph, and to send to him by mail an engrossed copy.

After remarks in eulogy of the public services of Mr. Cannon, the resolution was unanimously agreed to.

3516. Exceptional occasions on which Members of the House have paid tribute to colleagues retiring to accept other offices.—On March 4, 1915,[5] Mr. Henry T. Rainey, of Illinois, speaking by unanimous consent, submitted resolutions which had been adopted by the Committee on Ways and Means and ordered incorporated in its records as follows:

We, the undersigned, a subcommittee appointed by the Ways and Means Committee of the House of Representatives to draft resolutions concerning the retirement of Hon. Oscar W. Underwood, of Alabama, as chairman of that committee, herewith report the following:

The service of Hon. Oscar W. Underwood, of Alabama, as a Member of the Lower Branch of the Congress of the United States, covering a period of 20 consecutive years, ends at noon to-day. For 15 years of that time he has been a member of the Ways and Means Committee, and for four years of that period he has been chairman of that committee, presiding over its deliberations with great fairness and with marked ability.

He has participated actively in the construction of two general bills revising the tariff, one of which bears his name.

He has at all times, by his courteous, kindly demeanor, endeared himself to all members of this committee irrespective of party affiliations.

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[1] Philip P. Campbell, of Kansas, Speaker pro tempore.

[2] First session Sixty-fourth Congress, Record, p. 7524.

[3] Record, p. 4212.

[4] First session Sixty-eighth Congress, Journal 499; Record, p. 8049.

[5] Third session Sixty-third Congress, Record, p. 5528.

While we regret the fact that he to-day severs his connections with this committee, we congratulate him and the State he represents upon his election to the United States Senate and upon the fact that without intervening time after 12 o'clock his service as a Member of that body commences and we congratulate the country upon the fact that before him larger fields of usefulness and greater opportunities for service are opening.

We, the undersigned subcommittee of the Ways and Means Committee, representing the Democratic, Republican, and Progressive Parties on that committee, therefore submit to be spread at large upon the records of this committee, the foregoing, together with the following resolutions:

Resolved, That in the retirement of Hon. Oscar W. Underwood from this committee the committee has lost an able, courteous, obliging chairman;

Resolved, That we congratulate him upon his promotion to the Senate of the United States, and that we predict for him a long period of useful service for his State and his country in that body; and

Resolved, That we extend to him the thanks of this committee for his courtesy at all times and for the kindly and able manner in which he has presided over our deliberations.

HENRY T. RAINEY, *Illinois.*
J. W. FORDNEY, *Michigan.*
VICTOR MURDOCK, *Kansas.*

WAYS AND MEANS COMMITTEE ROOM,
House of Representatives, March 4, 1915.

The resolutions having been read by the Clerk, Mr. Rainey preferred a request that they be printed in the Record. There was no objection and the request was agreed to amid applause.

3517. On June 19, 1929,[1] proceeding by unanimous consent, Members of the House, including the majority and minority leaders, joined in felicitations to Mr. Walter H. Newton, of Minnesota, who had announced his resignation from the House to accept a position as Secretary to the President of the United States.

3518. On May 6, 1930,[2] the Speaker laid before the House a communication from Mr. Jeremiah E. O'Connell, of Rhode Island, announcing his resignation from the House to accept to appointment as a justice of the Superior Court of the State of Rhode Island and Providence Plantations.

After speeches in commendation of Mr. O'Connell's service, on motion of Mr. Carl R. Chindblom, of Illinois, by unanimous consent, the Clerk was instructed to convey to Mr. O'Connell a message of felicitation and good wishes.

3519. Instances wherein Members of the House, by private subscription, made presentations to colleagues and others.—On June 24, 1911,[3] the Speaker, by unanimous consent, laid before the House the following communication:

THE WHITE HOUSE,
Washington, June 20, 1911.

MY DEAR MR. SPEAKER: I write at the request of Mrs. Taft, to convey to you and, through you to the Members of the House of Representatives an expression of our very high appreciation of the sentiments of friendship on the part of yourself and your colleagues which prompted the gift to us on the occasion of our silver-wedding anniversary of the magnificent set of silver plates.

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[1] First session Seventy-first Congress, Record, p. 3286.

[2] Second session Seventy-first Congress, Record, p. 8737.

[3] First session Sixty-second Congress, Record, p. 2481.

We will ever cherish the gift, and even more the good will of our friends who constitute the popular branch of the Sixty-second Congress.

With an assurance of our warm thanks, believe me, my dear Mr. Speaker,

Gratefully and sincerely, yours,

WM. H. TAFT.

Hon. Champ Clark,

Speaker of the House of Representatives.

3520. On November 19, 1913[1] the Speaker directed the Clerk to read a communication received from the daughter of the President of the United States as follow:

THE WHITE HOUSE,

November 21, 1913.

MY DEAR MR. SPEAKER: May I express to you very warmly my deep feeling of the honor the Members of the House have paid me in presenting me with the beautiful diamond necklace which was brought to me yesterday in a setting worthy of its beauty? I shall treasure this gift all my life as an evidence of generosity not only but of singular courtesy and thoughtfulness on the part of yourself and the other Members of the House. I beg that you will convey to the Members my sense of deep obligation and lasting pleasure.

Mr. Sayre joins me in warm appreciation and thanks.

Cordially and sincerely yours,

JESSIE WOODROW WILSON.

3521. On March 11, 1918,[2] on request of Mr. Allen T. Treadway, of Massachusetts, by unanimous consent, the Clerk read correspondence relating to the presentation of silver to Mr. John J. Fitzgerald, of New York, chairman of the Committee on Appropriations, on the occasion of his resignation from the House as follows:

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

Washington, D.C., March 8, 1918.

THE HON. CHAMP CLARK,

Speaker of the House, Washington, D.C.

DEAR MR. SPEAKER: The Committee having in charge the collection of funds for presentation of a suitable gift to Hon. John J. Fitzgerald upon his retirement from the House of Representatives beg leave to report as follows:

The total amount collected from members of the House was $1,023. Mr. Fitzgerald was asked to make such selection of present as he, in consultation with Mrs. Fitzgerald, might desire. He has notified the committee of a purchase of a complete set of sterling-silver tableware in a suitable chest, 25 per cent more in quantity than actual cash paid therefor.

This bill has been paid by the committee, together with the bill for Christmas gift to Hon. James R. Mann, who, at the time of the collection, was ill in a hospital in Baltimore.

There is a balance on hand of $4.09, which the committee asked Mr. Fitzgerald to contribute to some war-charity fund. Mr. Fitzgerald's letter of acknowledgement accompanies this report.

Yours, very truly,

JAS. MCANDREWS.
JOHN J. EAGAN.
ALLEN T. TREADWAY.
NEW YORK, *March 7, 1918.*

Hon. ALLEN T. TREADWAY,

House of Representatives, Washington, DC.

DEAR ALLEN: As I recently informed you, Mrs. Fitzgerald suggested that the memento from the House be some flat silver, her notion being that it would be something the use of which would

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[1] First session Sixty-third Congress, Record, p. 6047.

[2] Second session Sixty-fifth Congress, Record, p. 465.

constantly recall the great kindness of the Members, and could more readily be apportioned between our little girls after we are gone.

The chest of silver of more than 250 pieces has been delivered. It is a beautiful gift, and appreciated more than I can adequately express.

The brief period that has elapsed since my retirement has given me an opportunity to realize much more keenly the wonderful, whole-hearted, and sincere friendship of my colleagues. It is a memory which is cherished most highly, and is the most precious heritage I shall leave my children.

May I again most heartily thank the House and acknowledge my great indebtedness to my former colleagues for their consideration.

As ever, very sincerely, yours,

JOHN J. FITZGERALD.

3522. On March 3, 1919,[1] proceedings during a recess reporting speeches made on the occasion of the presentation of gifts to the Speaker, to the majority leader, to the minority leader, and to the retiring chairman of the Committee on Appropriations were ordered printed in the Record.

3523. On June 11, 1921,[2] on motion by Mr. Frank W. Mondell, of Wyoming, the majority leader, by unanimous consent, the House stood in recess subject to the call of the Speaker.

The House having resumed its session, on request of Mr. Mondell, proceedings during the recess attending the presentation of a silver service to Mr. James W. Good, of Iowa, chairman of the Committee on Appropriations, who had announced his retirement from the House, were ordered to be printed in the Record.

3524. The House authorized the appointment of a committee to attend an exposition.—On September 9, 1913[3] the Speaker laid before the House the following invitation:

THE NATIONAL CONSERVATION EXPOSITION,
Knoxville, Tenn., August 25, 1913.

HON. CHAMP CLARK,

Speaker of the House of Representatives, Washington, D.C.

DEAR SIR: The president and board of directors of the National Conservation Exposition take pleasure in announcing to the House of Representatives of the United States that they will, on September 1, 1913, at Knoxville, Tenn., open the National Conservation Exposition, which is the first exposition ever held for the purpose of giving accent and emphasis to the necessity for conservation of the natural resources of the country and for the teaching by concrete example of the best means and methods for such conservation.

Said exposition will be open until October 31, and we request the honor of the presence of the Members of the House of Representatives of the United States at some time said exposition to be designated by the House of Representatives.

T. A. WRIGHT, *President.*
W. M. GOODMAN, *Secretary.*

The Clerk having read the communication, Mr. Irvin S. Pepper, of Iowa, asked unanimous consent for the consideration of this resolution:

Resolved, That the invitation of the National Conservation Exposition, of Knoxville, to the House of Representatives to attend the exposition at Knoxville at some date to be set by the Speaker is accepted.

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[1] Third session Sixty-fifth Congress, Record. p. 4953.

[2] First session Sixty-seventh Congress, Record, p. 2436.

[3] First session Sixty-third Congress, Record, p. 4618.

That a committee consisting of the Speaker and 14 Members of the House to be designated by him be appointed to attend said exposition on behalf of the House of Representatives, and that the expenses of said committee be paid out of the contingent fund of the House of Representatives upon vouchers to be approved by the Speaker and audited by the Committee on Accounts.

There being no objections, the resolution was considered and, after debate, was agreed to.

3525. On October 16, 1913,[1] on motion of Mr. Thomas W. Hardwick, of Georgia, the House proceeded to the consideration of the joint resolution (H. J. Res. 134) as follows:

Joint resolution for the appointment of a joint committee from House and Senate to attend Congress Hall Celebration in Philadelphia in October, 1913.

Whereas Congress Hall, Philadelphia, has been recently restored to the condition in which it existed when used by the Continental Congress and the Congress of the United States at Philadelphia; and

Whereas the citizens of Philadelphia have arranged for a fitting celebration to be held upon the turning over the building by the committee in charge of the work of restoration; and

Whereas the city of Philadelphia has extended an invitation to the Congress of the United States to have a representation of the Senate and House at the ceremonies: Therefore be it

Resolved, etc., That the President of the Senate be, and is hereby, authorized to appoint 13 Members, 1 from each of the 13 original States, to represent the Senate, and that the Speaker of the House of Representatives be, and is hereby, authorized to appoint from the membership of the House such numbers of Members as may be requested by the city of Philadelphia; and that the Members of the Senate and the Members of the House so appointed shall constitute a joint committee on behalf of the Congress of the United States to attend the above celebration: *Provided,* That the attendance of the Committee shall entail no expense on the Government of the United States.

Without debate, the joint resolution was ordered to be engrossed, was read a third time, and passed.

The joint resolution having been agreed to be Senate, the Speaker,[2] on October 23,[3] appointed, to represent the House, Members from each State and from both parties.

3526. On February 7, 1914,[4] the Speaker laid before the House a communication, which the Clerk read as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., February 6, 1914.

HON. CHAMP CLARK,

Speaker of the House of Representatives, Washington, D.C.

DEAR SIR: The President and board of directors of the Sixth National Corn Exposition take pleasure in announcing to the House of Representatives of the United States that they will, on the 10th day of February, 1914, open the National Corn Exposition, at Dallas, Tex., which exposition is participated in by practically all of the States in the Union and by the National Department of Agriculture.

Said exposition will be open until February 24, and I am authorized and directed by the president and board of directors of said exposition to request the honor of the presence of the Members

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[1] First session Sixty-third Congress, Record, p. 5685.

[2] Champ Clark, of Missouri, Speaker.

[3] Record, p. 5793.

[4] Second session Sixty-third Congress, Record, p. 3131.

of the House of Representatives of the United States at whatever time it will be most convenient for them to attend.

Respectfully, yours,

HATTON W. SUMNERS.

On motion of Mr. Hatton W. Sumners, of Texas, the House considered and agreed to this resolution:

Resolved, That the invitation of the officers and directors of the Sixth National Corn Exposition at Dallas, Tex., to attend said exposition be accepted, and that a committee from the membership of the House be designated by the Speaker to attend said exposition on the part of the House.

3527. The House sometimes appoints committees to represent it at public ceremonies.—On June 8, 1926,[1] on motion of Mr. Clifton A. Woodrum, of Virginia, by unanimous consent, the House agreed to the following resolution:

Whereas, Lieut. Commander Richard E. Byrd, United States Navy, by his dauntless courage, unerring skill, and characteristic American alertness, recently successfully completed a flight by aircraft over the North Pole, thereby distinguishing himself, making a valuable contribution to polar exploration, and reflecting great honor on his country; and

Whereas Lieut. Commander Byrd and the members of his polar expedition are soon to return to the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That a committee consisting of 10 members, 5 of whom shall be appointed by the Vice President and 5 by the Speaker, be appointed to participate as representing the Congress in the reception of Lieut. Commander Richard E. Byrd and his party on their return to the United States and to extend him and the members of his expedition the congratulations of the people of the United States on his successful flight over the North Pole.

3528. The House sometimes accepts invitations to attend public exercises, but does not go as an organized body.—On May 19, 1910,[2] on motion of Mr. Courtney W. Hamlin, of Missouri, by unanimous consent, the Committee on Rules to which the resolution (H. Res. 700) had been referred on the preceding day, was discharged from its further consideration and the resolution was agreed to as follows:

Whereas there will convene in this city to-morrow the World's Sunday School Convention, composed of representatives of all religious denominations; and

Whereas there will be represented at this meeting practically all the civilized nations of the earth; and

Whereas the people of the United States have always stood abreast of the foremost advocates of the Christian religion; and

Whereas the House of Representatives appreciates the honor conferred upon this Nation in the selection of its capital as the meeting place of this convention; and

Whereas a parade of all the members and delegates to said convention, together with all other persons desiring to participate therein, will pass in review before the east front of the Nation's Capitol at 5 o'clock p.m., on Friday, the 20th day of May, 1910: Therefore be it

Resolved, That as a mark of respect to the delegates assembled as well as to the cause which they represent, and for the further purposes of permitting Members of the House who may desire to do so to participate in said parade, the House do adjourn not later than 4 o'clock p.m., on Friday, May 20, 1910.

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[1] First session Sixty-ninth Congress, Record, p. 10933.

[2] Second session Sixty-third Congress, Record, p. 5616.

3529. On November 9, 1921,[1] the Speaker laid before the House this communication:

DEPARTMENT OF STATE,
Washington, November 4, 1921.

THE SPEAKER OF THE HOUSE,

Washington, D.C.

SIR: I have the honor to invite the Members of the House of Representatives to attend the opening session of the International Conference on the Limitation of Armament at Memorial Continental Hall on Saturday, November 12, at 10:30 a.m.

An entire section has been reserved for the seating of the Members of the House of Representatives, to which access may be had through a special entrance on the north side of the building.

I have the honor to be, sir, your obedient servant,

CHARLES E. HUGHES.

Mr. Frank W. Mondell, of Wyoming, moved that the thanks of the House be extended to the Secretary of State for his courtesy and that the invitation be accepted.

The motion was agreed to without debate.

3530. Under the later practice portraits of the Speakers are painted by order of the House in the course of their incumbency and are hung without ceremony.

In 1910 provision was made by resolution for the painting of portraits of all former Speakers of whom no acceptable portrait was in possession of the House.

Formerly the only portraits of former Speakers in possession of the House were those received through donations, and the presentation of such portraits of former Speakers was acknowledged by resolution and sometimes by elaborate ceremonies.

However, in 1910,[2] a resolution was adopted authorizing the Committee on the Library to provide for the painting of portraits of the 19 former Speakers of whom the House possessed no creditable likeness, and since that time provision had been made in the appropriate supply bill for the painting of the portrait of each Speaker in the course of the term of his incumbency. Such portraits are hung without ceremony, usually at the close of the Speakers' term of office.

3531. The House accepted an invitation to attend and participate in ceremonies in celebration of the first inauguration of George Washington as President of the United States without making provision for adjournment or representation.—On April 22, 1909,[3] by direction of the Speaker, the Clerk read:

WASHINGTON MONUMENT ASSOCIATION OF ALEXANDRIA, VA.

Speaker Cannon and Members of the House of Representatives,

Washington, D.C.

MR. SPEAKER AND GENTLEMAN: Your are cordially invited to Alexandria, Va., on the afternoon of April 30, to participate in the celebration of the one hundred and twentieth anniversary of the first inauguration of Gen. George Washington as President of the United States.

Very respectfully,

WASHINGTON MONUMENT ASSOCIATION,
BY J. Y. WILLIAMS, *Acting Secretary.*

APRIL 15, 1909.

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[1] First session Sixty-seventh Congress, Record, p. 7575.

[2] Second session Sixty-first Congress, Record, p. 1977.

[3] First session Sixty-first Congress, Record, p. 1477.

Following debate, the House agreed to this resolution:

Resolved, That the Speaker and the Members of the House of Representatives accept with cordial thanks the invitation so graciously extended to them by the Washington Monument Association of Alexandria, Va.

3532. By concurrent action an invitation was extended to the President of the United States to address a joint session of the two Houses on the subject of the birth of George Washington.—On January 29, 1927,[1] the House, proceeding by unanimous consent, passed and messaged to the Senate the following concurrent resolution:

Resolved by the House of Representatives (the Senate concurring), That the President of the United States, as the chairman of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of George Washington, is hereby invited to address the American people in the presence of the Congress in the Hall of the House of Representatives on Tuesday, February 22, 1927, at 12:30 p.m. on the subject of the birth of George Washington.

That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Tuesday, February 22, 1927, at 12:30 p.m. to receive the President's address on the subject of the bicentennial anniversary of the birth of George Washington.

That the members of the said commission on the part of the Senate and of the House of Representatives are hereby constituted a committee to make all arrangements and publish a suitable program for the joint session of Congress herein authorized and to issue the invitations hereinafter mentioned.

That invitation shall be extended to the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, the diplomatic corps, and such other invitations shall be issued as to the said committee shall seem best.

That all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

The Senate having concurred, the Record of the proceedings of the appointed day records the following:

At 12 o'clock and 10 minutes p.m. the Doorkeeper announced the Vice President of the United States and the Members of the United States Senate.

The Members of the House rose.

The Senate, preceded by the Vice President and by the Secretary and Sergeant at Arms, entered the Chamber.

The Vice President took the chair at the right of the Speaker and the Members of the Senate took the seats reserved for them.

The Doorkeeper announced:

The Chief Justice and the Associate Justices of the Supreme Court of the United States.

The ambassadors and ministers of foreign governments.

The chief naval officer, the chief of staff, and the commandant of marines.

The descendants of the family of George Washington.

The President and members of this Cabinet.

The Speaker[2] said:

In pursuance of arrangements made by the joint committee, the Vice President will conduct further proceedings.

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[1] Second session Sixty-ninth Congress, Record, p. 2550.

[2] Nicholas Longworth, of Ohio, Speaker.

The Vice president [1] said:

The Chair presents the vice chairman of the commission on the celebration of the two hundredth anniversary of the birth of George Washington, the Senator from Ohio.

Thereupon, Mr. Simeon D. Fess, of Ohio, presented the President, who addressed the joint session.

At the conclusion of the President's address the Senate and the invited guests retired from the Hall, and at 1 o'clock and 22 minutes p.m. the House resumed its session.

3533. The House authorized a special program in commemoration of Washington's Birthday.—On February 22, 1930,[2] in accordance with a program prepared by the George Washington Bicentennial Commission,[3] the session of the House was devoted to addresses both commemorative and preparatory to the celebration of the two hundredth anniversary for which the Commission was created.

Mr. William Tyler Page, of Maryland, the Clerk of the House, discussed the plans of the coming bicentennial celebration; Mr. R. Walton Moore, of Virginia, spoke on "Some Work of Washington in His Home County"; Mr. C. Ellis Moore, of Ohio, on "Washington as a Pioneer"; Mr. John J. McSwain, of South Carolina, on "Washington as a Soldier"; Mr. Robert Luce, of Massachusetts, on "Washington and the Constitution"; Mr. Louis C. Cramton, of Michigan, on "Washington and the Potomac"; Mr. Charles H. Sloan, of Nebraska, on "Washington, the Business Farmer"; and Mr. Henry W. Temple, of Pennsylvania, on "Washington's Place Among His Contemporaries."

3534. Commemoration of the two hundredth anniversary of the birth of George Washington.

On December 19, 1931,[4] the Senate agreed to the concurrent resolution (H. Con. Res. 4) authorizing the appointment of a joint committee to make arrangement for the celebration in the House of Representatives on February 22, 1932, of the two hundredth anniversary of the birth of George Washington.

Mr. Clifton A Woodrum, of Virginia, from the joint committee, reported in the House, on January 20, 1932,[5] the following concurrent resolution, (H. Con. Res. 12), which was agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That in commemoration of the two hundredth anniversary of the birth of George Washington the two Houses of Congress shall assemble in the Hall of the House of Representatives at 11:30 o'clock a.m. on Monday, February 22, 1932.

That the President of the United States, as the chairman of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of George Washington, is

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[1] Charles G. Dawes, of Illinois, Vice President.

[2] Second session Seventy-first Congress, Record, p. 4104.

[3] Record, p. 4087.

[4] First session Seventy-second Congress, Record, p. 923.

[5] Record, p. 2342.

hereby invited to address the American people in the presence of the Congress in commemoration of the bicentennial anniversary of the birth of the first President of the United States.

That invitations to attend the ceremony be extended to the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, the diplomatic corps (through the Secretary of State), the General of the Armies, the Chief of Naval Operations, and the Major General Commandant of the Marine Corps, and such other persons as the joint committee on arrangements shall deem proper.

Pursuant to this concurrent resolution, on February 22,[1] in the Hall of the House—

At 11 o'clock and 36 minutes a.m., the Doorkeeper, Mr. Joseph J. Sinnott, announced the Vice President of the United States and the Members of the United States Senate.

The Members of the House rose.

The Senate, headed by Vice President and the Chaplain and preceded by its Secretary and Sergeant at Arms, entered the Chamber.

The Vice President took the chair at the right of the Speaker, and the Members of the Senate took the seats reserved for them.

The Speaker relinquished the gavel to the Vice President, who, as the Presiding Officer of the joint session of the two Houses, called the session to order.

The Doorkeeper announced the following guests, who were escorted to the seats assigned to them:

The Chief Justice and the Associate Justices of the Supreme Court of the United States.

The ambassadors and ministers and chargés d'affaires of foreign governments.

The Chief of Staff of the United States Army, the Chief of Naval Operations of the United States Navy, the Major General Commandant of the United States Marine Corps and the Commandant of the United States Coast Guard.

The Governor of Virginia, the Governor of North Dakota, and the Commissioners of the District of Columbia.

The United States George Washington Bicentennial Commission and the members representing the District of Columbia Bicentennial Commission.

The representatives of the family of George Washington, and

The members of the President's Cabinet.

At 11 o'clock and 48 minutes a.m., the Doorkeeper announced the President of the United States, who was escorted by the Joint Committee on Arrangements of the Senate and House to a seat on the Speaker's rostrum.

A chorus sang two verses of "America."

The Vice President recognized Mr. Woodrum, who read the concurrent resolution authorizing the joint session.

Mr. Simeon D. Fess, of Ohio, introduced the President of the United States, who delivered the address of the day.

The assembly rose and sang "The Star-Spangled Banner."

The Vice President declared the joint session of the Senate dissolved.

And then:

The Joint Congressional Committee on Arrangements escorted the President of the United States and the members of his Cabinet from the Hall of the House.

The Representatives of the family of George Washington then retired.

The Doorkeeper escorted the other invited guests from the Hall of the House in the following order:

The Chief Justice and the Associate Justices of the Supreme Court of the United States.

The Ambassadors and the Ministers of foreign Governments.

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[1] Record, p. 4449.

The General of the Armies; the Chief of Staff of the United States Army; the Chief of Naval Operations of the United States Navy; the Major General Commandment of the United States Coast Guard.

The governors of the several States and the Commissioners of the District of Columbia.

The United States George Washington Bicentennial Commission and the members representing the District of Columbia Bicentennial Commission.

The Senate returned to its Chamber and the House resumed its regular session.

3535. Ceremonies at the joint session to receive General Pershing.— On August 28, 1919,[1] a resolution reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, was agreed to by the House as follows:

Resolved, etc., That a joint committee, to consist of five Senators and seven Members of the House of Representatives, to be appointed by the Vice President and the Speaker of the House, respectively, shall be named for the purpose of making arrangements for appropriate exercises in welcome of John J. Pershing, general and commander in chief of the American Expeditionary Forces of the World War. That said committee shall report to the Senate and the House of Representatives such program and procedure therefor as in its opinion shall be fitting and appropriate.

The resolution having been concurred in by the Senate, committees appointed, respectively, on the part of the House and the Senate reported on September 11.[2]

The joint committee appointed in accordance with the provisions of House concurrent resolution 29, consisting of five Members of the United States Senate and seven Members of the House of Representatives, for the purpose of making arrangements for appropriate exercises in welcome of Gen. John J. Pershing, general of the Armies of the United States and commander in chief of the American Expeditionary Forces during the World War, with instructions to report to the Senate and House of Representatives such program and procedure as the joint committee deems fitting and appropriate, begs leave to report as follows:

The joint committee recommends that there be held, in the Hall of the House of Representatives, at 2 o'clock in the afternoon of Thursday, September 18, 1919, a joint session of the Congress, at which session it is suggested that the Vice President, or in his enforced absence, the President pro tempore of the Senate, shall make an address of welcome on the part of the Senate and the Speaker of the House of Representatives shall make an address of welcome on the part of the House. It is further suggested that in the event of the passage of the pending resolution authorizing the gift by the Congress of a sword of honor to General Pershing, the Hon. Champ Clark, a Member from the State of Missouri and former Speaker of the House of Representatives, be selected to make an address of presentation.

The joint committee suggests that invitations be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court, and such officers of the Army, Navy, and Marine Corps as the Secretary of War and the Secretary of the Navy, respectively, may suggest. The joint committee further recommends the adoption of a concurrent resolution which will permit the completion of the arrangements for the holding of the joint session.

In conformity with the recommendations reported by the committee, the House, by unanimous consent, considered and agreed to the following:

Resolved, etc., That a joint session of the Senate and House of Representatives be held in the Hall of the House of Representatives at 2 o'clock on the afternoon of Thursday, September 18, 1919, in welcome of John J. Pershing, General of the Armies of the United States and commander in chief of the American Expeditionary Forces of the World War. That the program and procedure at such joint session shall be in accordance with the report of the joint committee of the Senate and

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[1] First session Sixty-sixth Congress, Record, p. 4469.

[2] Record, p. 5282.

House appointed under House concurrent resolution 29. That the said committee is hereby authorized to make all necessary arrangements for such joint session, and that all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

On the appointed day,[1] at 1 o'clock and 55 minutes p.m. the House discontinued the consideration of its business and the Doorkeeper announced the President pro tempore of the Senate and the Members of the United States Senate.

The Members of the House rose.

The Senate, preceded by the President pro tempore and by the Assistant Secretary and the Sergeant at Arms entered the Chamber.

The President pro tempore took the chair at the right of the Speaker and the Members of the Senate took the seats reserved for them.

At 2 o'clock p.m. the Doorkeeper announced the General of the Armies of the United States and the members of his staff.

Gen. John J. Pershing, escorted by the members of his staff, entered the Hall of the House amid prolonged applause.

The Speaker recognized successively Mr. Albert B. Cummins, of Iowa, who extended greeting on behalf of the Senate, and Mr. Champ Clark, of Missouri, who spoke in behalf of the House. At the conclusion of his remarks Mr. Clark presented General Pershing, who addressed the House.

The address having been concluded, the Speaker[2] said:

Gentlemen, this closes the exercises of the day, but the House is still in session, and Members are requested to retain their seats while our guests retire.

Thereupon, General Pershing and his staff retired from the Hall amid applause, the Members rising.

The Members of the Senate retired.

The House resumed its business.

3536. Eminent Americans have been received informally by the House.—On June 20, 1930,[3] on motion of Mr. John Q. Tilson, the majority leader, the House stood in recess subject to the call of the Speaker.

During recess, the Speaker[4] appointed the majority and minority leaders as a committee to wait on Rear Admiral Richard E. Byrd, recently returned from an expedition to the South Pole, and escort him to the Chamber.

Rear Admiral Byrd entered the Chamber and was escorted to the Speaker's rostrum, where he took a place at the Speaker's right.

The Speaker briefly addressed Admiral Byrd in behalf of the House, to which address the admiral responded.

The admiral took a place in the well of the House and the Members were individually presented to him by the majority leader.

Admiral Byrd having retired from the Chamber, the Speaker called the House to order.

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[1] Record, p. 5560.

[2] Frederick H. Gillett, of Massachusetts, Speaker.

[3] Second session Seventy-first Congress, Record, p. 11353.

[4] Nicholas Longworth, of Ohio, Speaker.

3537. Eminent foreign statesmen have been received informally by the House.—On February 2, 1912,[1] on motion of Mr. Oscar W. Underwood, of Alabama, the majority leader, the House took a recess, during which Count Francis Luetzow, a distinguished statesman of Bohemia, was conducted to the Speaker's rostrum and, being presented by the Speaker,[2] briefly addressed the House.

3538.—On June 10, 1912,[3] Mr. Willliam Sulzer, of New York, chairman of the Committee on Foreign Affairs, moved that the House stand in recess for five minutes for the purpose of receiving Hon. Orestes Ferrara, Speaker of the Cuban Congress.

The motion was unanimously agreed to.

Mr. Ferrara was escorted to the Speaker's rostrum by Mr. Sulzer and, being presented by the Speaker, addressed the House.

At the conclusion of his remarks Mr. Ferrara retired from the Chamber and the Speaker called the House to order.

3539.—On October 7, 1929,[4] at 12 o'clock and 7 minutes p.m., Mr. John Q. Tilson, of Connecticut, the majority leader, moved that the House adjourn. Pending that motion Mr. Tilson announced that immediately on adjournment the Right Honorable James Ramsey MacDonald, Prime Minister of Great Britain, would be escorted to the floor and presented to the Members of the House.

The House having adjourned, a committee consisting of Mr. Stephen G. Porter, of Pennsylvania, and Mr. J. Charles Linthicum, of Maryland, chairman and ranking minority member, respectively, of the Committee on Foreign Affairs, escorted Premier MacDonald to the Chamber, where he delivered a brief address.

At the conclusion of his remarks the Members of the House were individually presented to the Prime Minister by Mr. Tilson.

3540.—On May 1, 1917,[5] on motion of Mr. Henry D. Flood, of Virginia, by unanimous consent, the House directed the Speaker to extend to visiting commissions of the allies an invitation to visit the House, and provided that on such occasions a recess should be taken to receive them.

On May 3,[6] the Speaker appointed a committee consisting of members of the Committee on Foreign Affairs and Members proficient in the French language to escort to the Hall of the House the commissioners of the French Republic to the Government of the United States.

The visitors entered the Hall and were escorted to the Speaker's rostrum amid prolonged applause, The Hon. Rene Viviani and Marshal Joffre being placed at the right of the Speaker.

The Speaker successively presented to the House M. Viviani, Marshal Joffre and the Marquis de Chambrun, great grandson of General Lafayette, who in turn addressed the House.

The distinguished visitors were then escorted from the Hall and, the recess having expired, the House was called to order by the Speaker.

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[1] Second session Sixty-second Congress, Record, p. 1658.

[2] Champ Clark, of Missouri, Speaker.

[3] Second session Sixty-second Congress, Record, p. 7939.

[4] First session Seventieth Congress, Record, p. 4310.

[5] First session Sixty-fifth Congress, Record, p. 1659.

[6] Record, p. 1754.

On May 5,[1] the members of the English commission, accompanied by the British ambassador, were similarly received.

On June 2,[2] the Italian Commission, accompanied by the Italian ambassador accredited to the United States, were received.

On June 23, 1917,[3] the Russian mission, accompanied by the chargé d'affaires of the Russian Embassy, were received with like ceremony by the House.

On June 27,[4] the Belgian commissioners to the Government of the United States were received with similar formality.

On September 5,[5] the Japanese mission accompanied by the Japanese ambassador were received by the House.

On January 8, 1918,[6] the Serbian mission, accompanied by the minister from Serbia to the United States, were similarly received by the House.

On August 27, 1918,[7] the mission from Uruguay to the Government of the United States were also received during a recess of the House.

In each instance, the proceedings during recess incident to the reception of the visiting mission were, by unanimous consent, ordered printed in the Record.

3541.—On June 27, 1921,[8] Mr. Frank W. Mondell, of Wyoming, having unanimous consent to speak for two minutes, said:

Mr. Speaker, we are honored by the presence in the gallery of a distinguished party of gentlemen, members of the Parliament of Japan.

The Members of the House rose in a body and applauded.

Mr. Modell continued:

Mr. Speaker, it is always an honor to have as visitors in the House members of important legislative bodies. It is a peculiar and an especial honor to have with us to-day members of the legislative bodies of the oldest Empire of the world, an Empire now operating under legislative constitutional government, an Empire with which and with whose people we have sustained relations of peculiar cordiality, amity, and good will.

Mr. Speaker, as a mark of our respect for our distinguished visitors and our high regard for the great nation they represent, I move you that the House stand in recess, subject to the call of the Chair, and that the distinguished visitors be invited to the floor, that the Members may have the opportunity to meet and greet them.

The motion was unanimously agreed to and accordingly, at 12 o'clock and 40 minutes p.m., the House stood in recess.

During the recess, the members of the delegation from the Parliament of Japan were escorted by the Sergeant at Arms and a committee of the House to the floor where they were received with applause and personally greeted by the Members of the House.

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[1] Record, p. 1879.

[2] Record, p. 3244.

[3] Record, p. 4136.

[4] Record, p. 4362.

[5] Record, p. 6627.

[6] Second session Sixty-fifth Congress, Record, p. 691.

[7] Record, p. 9610.

[8] First session Sixty-seventh Congress, Record, p. 3083.

3542.—On June 23, 1919,[1] Mr. Frank W. Mondell, of Wyoming, the majority leader, moved that the House stand in recess to permit the Members to meet Dr. Epitacia Pessoa, the President elect of Brazil.

The motion being agreed to, a committee of the House escorted Doctor Pessoa and his entourage to the floor, where he was presented by the Speaker and addressed the House.

3543.—On October 20, 1919,[2] the House agreed to this resolution:

Resolved, That on Tuesday, October 28, 1919, at 1.45 o'clock p.m. the House take a recess until 2.30 o'clock p.m. for the purpose of receiving His Majesty the King of the Belgians.

On October 28, during recess, a committee of the House waited on the distinguished guests.

At 1 o'clock and 40 minutes p.m., the Doorkeeper announced His Majesty the King of the Belgians and his suite.

His Majesty the King of the Belgians and His Royal Highness Prince Leopold, the Duke of Brabant, escorted by the committee, entered the Hall amid applause.

His Majesty the King and His Royal Highness Prince Leopold were escorted to the Speaker's rostrum.

Her Majesty the Queen of the Belgians was seated in the Executive Gallery.

The Speaker[3] addressed the House and presented His Majesty the King.

The King responded with an address, at the conclusion of which he proceeded to the floor of the House and received the Members.

3544. The House has on rare occasions transmitted messages of felicitation to foreign countries.—On July 14, 1919,[4] on motion of Mr. Frank Crowther, of New York, the House without debate or division, unanimously agreed to the following resolution:

Whereas this 14th day of July, 1919, is the first anniversary of the greatest French national holiday which has occurred since the successful termination of the world's greatest war;

Whereas the United States participated with France and her allies in a part and share of the victorious conclusion of this war; and

Whereas the United States rejoices that its traditional friendship for the French people has been renewed and strengthened by this service of our valiant sons: Now, therefore, be it

Resolved, That the House of Representatives of the United States extend to the Senate, Chamber of Deputies of the Republic of France, and to the people of France, now wholly restored to their national allegiance, its congratulations on the fact that the valor and sacrifice of her loyal sons has not been in vain, and that we rejoice with them that the evil days of autocracy are ended, and that liberty, justice, and equality shall forever reign.

3545. Ceremonies in accepting statues for Statuary Hall.—On February 15, 1908,[5] Mr. Oscar W. Underwood, of Alabama, offered the following resolutions, which were agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That the statue of Jabez Lamar Monroe Curry, presented by the State of Alabama to be placed in Statuary Hall, is accepted

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[1] First session Sixty-sixth Congress, Record, p. 1624.

[2] First session Sixty-sixth Congress, Record, p. 7197.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

[4] First session Sixty-sixth Congress, Record, p. 2573.

[5] First session Sixtieth Congress, Record, p. 2073.

in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statute of one of its most eminent citizens, illustrious for his distinguished civic services.

Second. That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of Alabama.

On April 6,[1] the resolutions were concurred in by the Senate.

3546. On January 12, 1910,[2] the House concurred in the following:

Resolved by the Senate (the House of Representatives concurring), That the thanks of Congress be presented to the State of Indiana for providing the statue of Gen. Lewis Wallace, a citizen of Indiana, distinguished as a soldier, diplomat, and author: and be it further

Resolved, That the statue be accepted and placed in the National Statuary Hall in the Capitol, and that a copy of these resolutions, duly authenticated, be transmitted to the Governor of the State of Indiana.

3547. On January 24, 1914,[3] on motion of Mr. Emmett Wilson, of Florida, the following resolution was agreed to by the House:

Resolved by the House of Representatives (the Senate concurring), That the State of Florida be and is hereby, granted the privilege of placing in Statuary Hall of the Capitol the statue of John Gorrie, now deceased, who was a citizen of Florida, illustrious for distinguished civic services.

On February 6,[4] the Senate concurred.

3548. On Sunday, April, 19, 1914,[5] at a session of the House, set apart for that purpose, after addresses, the following resolutions were agreed to:

Resolved by the House of Representatives (the Senate concurring), That the thanks of Congress be presented to the Governor, and through him to the people of Michigan, for the statue of Zachariah Chandler, whose names is so honorably identified with the history of that State and of the United States.

Resolved, That this work of art is accepted in the name of the Nation and assigned a place in the old Hall of the House of Representatives, already set aside by act of Congress for statues of eminent citizens, and that a copy of this resolution, signed by the President of the Senate and Speaker of the House of Representatives, be transmitted to the Governor of the State of Michigan.

On April 24,[6] the resolutions were agreed to by the Senate.

3549. On February 20, 1922,[7] during the call of the Calendar for Unanimous Consent, the Clerk read:

Resolved by the House of Representatives (the Senate concurring), That the thanks of Congress be given to the people of Florida for the statue of Gen. E. Kirby Smith.

Resolved, That the statue be accepted, to remain in the National Statuary Hall in the Capitol of the Nation, and that a copy of these resolutions, signed by the presiding officers of the House of Representatives and Senate, be forwarded to his excellency the Governor of the State of Florida.

Mr. James R. Mann, of Illinois, proposed to amend the resolutions by substituting the word "State" for "people"; by inserting after the word "accepted"

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[1] Record, p. 4396.

[2] Second session Sixty-first Congress, Record, p. 541.

[3] Second session Sixty-third Congress, Record, p. 2283.

[4] Record, p. 3022.

[5] Second session Sixty-third Congress, Record, p. 6881.

[6] Record, p. 7175.

[7] Second session Sixty-seventh Congress, Record, p. 2816.

the words "in the name of the United States"; by striking out the words "signed by the presiding officers of the House of Representatives and Senate" and inserting in lieu thereof the words "suitably engrossed and duly authenticated"; and by striking out the word "National."

The amendments were adopted and the resolutions were agreed to in the following form:

Resolved by the House of Representatives (the Senate concurring), That the thanks of Congress be given to the State of Florida for the statue of Gen. E. Kirby Smith.

Resolved, That the statue be accepted in the name of the United States, to remain in the Statuary Hall in the Capitol of the Nation, and that a copy of these resolutions, suitably engrossed and duly authenticated, be forwarded to his excellency the Governor of the State of Florida.

On February 26,[1] the resolutions as amended were agreed to by the Senate.

3550. On March 12, 1925,[2] exercises were held in Statuary Hall on the occasion of the unveiling of the statue of Gen. Joseph Wheeler, presented by the State of Alabama, but no resolutions providing for its acceptance by Congress were presented in either House.

3551. On March 30, 1926,[3] the statue of Dr. Crawford W. Long, presented by the State of Georgia, was unveiled in Statuary Hall with appropriate ceremony, no resolution of acceptance being offered in either House.

3552. On February 5, 1929,[4] in the Senate Mr. Hubert D. Stephens, of Mississippi, introduced the following resolution:

Resolved by the Senate (the House of Representatives concurring), That the statue of Jefferson Davis, presented by the State of Mississippi, to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statue of one of its most eminent citizens, illustrious for his valor as a soldier and his distinguished services as a statesman.

Resolved further, That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of Mississippi.

Mr. Stephens also introduced similar resolutions providing for acceptance of the statue of James Z. George.

The resolutions were referred to the Committee on the Library.

On the same day[5] Mr. B. G. Lowrey, of Mississippi, introduced in the House similar resolutions which were referred to the Committee on the Library.

No further action appears in either House.

3553. On May 14, 1929,[6] the House concurred in the following resolution from the Senate:

Resolved by the Senate (the House of Representatives concurring), That the thanks of Congress are presented to the people of Wisconsin for the statue of Robert M. La Follette, her distinguished son, whose name is so honorably identified with the history of the State and of the United States.

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[1] Record, p. 2057.

[2] First session Sixty-ninth Congress, Record, p. 208.

[3] First session Sixty-ninth Congress, Record, p. 8039.

[4] Second session Seventieth Congress, Record, p. 2856.

[5] Record, p. 2901.

[6] First session Seventy-first Congress, Record, p. 1270.

Resolved, That this work of art by Jo Davidson is accepted in the name of the Nation and assigned a place in the old Hall of the House of Representatives already set aside by act of Congress for statues of eminent citizens, and that a copy of this resolution suitably engrossed and duly authenticated be transmitted to the Governor of the State of Wisconsin.

3554. On May 28, 1929,[1] Mr. William F. Stevenson, of South Carolina, secured unanimous consent for the consideration of a resolution which was agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That the statue of Wade Hampton, by F. W. Ruckstuhl, presented by the State of South Carolina, to be placed in Statuary Hall, is accepted in the name of the United States, and that the thanks of Congress be tendered the State for the contribution of the statue of one of its most eminent citizens, illustrious for his services to his country. Second, that a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of South Carolina.

On May 29, the resolution was agreed to by the Senate.

3555. On May 22, 1930,[2] the House concurred in the following:

Resolved by the Senate (the House of Representatives concurring), That the thanks of Congress are hereby tendered to the State of Arizona for the statue of Gen. John Campbell Greenway, her illustrious son, whose name is so honorably identified with the State and with the United States; and be it further

Resolved, That this work of art by Gutzon Borglum is hereby accepted in the name of the United States and assigned to a place in Statuary Hall set aside by act of Congress for statues of eminent citizens, and that a copy of this resolution, suitably engrossed and duly authenticated, be transmitted to the Governor of the State of Arizona.

3556. On February 27, 1931,[3] the House agreed to the following concurrent resolution messaged over from the Senate:

Resolved by the Senate (the House of Representatives concurring), That the statues of Junipero Serra and Thomas Star King, presented by the State of California to be placed in Statuary Hall, are accepted in the name of the United States, and that the thanks of Congress be tendered said State for the contribution of the statues of these eminent men, illustrious for their distinguished services as pioneer patriots of said State.

Resolved further, That a copy of these resolutions, suitably engrossed and duly authenticated, be transmitted to the Governor of California.

3557. In 1908, statues of George Washington and Robert E. Lee, presented by the State of Virginia, were placed in Statuary Hall[4] without action by either House.

Statues of James M. Harlan and S. J. Kirkwood, presented by the State of Iowa in 1909; of James P. Clark and Uriah M. Rose, presented by the State of Arkansas in 1917, were unveiled[5] without resolutions providing for their acceptance by the Congress.

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[1] First session Seventy-first Congress, Record, p. 2087.

[2] Second session Seventy-first Congress, Record, p. 9371.

[3] Third session Seventy-first Congress, Record, p. 6303.

[4] Second session Sixty-ninth Congress, Record, p. 3326; Third session Seventy-first Congress Senate Document No. 227.

[5] Ibid.

The act of July 2, 1864, setting aside the old Hall of the House of Representatives as Statuary Hall and authorizing the President to invite each State to present two statues—

of men who have been citizens thereof and illustrious for their historic renown or from distinguished civic or military service, such as each State shall determine to be worthy of this national commemoration.

has been considered sufficient authorization and to require no further legislation by Congress. This sentiment was voiced by Mr. Henry Wilson, of Massachusetts, during consideration in the Senate of concurrent resolution providing for acceptance of the statue of Nathaniel Greene, presented by the State of Rhode Island, and the first to be received. Mr. Wilson [1] said:

The law as it now stands is complete in itself. I shall not oppose, however, the passage of this resolution, as the matter has been inaugurated, and I hope, as it has been introduced, it will be put in proper form and passed. I repeat, however, the law in itself is complete and requires no legislation whatever, and I trust that hereafter it will be so regarded.

3558. The House, by resolution, accepted the gift of a flag and directed that it be displayed in the Hall of the House.—On September 18, 1919,[2] on request of Mr. Frank W. Mondell, of Wyoming, the majority leader, the Speaker directed the reading of a communication from the National Society of the Daughters of the American Revolution, presenting a flag to the House.

On motion of Mr. Mondell, the following resolution was agreed to:

Resolved, That the House of Representatives accepts gratefully the flag of the United Stated presented by the National Society of the Daughters of the American Revolution, and will cause it to be displayed within the Hall of the House.

The House then agreed to the following:

Whereas the flag which was displayed in the Hall of the House of Representatives from the year 1901 until displaced by the flag presented to the House by the National Society of the Daughters of the American Revolution, and this day accepted by the House, served through a period of time covering the first 19 years of the twentieth century, during which the House of Representatives participated in the events preliminary to and in the enactment of legislation for the prosecution of the war with the Imperial German Government and with the Royal Austro-Hungarian Government, and during which time also many other historic and important acts originated, were perfected, or consummated herein. Therefore be it

Resolved, That because of the association of said flag with the legislative history of the United States during the period aforesaid, and in token of the House's appreciation of the patriotism of the members of said society and of the women of the United States, the Clerk of the House of Representatives is hereby authorized and directed to deliver said flag to the board of management of the National Society of the Daughters of the American Revolution, to be displayed and carefully preserved in the archives of said society, together with a copy of this preamble and resolution.

3559. Proceedings on the occasion of the death of a Member in the chamber.

On June 14, 1932,[3] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 7726), to provide for the immediate payment to veterans of the face value of their adjusted service certificates.

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[1] Second session Forty-first Congress, Record, p. 596.

[2] First session Sixty-Sixth Congress, Record, p. 5559.

[3] First session Seventy-second Congress, Report, p. 12935.

Mr. Edward E. Eslick, of Tennessee, while addressing the Committee of the Whole in debate from the well of the House, collapsed and was pronounced dead when carried to the lobby.

In announcing Mr. Eslick's death, Mr. Ewin L. Davis of Tennessee, said:

Mr. Speaker, I make the sad announcement that our distinguished and beloved colleague, Representative Edward E. Eslick, of Tennessee, has passed away. He died at this post of duty while addressing the House.

I have in my hand a portion of the speech which he had prepared as a conclusion, and I ask unanimous consent that his remarks may be extended in the Record by inserting the remainder of his speech.

There was no objection, and the remainder of the speech appears in the Record.

The following resolution was adopted:

Resolved, That the House has heard with profound sorrow of the death of Hon. Edward E. Eslick, a Representative from the State of Tennessee.

Resolved, That a committee of 18 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect, this House do now adjourn.

Accordingly, at 1 o'clock and 42 minutes p.m., the House adjourned.

3560. An exceptional instance in which the House took action on the occasion of the decease of a distinguished former Member.

On April 11, 1911,[1] Mr. Paul Howland, of Ohio, asked unanimous consent for the consideration of the following resolution:

Resolved, That the House has heard with regret of the death of the Hon. Tom L. Johnson, of Cleveland, Ohio, a former distinguished Member of this House, and hereby extends its sympathy to his family. In his death the country has lost one of its foremost citizens.

Under reservation of the right to object, Mr. James A. Mann, of Illinois, said:

Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Ohio whether there is any precedent for this?

I shall not object to this resolution, but if this is to become the fashion—and setting a precedent is liable to cause it to become a fashionable thing—I shall object to the next and succeeding resolutions of this character. I think we can well confine it to Members. They all pass away in the course of time, and if it becomes so that it is a slight if the resolution is not offered, then, every time, the friends of a deceased ex-member will have to see that a resolution is offered.

Without further debate consent for consideration was granted and the resolution was agreed to.

3561. The House takes notice of the death of a Member elect as if he had been duly qualified.

On May 10, 1912,[2] Mr. Joseph W. Fordney, of Michigan, announced the death of Mr. William H. Frankhauser, of Michigan, who had not previously been a Member of the House, and who had been prevented by extended illness from taking his seat.

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[1] First session Sixty-second Congress, Record, p. 171.

[2] First session Sixty-seventh Congress, Record, p. 1282.

Mr. Fordney then offered the usual resolutions, which were agreed to, and, as a further mark of respect, the House adjourned.

3562. In a rare instance the Senate recessed on the occasion of the death of a former Senator.

On January 25, 1930,[1] in the Senate, Mr. William J. Harris, of Georgia, announced the death of Mrs. Rebecca Felton, formerly a Member of the Senate from the State of Georgia, and moved that the Senate take a recess as a mark of respect to her memory.

The motion was unanimously agreed to, and at 2 o'clock and 45 minutes p.m. the Senate recessed until the following legislative day at 11 o'clock a.m.

3563. On January 25, 1929,[2] in the Senate, Mr. Thomas J. Heflin, of Alabama, announced the death of Mr. Oscar W. Underwood, formerly a Senator from the State of Alabama, and proposed the following resolutions:

Resolved, That Senate has heard with deep regret and profound sorrow the announcement of the death of Hon. Oscar W. Underwood, formerly a Senator from the State of Alabama.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do not adjourn.

The resolutions were unanimously agreed to, and at 12 o'clock and 15 minutes p.m. the Senate adjourned.

3564. Form of resolution offered at the death of a former Speaker.

On December 7, 1931,[3] on the opening day of the session, Mr. John G. Cooper, of Ohio, offered the following resolution:

Resolved, That the House has learned with profound sensibility and sorrow of the death of Nicholas Longworth, Speaker of the House of Representatives of the Sixty-ninth, Seventieth, and Seventy-first Congress.

Resolved, That in the death of the Hon. Nicholas Longworth the United States has sustained an irreparable loss.

Resolved, That this House, of which he was a distinguished Member and leader, unite in honoring his sterling character, the ability, probity, and patriotic motives which illustrated his public career, and the grace and dignity which marked his intercourse with his fellow citizens.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to, and on motion of Mr. Henry T. Rainey, of Illinois, as a further mark of respect, at 2 o'clock and 24 minutes p.m., the House adjourned.

3565. The House passed resolutions and adjourned on being informed of the death of a former Speaker.

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[1] Second session Seventy-first Congress, Record, p. 2380.

[2] Second session Seventieth Congress, Record, p. 2223.

[3] First session Seventy-second Congress, Record, p. 15.

On April 22, 1932,[1] Mr. Charles Brand, of Ohio, announced to the House the death of ex-Speaker Keifer, and offered the following resolution:

Resolved, That the following minute be spread upon the record of the House of Representatives:

Hon. Joseph Warren Keifer died in Springfield, Ohio, April 22, 1932. On January 20, 1932, he reached the venerable age of 96 years. For seven terms he was a Member of this House; for one term (the Forty-seventh Congress) its Speaker. His services terminated with the Sixty-first Congress. He was a brave and distinguished soldier. For "gallant and meritorious service" in the Civil War he was made a brigadier general, and in the same war, having been wounded four times in battle, was made a major general of volunteers. In the Spanish-American War he was commissioned and served as a major general of volunteers side by side with Gen. Joe Wheeler and Gen. Fitzhugh Lee. He was a statesman, a scholar, an author, and a patriot. His nearly five score years of life were filled with useful deeds of kindness, of courage, and of fidelity to his country and to his fellow men, and he has passed into the history honored and beloved.

Resolved, That in honor of the distinguished dead the House do now adjourn.

Mr. William H. Stafford, of Wisconsin, objected that there was no precedent for adjournment of the House on the occasion of the death of an ex-Member.

The Speaker[2] said:

The Chair understands that similar resolutions have been passed by the House.

Whereupon, Mr. Stafford withdrew his objection, the resolution was agreed to, and a 5 o'clock and 15 minutes p.m. the House adjourned.

3566. The House has adjourned in honor of a former Speaker whose death occurred after he ceased to be a Member.—On December 7, 1926,[3] following the report of the committee appointed on the part of the House to wait on the President and notify him that a quorum of the two Houses had assembled, Mr. Martin B. Madden, of Illinois, secured consent for the consideration of the following resolution which was unanimously agreed to:

Resolved, That the following minute be spread upon the record of the House of Representatives:

"Hon. Joseph G. Cannon died in Danville, Ill., November 12, 1926. For 46 years he had been a Member of this House; for 10 years as chairman of the Committee on Appropriations; for 8 years as Speaker; and for several years chairman of the Committee on Rules. His service terminated with the Sixty-seventh Congress. Within this chamber the scene of his life's greatest activities was laid. Here he rendered services to his country which placed him in front rank of American statesmanship. Here he exhibited characteristics which compelled respect and won admiration. Forceful ability, intrinsic worth, strength of character brought him popular fame and congressional leadership. In him depth and breadth of intellect, with a full and well-rounded development had produced a giant who towered above his fellows and impressed them with his power and his wisdom. A distinguished statesman, a lofty patriot, a unique orator, an unmatched debater, a master of logic and wit, the great and representative citizen of the American Republic has gone into history."

Resolved, That in honor of the distinguished dead the House do now adjourn.

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[1] First session Seventy-second Congress, Record, p. 8740.

[2] John N. Garner, of Texas, Speaker.

[3] Second session Sixty-ninth Congress, Record, p. 68.

3567. The House sometimes authorizes the funeral of a deceased Member in the Hall.—On March 2, 1921,[1] Mr. William W. Rucker, of Missouri, presented the following resolutions which were unanimously agreed to:

Resolved, That the House has heard with profound sorrow of the death of Hon. Champ Clark, a Representative from the State of Missouri.

Resolved, That a committee of the House be appointed to take order for superintending the funeral of Mr. Clark in the Hall of the House of Representatives at 10 o'clock and 30 minutes antemeridian, on Saturday, March 5, instant, and that the Members of the present House and of the House elect attend the same.

Resolved, That, as a further mark of respect, the remains of Mr. Clark be removed from Washington to Bowling Green, Mo., in charge of the Sergeant at Arms, attended by the committee, who shall have full power to carry these resolutions into effect, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk, of the House communicate these proceedings to the Senate and invite the Vice President, the Vice President elect, the Members of the Senate, and the Members of the Senate elect to attend the funeral in the Hall of the House of Representatives; and that the Senate be invited to appoint a committee to act with the committee of the House.

Resolved, That invitations be extended to the President of the United States and the members of his Cabinet, the President elect and the members designate of his Cabinet, the Chief Justice and the Associate Justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), the Chief of Naval Operations, and the General of the Army to attend the funeral in the Hall of the House of Representatives.

On March 3,[2] a message from the Senate announced that the Senate had passed resolutions as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. Champ Clark, late a Representative from the State of Missouri.

Resolved, That a committee of 14 Senators be appointed by the Presiding Officer, to join the committee appointed by the House of Representatives, for the superintending of the funeral of the deceased.

Resolved, That the Senate accepts the invitation of the House of Representatives extended to the Vice President, the Vice President elect, the Senate, and the Member of the Senate elect, to attend the funeral of the deceased, to be held in the Hall of the House of Representatives at 10:30 o'clock a.m. on Saturday next, March 5, instant.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

On Saturday, March 5, in accordance with the special order, the funeral services took place in the Hall of the House in the presence of the House of Representatives, the Senate, representatives of the Army and Navy, the Supreme Court and the Diplomatic Corps.

3568. On Sunday, December 13, 1914,[3] under a special order previously[4] made, and while the House was in session, funeral services for Mr. Sereno E. Payne, of New York, were conducted in the Hall of the House.

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[1] Third session Sixty-sixth Congress, Record, p. 4356.

[2] Record, p. 4466.

[3] Third session Sixty-third Congress, Record, p. 164.

[4] Record, p. 136.

3569. On December 2, 1922,[1] at the funeral of Mr. James R. Mann, of Illinois, conducted in the Hall in conformity with resolutions previously[2] adopted by the House, the following order of services was observed.

In the Hall of the House of Representatives at 2 o'clock p.m., Saturday, December 2, 1922, the body of the late Representatives James R. Mann will be placed in the House of Representatives prior to the assembling of the House at 1:30 o'clock p.m.

The President of the United States and his Cabinet, the Chief Justice and Associated Justices of the Supreme Court, the Diplomatic Corps, the Vice President, the Members of the Senate and the House of Representatives, the General of the Army, and the Chief of Naval Operations will occupy the seats on the floor of the House assigned them by the Doorkeeper.

The President and his Cabinet will meet in the Speaker's room.

The Supreme Court will meet in the Supreme Court Room.

Senators will meet in the Senate Chamber.

The Diplomatic Corps, the General of the Army, and the Chief of Naval Operations will meet in the Ways and Means Committee room, Capitol.

The committee or arrangements will meet in the Appropriations Committee room, Capitol.

The late Representative Mann's room will be reserved for the members of the family and the officiating clergy, from where they will be escorted to seats on the House floor.

Upon the announcement of the Speaker of the House of Representative, the clergy will conduct the funeral ceremonies

All the House galleries will be reserved for this occasion, admission being by special cards only.

Burial office—Conducted by Rev. James E. Freeman, D.D., Rector Church of the Epiphany.

Hymn ("Hark, Hark My Soul")—The male quartette of Church of the Epiphany.

Address—Rev. James E. Freeman, D.D.

Hymn ("Jerusalem the Golden")—The quartette.

Benediction—Rev. James Shera Montgomery, D.D., Chaplain of the House of Representatives.

3570. Ceremonies at the state funeral of a deceased Senator.—On February 17, 1914,[3] in the Senate, a message was received from the House transmitting resolutions of the House on the death of Hon. Augustus O. Bacon, late a Senator from State of Georgia.

The message also announced the appointment of a committee by the Speaker to accompany the remains of the deceased Senator to his late home.

The message further announced that the House had accepted the invitation of the Senate extended to the Speaker and the Members of the House of Representatives to attend the funeral services in the Senate chamber.

At 12 o'clock and 48 minutes p.m. the committee of arrangements of the two Houses entered the Chamber.

At 12 o'clock and 50 minutes p.m. the Speaker and Members of the House of Representatives were announced. The Speaker was escorted to a seat on the left of the Vice President and the Members of the House were shown to seats on the floor provided for them.

The ambassadors of and ministers from foreign countries, the Chief Justice of the United States, and the Associate Justices of the Supreme Court of the United

[1] Third session Sixty-seventh Congress, Record, p. 449.

[2] Record, p. 439.

[3] Second session Sixty-third Congress, Record, p. 3550.

States, the members of the Cabinet of the President of the United States, the Chief of Staff of the Army, and the Regents and Secretary of the Smithsonian Institution were announced, respectively, and shown to the seats assigned them.

The members of the family of the late Senator were escorted to seats reserved for them.

The Vice President [1] said:

Senators, the hour has arrived at which, in accordance with the order of the Senate, the final ceremonies over the body of Augustus Octavius Bacon, late a Senator from Georgia and an unusually distinguished Member of this body, are to be observed. In conformity with custom and in token of our common faith, the Chaplain of the Senate will offer prayer to God the Father, God the Redeemer, and God the Comforter.

The Chaplain of the Senate offered prayer; the officiating clergyman read the burial service; the Chaplain pronounced the benediction.

The Vice President directed:

Into the loving hands of the committees of Congress and the officers of the Senate we consign the mortal body of our well-beloved Senator to be by them conveyed to his home in the State of Georgia, there to be deposited in its final resting place. May his labors in the cause of constitutional liberty long bless the Republic. The committee of arrangements, conducted by the Sergeant at Arms of the Senate, will escort the remains of the deceased Senator from the Chamber to the Union Station and from thence to the place of burial in the State of Georgia. The guests of the Senate will depart in the inverse order of their entrance.

The invited guests having retired from the Chamber, the Speaker and Members returned to the Hall of the House at 1 o'clock and 35 minutes p.m., and the House, which had stood in recess from 12 o'clock and 45 minutes p.m., resumed its session.

3571. The later procedure substituting for individual service formerly held for deceased Members a general memorial service at the close of the Congress.—On January 21, 1929,[2] Mr. Burton L. French, of Idaho, on behalf of the recently established Committee on Memorials, submitted a resolution, which was agreed to as follows:

Resolved, That on Wednesday, February 20, 1929, immediately after the approval of the Journal, the House shall stand at recess for the purpose of holding the memorial services as arranged by the Committee on Memorials under the provisions of clause 40a of Rule XI. At the conclusion of the recess the Speaker shall call the House to order and then, as a further mark of respect to the memories of the deceased, he shall declare the House adjourned:

On Wednesday, February 20,[3] in conformity with the provisions of the resolution, the following order of exercises was observed.

Prelude, sacred selections (11:30 to 12)—United States Marine Band Orchestra.
Presiding Officer—The Speaker of the House of Representatives.
Invocation—The Chaplain, Dr. James Shera Montgomery.
Lead, Kindly Light (Buck)–Imperial Male Quartet.
Scripture reading and prayer—The Chaplain.
Roll of deceased Members—The Clerk of the House of Representatives.
Devotional silence.

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[1] Thomas R. Marshall, of Indiana, Vice President.

[2] Second session Seventieth Congress, Record, p. 1979.

[3] Record, p. 3857.

Address—Hon. Charles A. Eaton, Representative from the State of New Jersey.
Still, Still with Thee (Gerrish)—Quartet.
Address—Hon. Finis J. Garrett, Representative from the State of Tennessee.
Still Will We Trust (Flemming)–Quartet.
Benediction—The Chaplain.
Postlude—The orchestra.

At the conclusion of the services, the Speaker, in pursuance of the terms of the resolution, declared the House adjourned.

3572. For the Seventy-first Congress,[1] the resolution took this form:

Ordered, That on Thursday, February 19, 1931, immediately after the approval of the Journal, the House shall stand at recess for the purpose of holding memorial services as arranged by the Committee on Memorials under the provisions of clause 40–A of Rule XI. The order of exercises and proceedings of the service shall be printed in the Congressional Record, and all Members shall be given the privilege of extending their remarks in the Congressional Record.

Following the completion of the memorial exercises the House shall continue to stand at recess until 2:30 o'clock p. m., as a further mark of respect to the memories of the deceased.

The order of service remained unchanged.

3573. On the death of an employee of long service, the House appointed a committee to attend the funeral.—On January 24, 1914,[2] the following resolution offered by Mr. Richard W. Austin, of Tennessee, was unanimously agreed to:

Resolved, That the House has heard with profound sorrow of the death of John T. Chancey, an employee of the House for nearly 58 years.

Resolved, That as a mark of respect to his memory the Speaker appoint a committee of seven Members to attend the funeral services.

The Speaker appointed as members of the committee to attend the funeral, Mr. Richard W. Austin, of Tennessee; Mr. J. Frederick C. Talbott, of Maryland; Mr. Sereno E. Payne, of New York; Mr. William A. Jones, of Virginia; Mr. Richard Bartholdt, of Missouri; Mr. James T. Lloyd, of Missouri; and Mr. Michael E. Burke, of Wisconsin.

3574. Ceremonies in memory of Calvin Coolidge.

On January 5, 1933,[3] the Speaker laid before the House the following message from the President:

To the Senate and House of Representatives.

It is my painful duty to inform you of the death to-day of Calvin Coolidge, former President of the United States.

There is no occasion for me to recount his eminent services to our country to Members of the Senate and House, many of whom were so long associated with him. His entire lifetime has been one of single devotion to our country and his has been a high contribution to the welfare of mankind.

HERBERT HOOVER.

THE WHITE HOUSE, *January 5, 1933.*

Mr. Bertrand H. Snell, of New York, offered the following resolution:

Resolved, That the House has learned with profound sensibility and sorrow of the death of Calvin Coolidge, former President of the United States.

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[1] Third session Seventy-first Congress, Record, p. 5340.

[2] Second session Sixty-third Congress, Record, p. 2268.

[3] Second session Seventy-second Congress, Record, p. 1354.

Resolved, That as a token of honor to the many virtues, public and private, of the illustrious statesman, and as a mark of respect to one who has held such eminent station, the Speaker of this House shall appoint a committee to attend the funeral of Mr. Coolidge on behalf of this House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy of the same to the afflicted family of the illustrious dead.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That as a further mark of respect to the memory of the late Calvin Coolidge this House do now adjourn.

The resolution was agreed to, and accordingly, at 3 o'clock p.m. the House adjourned.

On February 6,[1] in accordance with the concurrent resolution[2] (S. Con. Res. 38), a joint session of the Senate and House of Representatives for exercises in commemoration of the life, character and public services of ex-President Coolidge was held in the Hall of the House.

The usual order was followed in the arrival and seating of officials and guests.

The following programme was observed:

O Love That Will Not Let Me go (Albert L. Peace) was rendered by the Interstate Male Chorus, Commissioner Clyde B. Aitchison conducting.

Invocation by the Chaplain of the Senate, Rev. Z. Barney T. Phillips, D. D.

The Presiding Officer presented the Hon. Arthur Prentice Rugg, chief justice of the Supreme Judicial Court of Massachusetts, who delivered the memorial address.

Crossing the Bar (William L. Thickstun) was rendered by the Interstate Male Chorus.

Benediction by the Chaplain of the House of Representatives, Rev. James Shera Montgomery, D. D.

The joint session was then dissolved, the customary order of retirement was followed, and the House resumed its regular session.

3575. Ceremonies and exercises in memory of President Warren G. Harding.—On December 6, 1923,[3] following the address of the President of the United States before the joint session of Congress, Mr. Theodore E. Burton, of Ohio, offered the following resolution which was unanimously agreed to.

Resolved, That a committee of one Member from each State represented in this House be appointed on the part of the House to join such committee as may be appointed on the part of the Senate to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation to the event of the decrease of their late President, Warren Gamaliel Harding; and that so much of the message of the President as refers to that melancholy event be referred to said committee.

The Senate having concurred in the resolution, committees were appointed respectively by the Senate and the House.

On January 24,[4] Mr. Burton, from the committee, submitted the following:

Be it resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on the day and hour fixed by

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[1] Record, p. 3482.

[2] Record, p. 1803.

[3] First session Sixty-eighth Congress, Record, p. 101.

[4] Record, p. 1398.

the joint committee, to wit, Wednesday, February 27, 1924, at 12 o'clock meridian, and that in the presence of the two Houses there assembled an address upon the life and character of Warren G. Harding, late President of the United States, be pronounced by Hon. Charles E. Hughes, and that the President pro tempore of the Senate and the Speaker of the House of Representatives be requested to invite the President and the two ex-Presidents of the United States, the former Vice President, the heads of the several departments, the judges of the Supreme Court, the ambassadors and ministers of foreign Governments, the governors of the several States, the General of the Armies, and the Chief of Naval Operations to be present on that occasion; and be it further

Resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. Harding and to assure her of the profound sympathy of the two Houses of Congress for her deep personal affliction and of their sincere condolence for the late national bereavement.

On February 27,[1] after prayer by the Chaplain, the Clerk, by direction of the Speaker, read the concurrent resolution and the program of arrangements submitted by the special committee as follows:

MEMORIAL SERVICES FOR WARREN G. HARDING, FEBRUARY 27, 1924—PROGRAM OF ARRANGEMENTS

The Capitol will be closed on the morning of the 27th day of February, 1924, to all except Members and officers of Congress.

At half past 10 o'clock the east door leading to the rotunda will be opened to those to whom invitations have been extended under the joint resolution of Congress by the Presiding Officers of the two Houses, and to those holding tickets of admission to the galleries.

The Hall of the House of Representatives will be opened for that admission of those who have invitations, who will be conducted to the seats assigned to them, as follows:

The President of the United States and his Cabinet will occupy seats in front of and on the left of the Speaker.

The Chief Justice and Associate Justices of the Supreme Court will occupy seats in front of and on the right of the Speaker.

The General of the Armies and the Chief of Naval Operations will occupy seats back of the President and his Cabinet, on the left of the Speaker.

The ambassadors and ministers of foreign governments will occupy seats on the left of the Speaker in section A west.

The former Vice President and Senators will occupy seats back of the President and his Cabinet and the Supreme Court, and on the east and west side of the main aisle.

Governors of the several States will occupy seats on the right of the Speaker in section A east.

Representatives will occupy seats on the east and west side of the main aisle and back of the Senators and governors of the several States.

Ex-Members of the House will occupy seats assigned to them back of the Members.

The executive gallery will be reserved exclusively for the family of the President, the families of the Cabinet and of the Supreme Court, and the invited guests of the President.

The diplomatic gallery will be reserved exclusively for the families of the ambassadors and ministers of foreign governments. Tickets thereto will be delivered to the Secretary of State.

The House of Representatives will be called to order by the Speaker at 12 o'clock.

The Marine Band will be in attendance at half past 11 o'clock.

The Senate will assemble at 12 o'clock and, immediately after prayer, will proceed to the Hall of the House of Representatives.

The ambassadors and ministers will meet at half past 11 o'clock in the Ways and Means Committee room in the Capitol and be conducted to the seats assigned to them in section A, on the left of the Speaker.

The President of the Senate will occupy the Speaker's chair.

The Speaker of the House will occupy a seat at the left of the President of the Senate.

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[1] Record p. 3202.

The Secretary of the Senate and the Clerk of the House will occupy seats next the Presiding Officers of their respective Houses.

The other officers of the Senate and of the House will occupy seats on the floor, at the right and left of the Speaker's chair.

The chairmen of the joint committee of arrangements will occupy seats at the right and left of the orator, and next to them will be seated the officiating clergymen.

Prayer will be offered by the Rev. James Shera Montgomery, Chaplain of the House of Representatives.

The Presiding Officer will then present the orator of the day.

The benediction will be pronounced by the Rev. J.J. Muir, Chaplain of the Senate.

FRANK B. WILLIS,
THEODORE E. BURTON,
Chairman, Joint Committee.

The Doorkeeper announced the President pro tempore and the Senate of the United States, the Chief Justice and the Associate Justices of the Supreme Court of the United States, the ambassadors and ministers of foreign governments.

The President and members of his Cabinet.

The Speaker announced:

In pursuance of the arrangements made by the joint committee of Congress, the President pro tempore of the Senate will conduct the further proceedings of this joint meeting.

Thereupon, after prayer by the Chaplain, the President pro tempore of the Senate presented the Hon. Charles E. Hughes, Secretary of State, who delivered the memorial address.

And then, following the benediction by the Chaplain of the Senate, the President pro tempore of the Senate announced.

The purpose of the assembly having been now accomplished, it will be dissolved.

The President and his Cabinet, the diplomatic corps, the Chief Justice and the Associate Justices of the Supreme Court and the Senate retired.

The Speaker resumed the Chair and directed the Clerk to read the Journal of the proceedings of the preceding day.

Following the approval of the Journal, the usual resolution presenting the thanks of Congress was offered by Mr. Burton and passed as follows:

Resolved by the House of Representatives (the Senate concurring), That the thanks of Congress be presented to the Hon. Charles E. Hughes for the able and appropriate memorial address delivered by him on the life and services of Warren G. Harding, late President of the United States, in the Representatives' Hall before both Houses of Congress and their invited guests on the 27th day of February 1924, and that he be requested to furnish a copy for publication.

Resolved further, That the chairman of the joint committee appointed to make arrangements to carry into effect the resolutions of this Congress in relation to the memorial exercises in honor of Warren G. Harding be requested to communicate to Mr. Hughes the foregoing resolution, receive his answer thereto, and present the same to both Houses of Congress.

3576. The House has, by appropriate resolutions, expressed its respect for the memories of deceased ex-Presidents of the United States.—On February 4, 1924,[1] Mr. Nicholas Longworth, of Ohio, the majority leader, announced the

[1] First session Sixty-eight Congress, Record, p. 1911.

death of Woodrow Wilson, former President of the United States, and after appropriate remarks offered the following:

The House having learned with profound sensibility and sorrow of the death of Woodrow Wilson, former President of the United States:

Resolved, That as a token of honor to the many virtues, public and private, of the illustrious statesman, and as a mark of respect to one who has held such eminent public station, the Speaker of this House shall appoint a committee to attend the funeral of Mr. Wilson on behalf of the House.

Resolved, That such committee may join such committee as may be appointed on the part of the Senate to consider and report by what further token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy of the same to the afflicted family of the illustrious dead.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, that as a further mark of respect this House do now adjourn.

After remarks by Mr. Finis J. Garrett, the minority leader, the resolution was agreed to and at 12 o'clock and 14 minutes p.m. the House adjourned.

3577. On January 6, 1919,[1] Mr. Henry T. Rainey, of Illinois, announced the death of former President Theodore Roosevelt, and offered resolutions which were agreed to as follows:

The House having learned with profound sensibility and sorrow of the death of Theodore Roosevelt, former President of the United States:

Resolved, That as a token of honor to the many virtues, public and private, of the illustrious statesman, and as a mark of respect to one who has held such eminent public station, the Speaker of this House shall appoint a committee to attend the funeral of Col. Roosevelt on behalf of the House.

Resolved, That such committee may join such committee as may be appointed on the part of the Senate to consider and report by what further token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy of the same to the afflicted family of the illustrious dead.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

3578. Ceremonies in memory of Woodrow Wilson.—On December 1, 1924,[2] on motion of Mr. Finis J. Garrett, of Tennessee, minority leader, by unanimous consent, the following concurrent resolution was considered and was agreed to:

Resolved by the House of Representatives (the Senate concurring), That Monday, the 15th day of December, 1924, be set aside as the day upon which there shall be held a joint session of the Senate and the House of Representatives for appropriate exercises in commemoration of the life, character, and public service of the late Woodrow Wilson, former President of the United States.

That a joint committee, to consist of five Senators and seven Members of the House of Representatives, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, respectively, shall be named, with full power to make all arrangements and publish a suitable program for the joint session of Congress herein authorized, and to issue the invitations hereinafter mentioned.

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[1] Third session Sixty-fifth Congress, Record, p. 1070.

[2] Second session, Sixty-eight Congress, Record, p. 7.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, and such other invitations shall be issued as to the said committee shall seem best.

That all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

The Senate having concurred, committees were appointed by the Senate and House, respectively, and provided the following program of arrangements:

PROGRAM OF ARRANGEMENTS

The Capitol will be closed on the morning of the 15th day of December, 1924, to all except Members and officers of Congress.

At half past 10 o'clock the east door leading to the rotunda will be opened to those to whom invitations have been extended under the concurrent resolution of Congress, and to those holding tickets of admission to the galleries.

The Hall of the House of Representatives will be opened for the admission of those who have invitations, who will be conducted to the seats assigned to them, as follows:

The President of the United States and his Cabinet will occupy seats in front of and on the left of the Speaker.

The Chief Justice and Associate Justices of the Supreme Court will occupy seats in front of and on the right of the Speaker.

The retired General of the Armies will be seated on the left of the Speaker.

The ambassadors and ministers of foreign governments will occupy seats on the left of the Speaker in section A–west.

The former Vice President and Senators will occupy seats back of the President and his Cabinet and the Supreme Court, and on the east and west side of the main aisle.

Governors of the several States will occupy seats on the right of the Speaker in section A–east.

Representatives will occupy seats on the east and west side of the main aisle and back of the Senators and governors of the several States.

The executive gallery will be reserved exclusively for the family of the President, the families of the Cabinet and of the Supreme Court, and the invited guests of the President.

The diplomatic gallery will be reserved exclusively for the families of the ambassadors and ministers of foreign governments. Tickets thereto will be delivered to the Secretary of State

The House of Representatives will be called to order by the Speaker at 12 o'clock.

The marine band will be in attendance at half past 11 o'clock.

The Senate, five minutes after 12 o'clock, will proceed to the Hall of the House of Representatives.

The ambassadors and ministers will meet at half past 11 o'clock in the Ways and Means Committee room in the Capitol and be conducted to the seats assigned to them in section A, the left of the Speaker.

The President pro tempore of the Senate will occupy the Speaker's chair.

The Speaker of the House will occupy a seat at the left of the President of the Senate.

The Secretary of the Senate and the Clerk of the House will occupy seats next the presiding officers of their respective Houses.

The other officers of the Senate and of the House will occupy seats on the floor, at the right and left of the Speaker's chair.

The chairman of the joint committee of arrangements will occupy seats at the right and left of the orator, and next to them will be seated the officiating clergymen.

Prayer will be offered by the Rev. James Shera Montgomery, Chaplain of the House of Representatives.

The presiding officer will then present the orator of the day.
The benediction will be pronounced by the Rev. J.J. Muir, Chaplain of the Senate.

CLAUDE A. SWANSON,
ISAAC BACHARACH,
Chairmen Joint Committee.

On December 15,[1] pursuant to this program, the Doorkeeper announced the Chief Justice and Associate Justices of the Supreme Court, the diplomatic representatives, and the President and his Cabinet.

After prayer by the Chaplain of the House, the President pro tempore of the Senate presented Dr. Edwin Anderson Alderman, president of the University of Virginia, who delivered the address.

The Chaplain of the Senate having pronounced the benediction, the President pro tempore declared the assembly dissolved.

The invited guests retired from the Hall and the Speaker called the House to order, when, as a further mark of respect, the House adjourned.

3579. Proceedings and exercises in memory of former President Theodore Roosevelt.—On January 10, 1919,[2] a message was received from the Senate announcing that the Senate had passed the following concurrent resolution:

Resolved by the Senate (the House of Representatives concurring), That Sunday, the 9th day of February, 1919, be set aside as the day upon which there shall be held a joint session of the Senate and the House of Representatives for appropriate exercises in commemoration of the life, character, and public service of the late Theodore Roosevelt, former President of the United States, Vice President of the United States, and President of the Senate.

That a joint committee, to consist of five Senators and seven Members of the House of Representatives, to be appointed by the Vice President and the Speaker of the House of Representatives, respectively, shall be named, with full power to make all arrangements and publish a suitable program for the joint session of Congress herein authorized, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Associate Justices of the Supreme Court of the United States, and such other invitations shall be issued as to the said committee shall seem best.

That all expenses incurred by the committee in the execution of the provisions of this resolution shall be paid, one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives.

On motion of Mr. James R. Mann, of Illinois, by unanimous consent, the resolution was taken up for immediate consideration and was agreed to.

Accordingly, on February 9,[3] the assembly convened in the Hall of the House.

The Doorkeeper announced the Vice President and the Senate, the Chief of Staff and major generals of the Army, the rear admirals of the Navy, and the adjutant and inspector of the Marine Corps, the members of the President's Cabinet, the ex-President of the United States, the Chief Justice and Associate Justices of the Supreme Court, and ambassadors, ministers, and charge d'affaires of foreign governments.

The Chaplain of the House offered prayer.

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[1] Record, p. 629.
[2] Third session Sixty-fifth Congress, Record, p. 1216.
[3] Record, p. 3038.

The Vice President presented Hon. Henry Cabot Lodge, senior Senator of the United States from Massachusetts, who pronounced the eulogy.

The address having been concluded, the Chaplain of the Senate pronounced the benediction and the Vice President declared the assembly adjourned.

3580. In rare instances the House has noticed the deceased of a member of the family of a President or ex-President. On August 6, 1914,[1] Mr. Oscar W. Underwood, of Alabama, announced to the House the death of Mrs. Woodrow Wilson, wife of the President of the United States, and offered the following:

Resolved, That the House has heard with profound sorrow of the death of Mrs. Woodrow Wilson, the wife of the President of the United States.

Resolved further, That a committee consisting of the Speaker and one additional Member for each State in the Union be appointed to attend the funeral.

Resolved, That as a mark of respect the House do now adjourn.

3581. In conformity with custom, widows of former President of the United States are granted the franking privilege.—On November 5, 1919,[2] the bill (H. R. 7138) granting a franking privilege to Edith Carow Roosevelt was approved by the President.

3582. On January 21, 1924, on motion of Mr. W. W. Griest, of Pennsylvania the following bill was taken from the Speaker's table and passed.

Be it enacted, etc., That all mail matter sent by the post by Florence Kling Harding, widow of the late Warren G. Harding, under her written autograph signature, be conveyed free of postage during her natural life.

During debate on the bill, Mr. Griest said:

Mr. Speaker, this bill is identical in language and purport with the bill introduced in the House by the gentleman from Ohio who represents the Marion congressional district and has been unanimously reported out of the Committee on the Post Office and Post Roads. The franking privilege has been invariably extended by the Congress to the widows of Presidents. For the information of the House I will say that the first extension of this privilege was made to Martha Washington. This precedent was followed thereafter for Dolly Madison, Louise Catherine Adams, widow of John Quincy Adams, Margaret S. Taylor, Mary Todd Lincoln, Julia Dent Grant, Lucretia R. Garfield, Mary Scott Harrison, widow of Benjamin Harrison, Ida A. McKinley, Frances F. Cleveland, and the last action of this kind was taken in the Sixty-sixth Congress in behalf of Mrs. Roosevelt. The precedents are complete in cases of this kind, and in line with the pending bill. As an additional courtesy of the lady who holds the sympathy and affection of the entire country I ask that the enactment of this measure be expedited by its passage at this time.

The bill was approved and signed by the President on January 25, 1924.[4]

3583. On June 26, 1930,[5] a messaged received from the President of the United States announced his approval of the following bill:

Be it enacted, etc., That all mail matter sent by post by Helen H. Taft, widow of the late William Howard Taft, under her written autograph signature, be conveyed free of postage during her natural life.

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[1] Second session Sixty-third Congress, Record, p. 13433.

[2] First session Sixty-sixth Congress, Record, p. 7970.

[3] First session Sixty-eighth Congress, Record, p. 1228.

[4] First session Sixty-eighth Congress, Record, p. 1959.

[5] Second session Seventy-first Congress, Record, p. 11825.

3584. Widows of former ex-Presidents are sometimes granted an annuity.—On February 25, 1919,[1] the President message to the Senate the announcement of his approval of the bill (S. 5318) in form as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the name of Edith Carow Roosevelt, widow of Theodore Roosevelt, late President of the United States, and pay her a pension at the rate of $5,000 per year from and after passage of this act.

3585. Ceremonies in memory of deceased Vice President.—On December 2, 1912,[2] Mr. Joseph G. Cannon, of Illinois, announced the death of James Schoolcraft Sherman, Vice President of the United States.

After remarks in eulogy, Mr. Cannon moved that out of regard for his memory, the House adjourn.

The motion was agreed to and accordingly, at 1 o'clock and 8 minutes p.m., the House adjourned.

On February 6, 1913,[3] the Senate having messaged to the House an invitation to the Speaker and Members of the House to attend exercises in commemoration of the life, character and public services of the late Vice President, the House.

Resolved, That the House accept the invitation of the Senate extended to the Speaker and Members of the House of Representatives to attend the exercises in commemoration of the life, character, and public services of the late James S. Sherman, Vice President of the United States and President of the Senate, to be held in the Senate Chamber on Saturday, the 15th day of February next, at 12 o'clock noon.

Subsequently,[4] this resolution was supplemented by the following:

Resolved, That on Saturday, February 15, 1913, at 10 minutes of 12 o'clock a.m., pursuant to the resolution heretofore adopted accepting the invitation of the Senate to attend the memorial services to commemorate the life and character and public services of the Hon. James S. Sherman, late the Vice President of the United States, the House shall proceed, with the Speaker, to the Senate Chamber, and at the conclusion of the services of the services it shall return to this Chamber.

On the appointed day the House, preceded by the Speaker and the Sergeant at Arms, the Clerk, and the Chaplain, proceeded to the Senate Chamber, where the Speaker was escorted to a seat at the left of the President pro tempore.

At the close of the exercises, the Speaker and the Members of the House, preceded by its officers, returned to the Hall of the House and, as a further mark of respect, adjourned.

3586. Ceremonies on the occasions of the deaths of a Chief Justice and Associate Justices of the Supreme Court of the United States.—On March 19, 1910,[5] by unanimous consent, at the request of Mr. William A. Calderhead, of Kansas, the following resolution was considered and agreed to:

Resolved, That the House of Representatives has learned with a deep sense of sorrow of the sudden Death of David J. Brewer, a justice of the Supreme Court of the United States, which occurred at his home in this city at 10 o'clock and 35 minutes p.m. yesterday.

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[1] Third session Sixty-fifth Congress, Record, p. 4209.

[2] Third session Sixty-second Congress, Record, p. 5.

[3] Record, p. 2661.

[4] Record, p. 3164.

[5] Second session Sixty-first Congress, Record, p. 3986.

Resolved, That as a mark of respect to the memory of the deceased justice and as a tribute to the distinguished services he has rendered to the country the House do now adjourn.

3587. On May 27, 1908,[1] Mr. James S. Sherman, of New York, being recognized to prefer a request for unanimous consent, said:

Mr. Speaker, I desire to make a request for unanimous consent. I understand the procession has just left the cemetery with the remains of George Clinton, former Vice President of the United States, and first governor of New York under the constitution of that State. It will in a very few moments pass the Capitol on its way to the depot with his remains, which are to be taken to Kingston for reinterment there. I ask unanimous consent that for the 15 minutes that the procession is passing the Capitol the House be in recess.

There was no objection.

3588.—On May 20, 1921,[2] the Speaker laid before the House a communication from Justice Joseph McKenna, of the United States Supreme Court, announcing the death of the Chief Justice.

Whereupon, Mr. Frank W. Mondell, of Wyoming, the majority leader, offered the following resolution:

Resolved, That the House has heard with profound sorrow of the death of the Hon. Edward Douglas White, Chief Justice of the Supreme Court of the United States.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That a committee consisting of the Speaker, the majority and the minority floor leaders, the chairman and ranking minority member of the Committee on the Judiciary, and the Members of the Louisiana delegation be appointed on the part of the House to join the committee appointed on the part of the Senate to attend the funeral.

After tributes to the life and services of the late Chief Justice the resolution was adopted.

3589.—On March 10, 1930,[3] the Speaker laid before the House the following communication:

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., March 10, 1930.

Hon. NICHOLAS LONGWORTH.

SIR: In the absence of the Chief Justice, it becomes my duty to inform you of the death of Mr. Justice Sanford on Saturday last, and to request that you will inform the House of Representatives.

I have the honor to be your obedient servant,

OLIVER WENDELL HOLMES,
Presiding Justice Supreme Court of the United States.

After an address in eulogy of Mr. Justice Sanford, resolutions were agreed to as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. Edward Terry Sanford, Associate Justice of the Supreme Court of the United States.

Resolved, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy thereof to the family of the deceased.

The resolutions were agreed to.

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[1] First session Sixtieth Congress, Record, p. 7048.

[2] First session Sixty-seventh Congress, Record, p. 1589.

[3] Second session Seventy-first Congress, Record, p. 5022.

3590.—On February 7, 1930,[1] following the approval of the Journal, Mr. William B. Bankhead, of Alabama, offered a resolution which was agreed to as follows:

Resolved, That the Members of the House of Representatives have learned with profound regret of the serious illness of former President and Chief Justice William H. Taft, and express the hope and prayer that he may soon be restored to health.

On March 10, 1930,[2] a message was received from the President of the United States announcing the death of Chief Justice William Howard Taft, ex-President of the United States.

Whereupon the Speaker called to the chair Mr. John N. Garner, of Texas, the minority leader, and being recognized, offered the following resolutions which were agreed to as follows:

The House having learned with profound sensibility and sorrow of the death of William Howard Taft, former President of the United States and Chief Justice of the United States Supreme Court:

Resolved, That as a token of honor to the many virtues, public and private, of the illustrious statesman, and as a mark of respect to one who has held such eminent public stations, the Speaker of this House shall appoint a committee to attend the funeral of Mr. Taft on behalf of the House.

Resolved, That such committee may join such committee as may be appointed on the part of the Senate to consider and report by what further token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the Nation.

Resolved, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy of the same to the afflicted family of the illustrious dead.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Thereupon, the Speaker pro tempore appointed the committee authorized by the resolutions, and it was

*Resolved,*William Howard Taft and the late Edward Terry Sanford this House do now adjourn until Wednesday, March 12, 1930.

On March 14, 1930,[3] the Speaker placed before the House a communication, which the Clerk read as follows:

HOUSE OF REPRESENTATIVES, CLERK'S OFFICE,
Washington, D.C., March 13, 1930.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: I have the honor to inform you that pursuant to the direction of the House I did this day deliver to the Supreme Court of the United States, in session, copies of the resolutions adopted by the House of Representatives on March 10, 1930, expressing the sorrow of the House because of the death of William Howard Taft, former Chief Justice, and of Edward Terry Sanford, late associate justice of the Supreme Court.

Mr. Chief Justice Hughes, on behalf of the court, expressed appreciation of the action of the House of Representatives and directed that the resolutions be spread upon the court's records.

Respectfully,

WILLIAM TYLER PAGE,
Clerk of the House of Representatives.

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[1] Second session Seventy-first Congress, Record, p. 3251.

[2] Record, p. 5022.

[3] Record, p. 5330.

On April 4,[1] the Speaker laid before the House a further communication as follows:

2215 WYOMING AVENUE, *April 3, 1930.*

Hon. WILLIAM TYLER PAGE,

Clerk of the House of Representatives, Washington, D.C.

DEAR SIR: I beg to acknowledge receipt of resolution of the House of Representatives and ask that you convey to the House of Representatives my sincere gratitude for the action which they have taken.

Very sincerely yours,

HELEN H. TAFT.

3591.—On June 28, 1921,[2] Mr. J. Charles Linthicum, of Maryland, announced the death of Hon. Charles J. Bonaparte, former Attorney General of the United States.

After remarks on the life and public service of the former Attorney General, on motion of Mr. Linthicum, the House, as a mark of respect to his memory, adjourned.

3592. Observances of the House on occasions of the deaths of distinguished officers of the Army and Navy.—On January 17, 1917,[3] the House agreed to the following resolution offered by Mr. Lemuel P. Padgett, of Tennessee, chairman of the Committee on Naval Affairs:

Resolved, That the House has learned with profound grief of the death of the Admiral of the Navy, George Dewey, who has served his country brilliantly for more than 62 years.

Resolved, That the Speaker of the House is directed to transmit to the bereaved family a copy of these resolutions and an assurance of the sympathy of the House in the loss they have sustained.

Resolved, That the Speaker of the House appoint a committee of seven Members to confer with a like committee of the Senate, and, after consultation with the family of the deceased, to take such action as may be appropriate in regard to the public funeral of Admiral Dewey.

The Speaker appointed the committee and the House further—

Resolved, That as a further mark of respect to the memory of the deceased this House do now adjourn.

Later,[4] Mr. Padgett offered a concurrent resolution as follows, which was agreed to by the House and concurred in by the Senate:

"House concurrent resolution No. 68

"Resolved, by the House of Representatives (the Senate concurring), That in recognition of the long and distinguished service rendered the Nation by Admiral George Dewey appropriate funeral services be held in the rotunda of the Capitol on Saturday, January 20, 1917, at 11 o'clock antemeridian, and that the two Houses of Congress attend said services.

"That as a further mark of respect his remains be removed from the Capitol to Arlington Cemetery for burial in charge of the Navy Department, attended by the Sergeants at Arms and the committees of the two Houses.

"That invitations be extended to the President of the United States and the members of his Cabinet, the Chief Justice and the Associate Justices of the Supreme Court of the United States, the Diplomatic Corps (through the Secretary of State), such officers of the Navy as may be designated by the Secretary of the Navy, and the Chief of Staff of the Army to attend the exercises in the rotunda of the Capitol."

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[1] Record, p. 6524.

[2] First session Sixty-seventh Congress, Record, p. 3186.

[3] Second session Sixty-fourth Congress, Record, p. 1579.

[4] Record, p. 1636.

The Speaker pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

The House then agreed to this resolution:

Resolved, That the Speaker of the House of Representatives appoint a committee of 25 Members, to join the committee to be appointed by the Senate, to attend the funeral services of Admiral George Dewey at Arlington, Va.

Resolved, That the Sergeant at Arms be, and he is hereby, authorized and directed to take such steps as may be necessary for carrying out the provisions of this resolution, and that the necessary expenses in connection therewith on the part of the committee of the House be paid out of the contingent fund of the House.

On January 20,[1] the House, attended by the Sergeant at Arms, proceeded to the rotunda, where was held the funeral of George Dewey, Admiral of the Navy.

The services having been concluded, the House returned to the Hall and the Speaker resumed the chair.

3593. On March 21, 1912,[2] in response to a communication received from the President of the United States announcing a memorial service for the dead lately recovered from the wreck of the U. S. S. *Maine,* and suggesting that Congress take appropriate action in formal recognition of the occasion, the House agreed to the following:

Whereas the President of the United States has notified the Speaker of the House of Representatives that on Saturday, the 23d day of March, 1912, memorial services will be held to honor the memory of the officers and enlisted men who went down to an untimely death on the battleship *Maine* in the harbor of Habana on the 15th day of February, 1898; and

Whereas devotion to duty and sacrifice of life on behalf of country appeal to the best impulses of the people and inspire noble purposes and lofty ideals in national life and should receive appropriate recognition; and

Whereas the officers and enlisted men of the *Maine* at the post of duty gave their lives as a sacrifice for the honor of their country: Therefore be it

Resolved, That when the House adjourns on Friday, the 22d day of March, 1912, the House do adjourn until Monday following, as an expression of its admiration for the officers and enlisted men who lost their lives on the *Maine,* and for the purpose of participating in the services to be held in their honor.

3594. On May 6, 1914,[3] Mr. John J. Fitzgerald, of New York, announced that the remains of sailors and marines killed at Vera Cruz, Mexico, would arrive at the Brooklyn Navy Yard, where memorial exercises would be held, and asked unanimous consent for the consideration of this resolution:

Resolved by the House of Representatives (the Senate concurring), That for the representation of the Congress at the exercises to be held at the navy yard in Brooklyn, N. Y., on Monday, May 11, 1914, in honor of the men of the Navy and Marine Corps who lost their lives at Vera Cruz, Mexico, there shall be appointed by the Vice President 7 members of the United States Senate and by the Speaker 15 Members of the House of Representatives.

SEC. 2. That the expenses of the committee shall be defrayed in equal parts from the contingent appropriations of the Senate and House of Representatives.

The resolution was considered and agreed to.

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[1] Record, p. 1729.

[2] Second session Sixty-second Congress, Record, p. 3755.

[3] Second session Sixty-third Congress, Record, p. 8177.

3595.—In rare instances the House has taken notice of the decease of eminent citizens not of its membership.—On March 26, 1909,[1] on motion of Mr. Samuel W. McCall, of Massachusetts, unanimous consent was given for the consideration of the following concurrent resolution messaged from the Senate:

Resolved by the Senate (the House of Representatives concurring), That the Commissioners of the District of Columbia are hereby granted the use of the rotunda of the Capitol on the occasion of the removal of the remains of Maj. Pierre Charles L'Enfant from the present resting place—the Digges farm, in Prince Georges County, Md.—to Arlington National Cemetery, where the remains will be reinterred, such use of the rotunda to be for a part of one day, and to be on such day and under such supervision as may be approved by the President of the Senate and the Speaker of the House of Representatives.

The concurrent resolution was agreed to.

On April 22[2] the Speaker laid before the House the communication from the Board of Commissioners of the District of Columbia as follows:

To the House of Representatives of the United States:

The Commissioners of the District of Columbia have the honor to invite the Members of the House of Representatives to attend the ceremonies in honor of Maj. Pierre Charles L'Enfant in the rotunda of the United States Capitol at 10:30 o'clock on the morning of April 28, 1909, in connection with the transfer of his remains from Green Hill, Md., to the Arlington Cemetery. The Vice President of the United States and the ambassador of France will make addresses.

VERY RESPECTFULLY,

HENRY B. F. MACFARLAND,
President of the Board of Commissioners
of the District of Columbia.

Mr. J. Van Vechten Olcott, of New York, said:

Mr. Speaker, I move that the invitation be accepted, with thanks to the commissioners for so graciously extending it to us.

The motion was unanimously agreed to:

3596.—On December 6, 1913,[3] Mr. Richard W. Austin, of Tennessee, asked unanimous consent for the consideration of the following resolution:

Resolved, That the House of Representatives has heard with profound sorrow of the death of Lieut. Col. David du Bose Gaillard, for whose conspicuous and valuable services in connection with the construction of the Panama Canal the Nation is indebted.

Resolved, That the Clerk of the House transmit a copy of these resolutions to the family of the deceased.

Reserving the right to object, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, reserving the right to object, I think ordinary resolutions of this sort ought not be presented or considered by the House, but I think this is a conspicuous instance where we ought to vary from the ordinary rule, and therefore I do not object.

There being no objection the resolution was considered and agreed to.

3597.—Adjournment in honor of memory of the deceased sovereign of a foreign nation.—On May 7, 1910,[4] Mr. David J. Foster, of Vermont, by direction

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[1] Second session Sixty-first Congress, Record, p. 5939.

[2] Record, p. 1478.

[3] First session Sixty-first Congress, Record, p. 314.

[4] Second session Sixty-third Congress, Record, p. 386.

of the Committee on Foreign Affairs, presented a resolution which was considered by unanimous consent and agreed to as follows:

Resolved, That the House of Representatives of the United States of America has learned with profound sorrow of the death of His Majesty King Edward VII and sympathizes with his people in the loss of a wise and upright ruler, whose great purpose was the cultivation of friendly relations with all nations and the preservation of peace.

That the President be requested to communicate this expression of the sentiment of the House to the Government of Great Britain.

That, as a further mark of respect to the memory of King Edward VII, the House do now adjourn.

On the same day [1] the following resolution, offered by Mr. Shelby M. Cullom, of Illinois, on behalf of the Committee on Foreign Relations, was by unanimous consent considered and adopted by the Senate:

Resolved, That the death of His Royal and Imperial Majesty Edward the Seventh, the bereavement of his people, and the loss to the world of his wise and kindly influence for peace and good government are deeply deplored by the Senate of the United States of America.

Resolved, That the foregoing resolution be communicated through the Department of State to the Government of Great Britain.

Resolved, That, as a further mark of respect, the Senate do now adjourn.

On June 6 [2] the Speaker laid before the House this communication:

ALEXANDER MCDOWELL, ESQ.,

Clerk of the House of Representatives, Washington, D.C.

SIR: Having reference to the resolution adopted by the House of Representatives on May 7 last on the occasion of the death of His Late Majesty King Edward VII, the department desires to inform you that the text of the resolution has been communicated to the British Foreign Office through the American ambassador at London, and that the Foreign Office has been commanded by His Majesty to express to the House of Representatives of the United States his sincere appreciation and warmest thanks for its kind message of sympathy.

I am, sir, your obedient servant,

HUNTINGTON WILSON,
Acting Secretary of State.

3598. On May 9, 1932,[3] Mr. J. Charles Linthicum, of Maryland, from the Committee on Foreign Affairs, by unanimous consent, offered the following resolution which was agreed to by the House.

Resolved, That the House of Representatives of the United States of America has learned with profound sorrow of the death of the President of the French Republic, M. Paul Doumer, and sympathizes with the people of the French Republic in the loss of their beloved President.

Resolved, That, the President be requested to communicate this expression of sentiment of the House of Representatives to the Government of France.

Resolved, That, as a further mark of respect to the memory of President Doumer, the House do now adjourn.

The communication was read by the Clerk and ordered to lie on the table.

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[1] Record, p. 5964.

[2] Journal, p. 742; Record, p. 7522.

[3] First session Seventy-second Congress, Record, p. 9873.

3599. The House has extended its sympathies to a city of the United States on the occasion of a notable local catastrophe.—On March 3, 1908,[1] Mr. John E. Harding, of Ohio, secured unanimous consent for the consideration of a resolution, which was unanimously agreed to as follows:

Whereas information has reached the House of Representatives of the United States that scores of children today lost their lives in the burning of a schoolhouse in Cleveland, Ohio: Be it

Resolved, That the sympathy of the House of Representatives be, and is hereby, extended to the bereaved city of Cleveland and the sorrowing homes of that city.

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[1] First session Sixtieth Congress, Record, p. 2938.

Chapter CCLXXVII.[1]

SERVICE OF THE HOUSE.

1. Compensation of employees. Sections 3600, 3601.

3600. While customary to grant the widow of an employee of the House an amount equal to one-half of a year's salary, in exceptional instances the House has authorized payment of the full amount of the annual salary.— On December 21, 1916,[2] Mr. James T. Lloyd, of Missouri, by direction of the Committee on Accounts, offered the following, as privileged resolution:

Resolved, That the Clerk of the House is directed to pay, out of the contingent fund of the House, to Lenora McCall Courts, widow of James C. Courts, late clerk to the Committee on Appropriations, a sum equal to one year's salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

In discussing the resolution, Mr. Lloyd explained:

Mr. Speaker, this is a little different resolution from what we have been offering on the death of an employee of the House. Mr. Courts, as you know, was the clerk to the Committee on Appropriations. He had been connected with the Committee on Appropriations for 39 consecutive years, during all administrations, since he was first employed. Since 1884 he was the clerk of that committee until the time of his death last September.

He devoted his whole time and attention during all those years to the service of that committee and the Government, and it is safe to say that no man connected with this House, either within the Chamber or out of it, was more faithful and valuable and meant more to the Government, so far as his work was concerned, than Mr. Courts, and we think that under the circumstances it is but right that we should allow a year's salary to his widow, just as we would in the case of the widow of a Member of Congress, if a Member of Congress died. Heretofore in the case of other employees we have allowed a sum equal to six months' salary.

I am inclined to believe that the resolution is a highly proper one under the circumstances, and I want it distinctly understood, so far as the Committee on Accounts is concerned, that we are not offering this as a precedent for the future. And yet if it is construed as a precedent in the future, there is no danger, because this individual served 39 years, and if anybody else served 39 years if would not be a serious burden to the Government if a year's salary were allowed.

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[1] Supplementary to Chapter CXLVII.

[2] Second session Sixty-fourth Congress, Record, p. 648.

3601. On July 9, 1921,[1] the House had under consideration the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to pay, out of the contingent fund of the House, to Nellie May Phillips, widow of Herman A. Phillips, late Journal clerk of the House of Representatives, a sum equal to one year's salary as Journal clerk, and that the Clerk be further directed to pay out of the contingent fund the expenses of the last illness and funeral of said Herman A. Phillips, such expenses not to exceed $250.

with a proposed amendment offered by the Committee on Accounts as follows:

Strike out "one year's" and insert in lieu thereof "six months," so that it will read "a sum equal to six months' salary as Journal clerk."

In the course of debate on the resolution, Mr. Clifford Ireland, of Illinois, chairman of the Committee on Accounts, who had presented the resolution, said:

Mr. Speaker, this is the usual resolution for the dependents of a deceased employee of the House, with this exception, that the original resolution as drawn provided for the payment of one year's salary to the dependents of the deceased employee, and the custom for ordinary employees of the House has been to pay six months' salary and funeral expenses not to exceed $250 in amount. It has been found to be the precedent, however, of the House that officers of the House and employees of the so-called Clerk's desk have been paid a full year's salary. In committee this resolution was amended to conform to the ordinary resolution. I gave notice before the committee at that time that I should oppose the amendment, and do so now. I yield to the gentleman from Illinois, Mr. Mann.

Mr. James R. Mann, of Illinois, opposed the amendment and said:

Mr. Speaker, the practice of the House has been to pay a year's salary to the widow or dependents of a Member of the House, six months' salary to the ordinary employee of the House, and a year's salary to the widow or dependents of one of the elected officers of the House. Apparently the precedents are that the practice has been to pay a year's salary to the widow or dependents of clerks at the desk, including the Official Reporters of the House. The precedents are not numerous. The last time an officer or clerk at the desk died was in 1887. A reading clerk died and the House proceeded to pay the widow of the reading clerk one year's salary. Prior to that time Mr. Hincks, one of the Official Reporters of the House, died and the Committee on Accounts did not recommend a year's salary, but the House increased the amount and paid a year's salary to the widow of the reporter. Again, when Mr. McElhone, one of the Official Reporters, died, the Committee on Accounts recommended that his widow be paid one year's salary, and the House so voted, and she was so paid.

I brought Herman Phillips here to the House nearly 24 years ago as assistant Journal clerk. Shortly afterwards he became Journal clerk of the House. From then on he was Journal clerk during all of the time except when the Democratic side of the House was in control of the House. He was an expert man in the House, both as a Journal clerk and as an aid in parliamentary work. I think the House can afford to follow the few precedents which have been set, there being no precedents on the other side, and pay his widow as the widow of a clerk at the desk, a full year's salary; and I hope that the amendment reducing the amount to six months' salary may be defeated.

The question being taken on the amendment proposed by the committee it was decided in the negative. The resolution was then agreed to without amendment.

[1] First session Sixty-seventh Congress, Record, p. 3487.

Chapter CCLXXVIII.[1]

PARTY ORGANIZATION IN THE HOUSE.

3602. The caucus, like the House, organizes ab initio for each Congress.

On March 30, 1917,[2] at the first meeting of the majority caucus for the Sixty-fourth Congress, on motion of Mr. John J. Fitzgerald, of New York, the following resolution was adopted:

Resolved, That the order of business of the meeting of the caucus shall be as follows:

1. The nomination of a Speaker of the House of Representatives in the Sixty-fifth Congress.

2. The nomination of a chairman and other Members of the Ways and Means Committee of the House of Representatives in the Sixty-fifth Congress.

3. The nomination of the officers of the House in the Sixty-fifth Congress, to wit: The Clerk of the House, the Sergeant at Arms of the House, the Doorkeeper of the House, the Postmaster of the House, and the Chaplain of the House.

4. The consideration of such other matters touching the organization of the House in the Sixty-fifth Congress as may be brought before it.

3603. On May 17, 1919,[3] in the minority caucus, Mr. William Kettner, of California, submitted the following resolution which was agreed to:

Resolved, That the order of business for this session of the caucus shall be as follows:

1. Election of the chairman, secretary, and assistant secretary of the caucus for the Sixty-sixth Congress.

2. Adoption of rules of the caucus for the Sixty-sixth Congress.

3. Nomination of a candidate for Speaker of the Sixty-sixth Congress, who, as heretofore, ex officio shall be the minority leader.

4. Nominations of candidates for (*a*) Clerk, (*b*) Sergeant at Arms, (*c*) Doorkeeper, (*d*) Postmaster, and (*e*) Chaplain of the House for the Sixty-sixth Congress.

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[1] This chapter has no analogy with any previous chapter.

[2] First session Sixty-fifth Congress, Caucus Journal, March 31, 1917.

[3] First session Sixty-sixth Congress, Caucus Journal, May 17, 1919.

5. Selection of minority members of the Ways and Means Committee for the Sixty-sixth Congress, and defining the powers of the Democratic Members thereof with respect to recommendations of assignments of minority Members to the standing committees of the House.
6. Selection of persons for the positions in the House assigned to the minority.
7. Election of a Doorkeeper and Sergeant at Arms of the caucus for the Sixty-sixth Congress.
8. Any other matter or matters proper for the consideration of the caucus.

3604. On February 27, 1919,[1] at the organization of the majority conference for the Sixty-seventh Congress, Mr. John Q. Tilson, of Connecticut, offered a resolution, which was agreed to as follows:

Resolved, That the following shall be the order of business and rules of procedure governing this conference:
1. Appointment of three tally clerks.
2. Nomination of Speaker of the House, Sixty-sixth Congress.
3. Notification of nominee for Speaker and presentation to the conference.
4. Nomination of Clerk of the House, Sixty-sixth Congress.
5. Nomination of Sergeant at Arms of the House, Sixty-sixth Congress.
6. Nomination of Doorkeeper of the House, Sixty-sixth Congress.
7. Nomination of Postmaster of the House, Sixty-sixth Congress.
8. Nomination of Chaplain of the House, Sixty-sixth Congress.
9. Selection of committee on committees and defining its duties.
10. Selection of Committee on revision of rules.
11. The transaction of such other business as may properly come before the conference called for "organization purposes."

3604a. On March 2, 1933,[2] in the majority caucus, on motion of Mr. Clarence Cannon, of Missouri, the following resolution was agreed to:

Resolved, That the order of business for this session of the Caucus shall be as follows:
1. Election of the Chairman, Secretary, Assistant Secretary, Sergeant at Arms, and Doorkeeper of the Caucus for the Seventy-third Congress.
2. Adoption of the rules of the Caucus for the Seventy-third Congress.
3. Nomination of a candidate for Speaker of the Seventy-third Congress.
4. Election of the Majority Leader for the Seventy-third Congress.
5. Nomination of candidates for (a) Clerk, (b) Sergeant at Arms, (c) Doorkeeper, (d) Postmaster, and (e) Chaplain of the House for the Seventy-third Congress.
6. Authorization of a steering committee and determination of its jurisdiction.
7. Any other business germane to the organization of the Caucus or the House.

3605. The caucus system has been in use for many years and has been utilized by both parties.

Explanation of caucus procedure requiring two-thirds vote to bind members and exempting constitutional questions, matters of conscience, and pledges to constituents.

On September 24, 1913,[3] while the House was considering the bill (S. 2727) to create an additional land district in the State of Nevada, Mr. Sereno E. Payne, of New York, digressed to discuss the charge that a caucus controlled the legislative program of the majority and designated the bills to be considered.

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[1] First session Sixty-sixth Congress, Conference Journal, February 17, 1919.
[2] First session Seventy-third Congress, Caucus Journal, March 2, 1933.
[3] First session Sixty-third Congress, Record, p. 5157.

In reply Mr. Speaker Clark, of Missouri, speaking from the floor, said:

There are a great many new Members in this House, and while this continual criticism of the conduct of the majority in this House would have no effect whatsoever on the older Members, without regard to political affiliations, it might make new Members think that we are proceeding in an extraordinary manner; that there is no precedent for caucus action.

Every student of government knows that in a country whose institutions are bottomed on suffrage the government will be a government by parties. It matters nothing whether we want it that way or not, that is the way it is. The history of England and of the United States prove that beyond peradventure. Responsibility rests upon the majority, and we shrink not from acknowledging our responsibility to the country and of acting accordingly.

Now let us see about caucus rule. We must have organization in order to enact the will of the people into law. Do you know how many people it takes to hold a caucus? Two can hold a caucus as well as two hundred and ninety-odd Democrats.

In a Democratic caucus it takes two-thirds of all Democrats elect to make caucus action binding. it is not binding at all on constitutional questions or matters of conscience or where a Member has made promises or pledges in his campaign for election. In such cases the rule exempts Members from caucus action.

So far as an open caucus is concerned, the Democratic caucus blazed the way to give publicity to caucus action.

The Democratic Party established the rule in its caucus that every resolution should be entered in the journal and the journal should be kept open not only to members of the caucus but to the press and everybody else interested, so that they can inspect it and see what has been done. That journal is kept like the Journal of the House, on the same principle, with all matters of legislation embraced on it.

Every resolution which is offered in the Democratic caucus is entered in the journal, is open to inspection, and given to the newspapers if they desire to print it.

The minutes are examined almost every day by Members of the House and by newspaper reporters and others who desire to examine them. They are open to the public.

3606. Instance wherein Members failing to abide by the action of their party caucus were disciplined by removal from committees or reduction in rank.—On March 17, 1910,[1] Mr. George W. Norris, of Nebraska, offered a resolution (H. Res. 502) declaring the Speaker ineligible to membership on the Committee on Rules, increasing the number of members on the committee, and providing a new method for their appointment.

Mr. John Dalzell, of Pennsylvania, made the point of order that the resolution was not privileged. During the ensuing debate, Mr. Augustus P. Gardner, of Massachusetts, and Mr. Charles N. Fowler, of New Jersey, stated that they had been removed from committees. Mr. Victor Murdock, of Kansas, and Mr. Henry A. Cooper, of Wisconsin, added that they had been arbitrarily reduced in rank on committees to which they had been assigned.

Mr. Speaker Cannon, of Illinois, having relinquished the gavel, addressed the House from the floor and said:

The gentleman from New Jersey, Mr. Fowler, was chairman of the Committee on Banking and Currency when the emergency currency bill was pending in that committee. The only way to consider that bill in the House was to have that committee make a favorable or an unfavorable report upon it.

The gentleman will recall that the Republican side of the House held two caucuses, and the caucus by a large majority expressed its wish that the Committee on Banking and Currency should

[1] Second session Sixty-first Congress, Record, p. 3321.

report that bill with or without favorable recommendation, so as to enable the House to work its will upon it by a majority. That committee, under the leadership of the gentleman from New Jersey, a Republican chairman, refused to respect the will of the Republican caucus. That made a foundation upon which the Speaker of the House could recognize a Member to move to suspend the rules and discharge the committee from the consideration of the bill and thus bring it before the House, which was done, and a majority of the House did work its will upon that bill.

Subsequently the gentleman from New Jersey; the gentleman from Wisconsin, Mr. Cooper; the gentleman from Kansas, Mr. Murdock; and the gentleman from Nebraska, Mr. Norris, failed to enter and abide by a Republican caucus, and this being a Government through parties, for that, as well as for other sufficient reasons, the Speaker of the House, responsible to the House and to the country, made the appointments with respect to these gentlemen as he conceived it to be his duty in the execution of the trust reposed in him.

3607. A discussion of the organization and functions of the party caucus.—On May 11, 1928,[1] Mr. Guy U. Hardy, of Colorado, in the course of remarks inserted in the Record under leave to print, discussed the organization and functions of the party caucus, as follows:

In the general readjustment in party affairs back in 1910 and 1912 the Republicans gave up the caucus altogether and held meetings of party members under the name of Republican conferences. But in recent years they have gone back again to the old name of Republican caucus.[2]

At the beginning of a new Congress each two years party caucuses are called together to select candidates for Speaker. If there are two or more candidates for Speaker, the matter is threshed out here. After the caucus votes all party members support the man who receives the majority vote in the caucus.

The Republican caucus voted in 1919 to give the speakership to Frederick H. Gillett over his opponent, James R. Mann. In 1925 it selected Nicholas Longworth over his opponent, Martin B. Madden. In the former case the Republicans were just coming into control of the House. In the latter case Speaker Gillett had left the House on being elected to the United States Senate.

The majority caucus also names the various important employees of the House, such as Clerk, Sergeant at Arms, Doorkeeper, Postmaster, and others. Each caucus also selects its party leader and the whip.

Democrats are subject to be bound by the decision of the Democratic caucus. It requires a two-thirds vote, however, to bind the membership on matters of legislation and a member may arise and ask to be relieved of caucus instruction in specific cases.

3608. Proceedings of the Democratic caucus are recorded in its journal, which is open to inspection by the public.

On April 17, 1913,[3] pending a motion for adjournment, and in response to an inquiry from Mr. Victor Murdock, of Kansas, Mr. Oscar W. Underwood, of Alabama, said:

The Democratic caucus was the first to give publicity to caucus action. The Democratic Party established the rule in its caucus that every resolution should be entered in the journal and the jornal should be kept open, not only to members of the caucus, but to the press and everybody else interested. The caucus journal is kept like the journal of the House, with all matters of legislation embraced in it, and anyone can inspect it and see what has been done.

3609. The formal rules of party caucus with statement of party principles.—On September 13, 1913,[4] the Committee of the Whole House on the state of the Union was considering the bill H. R. 7837, the currency bill.

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[1] First session Seventieth Congress, Record, p. 8440.

[2] The formal title of "Conference" is still in use.

[3] First session Sixty-third Congress, Record, p. 224.

[4] First session Sixty-third Congress, Record, p. 4903.

During general debate on the bill, Mr. Charles H. Dillon, of South Dakota, in discussing the attitude of the caucus of the majority party toward the pending legislation, included as a part of his remarks the following:

DEMOCRATIC CAUCUS RULES.

PREAMBLE.

In adopting the following rules for the Democratic caucus we affirm and declare that the following cardinal principles should control Democratic action:

(*a*) In essentials of Democratic principles and doctrine, unity.

(*b*) In nonessentials, and in all things not involving fidelity to party principles, entire individual independence.

(*c*) Party alignment only upon matters of party faith or party policy.

(*d*) Friendly conference and, whenever reasonably possible, party cooperation.

RULES.

1. All Democratic Members of the House of Representatives shall be prima facie members of the Democratic caucus.

2. Any member of the Democratic caucus of the House of Representatives failing to abide by the rules governing the same shall thereby automatically cease to be a member of the caucus.

3. Meetings of the Democratic caucus may be called by the chairman upon his own motion, and shall be called by him whenever requested in writing by 25 members of the caucus.

4. A quorum of the caucus shall consist of a majority of the Democratic Members of the House.

5. General parliamentary law, with such special rules as may be adopted, shall govern the meetings of the caucus.

6. In the election of officers and in the nomination of candidates for office in the House, a majority of those present and voting shall bind the membership of the caucus.

7. In deciding upon action in the House involving party policy or principle, a two-thirds vote of those present and voting at a caucus: meeting shall bind all members of the caucus: *Provided,* That said two-thirds vote is a majority of the full Democratic membership of the House: *And provided further,* That no Member shall be bound upon questions involving a construction of the Constitution of the United States or upon which he has made contrary pledges to his constituents prior to his election or received contrary instructions by resolution or platform from his nominating authority.

8. Whenever any member of the caucus shall determine, by reason of either of the exceptions provided for in the above paragraph, not to be bound by the action of the caucus on these questions, it shall be his duty, if present, so to advise the caucus before the adjournment of the meetings, or, if not present at the meeting, to promptly notify the Democratic leader in writing, so that the party may be advised before the matter comes to issue upon the floor of the House.

9. That the 5-minute rule that governs the House of Representatives shall govern debate in the Democratic caucus unless suspended by a vote of the caucus.

10. No persons except Democratic Members of the House of Representatives, a caucus journal clerk, and other necessary employees shall be admitted to the meetings of the caucus.

11. The caucus shall keep a journal of its proceedings, which shall be published after each meeting, and the yeas and nays on any question shall, at the desire of one-fifth of those present, be entered on the journal.

3610. On February 27, 1919,[1] in adopting an order of business, the majority conference agreed to this resolution providing for conference rules:

[1] First session Sixty-sixth Congress, Conference Journal, February 17, 1919.

RULES OF PROCEDURE.

1. That so far as applicable and except as herein modified, the rules of the Sixty-fifth Congress be adopted as the rules for this conference.

2. That two hours be allowed for nominating speeches for the candidates for Speaker, the time to be equally divided between the spokesmen for the respective candidates for said office.

3. That nominating speeches for other offices be limited to one speech of five minutes for each candidate.

4. That all other speeches be limited to five minutes.

5. That upon the expiration of the one hour allowed for nominating speeches for Speaker, the roll shall be called, and the person receiving a majority of the votes of the Members elect of the Sixty-sixth Congress who are present and voting shall be the Republican nominee for Speaker of the House for the Sixty-sixth Congress.

6. The vote on nomination for all other offices shall be by acclamation, or by a rising vote, or upon the demand of one-fifth of the members present the roll shall be called, and the candidate receiving a majority of the votes cast for any of the offices enumerated in the foregoing order of business shall be the Republican nominee for such office. The chairman, in behalf of the conference shall present to the House of Representatives the nominees selected by the conference.

3611. Under the recent practice the selection of floor leaders is announced in the House.

On April 15, 1929,[1] the first day of the session, the Speaker having been elected and having taken the oath of office, Mr. Willis C. Hawley, of Oregon, chairman of the majority caucus, addressed the Chair and said:

Mr. Speaker, the Republican caucus of the House has reelected Hon. John Q. Tilson, of Connecticut, majority leader for the Seventy-first Congress.

Mr. David H. Kincheloe, of Kentucky, announced:

Mr. Speaker, as chairman of the Democratic caucus, I announce that the caucus has selected Hon. John N. Garner, of Texas, as minority leader for the Seventy-first Congress.

Apparently this was the first occasion of the official announcement of the selection of party leaders in the House.

3612. On December 7, 1931,[2] on the first day of the session, following the election of the Speaker, Mr. William W. Arnold, of Illinois, chairman of the majority caucus in the Seventy-second Congress, addressed the Chair and said:

Mr. Speaker, the caucus of the Democratic Members of the House has selected Hon. Henry T. Rainey, of Illinois, as majority leader for the Seventy-second Congress.

3613. On March 9, 1933,[3] at the organization of the House, Mr. Clarence F. Lea, of California, chairman of the majority caucus, announced:

Mr. Speaker, as chairman of the Democratic caucus, I desire to announce to the House that at the recent meeting of the caucus, Hon. Joseph W. Byrns, of Tennessee, was selected majority floor leader for the Seventy-third Congress.

Thereupon, Mr. Robert Luce, of Massachusetts, announced:

Mr. Speaker, as chairman of the Republican conference, I wish to announce that the conference has selected Hon. Bertrand H. Snell, of New York, as minority leader for the Seventy-third Congress.

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[1] First session Seventy-first Congress, Record, p. 25.

[2] First session Seventy-second Congress, Record, p. 9.

[3] First session Seventy-third Congress, Record, p. 75.

3614. A discussion of the functions and duties of the majority and minority floor leaders.

The rules contain no provision relating to the selection or duties of the party floor leaders, who are chosen by the caucus or conference of their respective parties.

On May 11, 1928,[1] Mr. Guy U. Hardy, of Colorado, in the course of remarks inserted in the Record, said:

The floor leader, especially the leader of the majority side, has much to do with the legislative program. The majority leader, of course, represents the majority on the floor. Motions he makes are usually passed. He endeavors to represent the majority view and the majority follow his leadership. He leads in debate on administration matters and gives the House and the country the viewpoint of his party on the legislative program.

The leader keeps in touch with proposed legislation, the status of bills of importance, with the steering committee of which he is chairman, and with the attitude of the Rules Committee. He confers with committee chairmen and Members in general. The majority leader often confers with the President and advises with him regarding administrative measures. He takes to the President the sentiment of the party in the House and he brings to the party in the House the sentiment of the President. The majority leader acts also as chairman of the committee on committees and of the steering committee. The majority leader at this time is John Q. Tilson of Connecticut. Other Republican floor leaders who have preceded Mr. Tilson are Nicholas Longworth, Frank Mondell, James R. Mann, Joseph G. Cannon, Thomas B. Reed, Nelson Dingley, William McKinley, and Sereno Payne.

The minority leader is Finis J. Garrett, of Tennessee. Other notable floor leaders on the Democratic side have been Champ Clark, Claude Kitchin, Oscar Underwood, and Samuel J. Randall.

3615. A discussion of the duties and methods of selection of the party whips.—Mr. Hardy also discussed[2] the duties and personnel of the majority and minority whips and the methods of their selection, as follows:

The office of whip comes to us from the British Parliament where the name has been used for some two hundred years. It is probable that every legislative body, as long as there have been such bodies, has had some person who has acted in this capacity.

The whip looks after the membership of his party and endeavors to have them present to vote on important measures. When the vote is close, he finds who is out of the city, and advises absentees by wire of important measures coming up.

There are hours of long debate when many Members do not feel it necessary to be present. The whip keeps informed on the daily program, and notifies the membership of his party. Occasionally Members' offices are notified by phone from the whip's office that "All Members are desired on the floor immediately."

The whip has also a duty to perform in connection with the White House. The President occasionally seeks information from the whip as to the sentiment of the House on important administration measures, about the prospect of passage of certain bills, and the whip naturally reflects the President's view about many things and is in a position to know the administration's policy.

The Republican whip was formerly appointed by the Speaker, but is now chosen by the party caucus. Hon. Albert H. Vestal, of Indiana, is serving as Republican whip at this time. Some others who have rendered distinguished service as Republican whip have been Thomas B. Reed; James Wilson, late Secretary of Agriculture; James W. Watson, now United States Senator from Indiana; James A. Tawney; and John W. Dwight. On the Democratic side William A. Oldfield, of Arkansas, is the party whip.

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[1] First session Seventieth Congress, Record, p. 8439.

[2] Ibid.

3616. Members of the Republican committee on committees are selected by States and have a voting strength in the committee in proportion to the party membership of their respective State delegations in the House.

On February 27, 1919,[1] in the majority conference, Mr. James R. Mann, of Illinois, proposed the following resolution:

Resolved, That a committee on committees be selected consisting of one Member from each State having Republican representation in the Sixty-sixth Congress, to be selected by the Republican representation from the several States, respectively, and that the voting strength of each member of such committee shall be the number of Republican Members of the House from his State.

The resolution was agreed to and is the first appearance of a provision for geographical representation on a committee charged with the selection of the standing committees of the House.

3617. On The Democratic members of the Committee on Ways and Means serve as the committee on committees for their party in the House.

Nominations for assignments to the standing committees are made by the committee on committees which reports them to the caucus for approval and ratification.

On April 9, 1921,[2] Mr. James F. Byrnes, of South Carolina, in the minority caucus, offered the following resolution which was agreed to:

Resolved, That the Democratic members of the Ways and Means Committee of the Sixty-sixth Congress, who are members of the House of the Sixty-seventh Congress, be nominated by acclamation as minority members of the Ways and Means Committee, and the minority members of the said committee shall constitute the committee on committees for the minority, with power to nominate for membership on the several standing committees of the House, the minority members of the Sixty-seventh Congress. That a report of such nominations shall be made to the caucus for its approval, rejection or amendment, and such committee shall have power to fill vacancies occuring during the Sixty-seventh Congress.

3618. On December 7, 1931,[3] at the organization of the House, Mr. Edward W. Pou, of North Carolina, offered a resolution providing for the adoption of the rules.

In the course of an informal discussion relating to the proposal, Mr. Fiorello H. LaGuardia, of New York, suggested deferring consideration of the resolution.

Whereupon, Mr. Henry T. Rainey, of Illinois, said:

I may say to the gentleman from New York that we are very anxious to elect the Democratic members of the Ways and Means Committee. It is our committee on committees, and I hope it can be done by unanimous consent.

3619. Instance wherein the chairman of the committee on committees of the majority caucus, by direction of the caucus, proposed changes in the rules and the election of members to committees which were agreed to by the House.

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[1] First session Sixty-sixth Congress, Conference Journal, February 17, 1919.

[2] Caucus Journal, April 9, 1921.

[3] First session Seventy-second Congress, Record, p. 12.

On January 4, 1932,[1] Mr. James W. Collier, of Mississippi, serving as Chairman of the Ways and Means Committee and ex-officio chairman of the committee on committees of the majority party, offered a resolution providing for a change in the title of the Committee on the Merchant Marine and Fisheries to the Committee on the Merchant Marine, Radio, and Fisheries, and the election of majority members to the new committee.

In the course of the ensuing debate, Mr. Collier said:

This is the unanimous report of the committee on committees.

Mr. Carl E. Mapes, of Michigan, inquired if he had consulted the chairman of the Committee on Interstate and Foreign Commerce, which had at one time exercised a mooted jurisdiction over radio legislation.

Mr. Collier replied in the negative and Mr. Ewin L. Davis, of Tennessee, chairman of the former Committee on the Merchant Marine and Fisheries, said:

If the gentleman will permit, I will say that the gentleman from Texas was present at the meeting of the caucus at which this change was unanimously adopted.

3620. On December 6, 1920,[2] Mr. Frank W. Mondell, of Wyoming, being recognized, said:

Mr. Speaker, by instruction of the Committee on Committees I present the names of seven Members to be elected by the House as new members of the Committee on Appropriations, to be assigned on that committee in the order indicated.

The Clerk read as follows:

To be members of the Committee on Appropriations:

Martin B. Madden, Illinois.
Daniel R. Anthony, Kansas.
Sidney Anderson, Minnesota.
Patrick H. Kelley, Michigan.
John Jacob Rogers, Massachusetts.
John A. Elston, California.
S. Wallace Dempsey, New York.

To be assigned to the committee in the following order:

1. James W. Good, Iowa, chairman.
2. Charles R. Davis, Minnesota.
3. Martin B. Madden, Illinois.
4. Daniel R. Anthony, Kansas.
5. William S. Vare, Pennsylvania.
6. Joseph G. Cannon, Illinois.
7. C. Bascom Slemp, Virginia.
8. Sidney Anderson, Minnesota.
9. William R. Wood, Indiana.
10. Louis C. Cramton, Michigan.
11. Patrick H. Kelley, Michigan.
12. John Jacob Rogers, Massachusetts.
13. Edward H. Wason, New Hampshire.
14. Walter W. Magee, New York.
15. George Holden Tinkham, Massachusetts.
16. Burton L. French, Idaho.
17. John A. Elston, California.
18. S. Wallace Dempsey, New York.
19. Milton W. Shreve, Pennsylvania.
20. Charles F. Ogden, Kentucky.

The motion was agreed to.

On July 21, 1921,[3] when the Journal had been approved, Mr. Mondell asked for recognition and said:

Mr. Speaker, in accordance with the action of the majority of the Committee on Committees, I present the following resolution.

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[1] First session Seventy-second Congress, Record, p. 1222.

[2] Third session Sixty-sixth Congress, Record, p. 6.

[3] First session Sixty-seventh Congress, Record, p. 4170.

The Clerk read:

Resolved, That Martin B. Madden, Member of Congress from Illinois, be, and he is hereby, elected chairman of the Committee on Appropriations of the House of Representatives.

The resolution was agreed to without debate or division and Mr. Madden, the second ranking majority member on the committee, was chosen chairman.

3621. Origin and history of the first elective steering committee in the party organization of the House.

Provision for steering committee to be nominated by the committee on committees and elected by the party conference.

The floor leader is ex-officio chairman of the steering committee.

On February 27, 1919,[1] the majority conference, in defining the duties of the committee on committees, agreed to a resolution providing for the creation of a steering committee in the following terms:

The duties of the committee on committees shall be:
1. To select the Republican members of the standing committees of the House.
2. To select a steering committee of five members.
3. To select a whip, who may appoint assistants.
4. To select a floor leader, who shall become ex officio chairman of the committee on committees and chairman of the steering committee.
5. To report its action to a Republican conference.

Provision for the steering committee has been continued through each succeeding Congress without change in its duties or the manner of its selection, and without other modification except an increase from time to time in its membership. It is now composed of nine members in addition to the chairman, and with the change in the control of the House at the opening of the Seventy-second Congress, was retained as a part of the minority organization.

3622. A majority steering committee was created in the Seventy-third Congress consisting of 15 elective Members elected by geographical groups sitting separately and voting by zones.

The Speaker, floor leader, chairman of the caucus, and chairman of the Rules Committee are ex officio members of the steering committee.

The States are grouped by zones for the purpose of providing a geographical basis of representation on the steering committee.

The steering committee is not responsible to the caucus, and the election of its members, individually or collectively, is not subject to caucus ratification or rejection.

Members of the steering committee are directly responsible to the membership of the zone from which elected and are subject to recall at any time.

The chairman of the steering committee is elected by the committee and is ineligible to succeed himself.

The steering committee meets at the call of the chairman or on the call of three members of the committee.

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[1] First session Sixty-sixth Congress, Conference Journal, February 27, 1919.

A resolution [1] of the majority caucus of the Seventy-third Congress provided:

Resolved, That in the Seventy-third Congress a Democratic steering committee be created as follows:

First. The chairman of the Democratic caucus of the Seventy-third Congress shall select a committee of 12 Democratic Members of the Seventy-third Congress, who shall divide the United States into groups of contiguous States, creating not less than 9 nor more than 18 [2] groups, having particular reference to similarity of interest and also taking into consideration as far as may be possible Democratic representation and population.

Second. When said grouping shall be completed the Democratic membership of each group shall meet in conference and select its own member of its own group of the Democratic steering committee.

Third. Any group may, however, before the end of the session of the Seventy-third Congress, recall by a majority vote of the particular group, its member of the steering committee and elect another member in his stead for that group, and this power shall be continuous.

Fourth. The Speaker of the House, the majority leader, the chairman of the caucus, and the chairman of the Committee on Rules shall be ex officio members of the steering committee.

Fifth. The steering committee shall meet and select its chairman, who shall be a member of the steering committee, but no ex officio member of the steering committee shall be eligible for the chairmanship of the steering committee.

Sixth. The chairman of the steering committee shall not be eligible to succeed himself in that position.

Seventh. The steering committee shall meet on the call of the chairman, but must meet when any three members of the steering committee request the chairman to call a meeting of the committee.

Eighth. The functions of the steering committee shall be that each member shall keep in touch with his own particular group and consult with them as to important legislation which may be under consideration, and the steering committee shall ascertain what support can be obtained from the Democratic membership on any proposition of party policy, shall iron out difference in the different sections of the United States in order that the administration may be advised fully as to the position of the Democratic membership in the House on any legislation it may propose and shall discharge such other duties which may be from time to time assigned to them by the Democratic administration.

The resolution was adopted without change at the organization of the majority caucus for the Seventy-fourth Congress.[3]

3623. Differences of opinion as to party policies are submitted to the steering committee for determination.

The steering committee frequently holds hearings before reaching a decision on questions of policy.

On January 24, 1920,[4] the House was considering the diplomatic and consular appropriation bill in the Committee of the Whole House on the state of the Union.

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[1] Caucus Journal, April 12, 1933.

[2] The States are grouped in 15 zones, as follows: 1, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island; 2, New York; 3, Pennsylvania, New Jersey, Delaware; 4, Maryland, Virginia, North Carolina; 5, South Carolina, Georgia, Florida; 6, Alabama, Mississippi, Louisiana; 7, Arkansas, Tennessee, Kentucky; 8, Ohio, West Virginia; 9, Indiana, Michigan; 10, Illinois, Wisconsin; 11, Missouri, Iowa, Minnesota; 12, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma; 13, Texas; 14, Montana, Idaho, Wyoming, Colorado, Utah, Nevada, Arizona, New Mexico; 15, California, Washington, Oregon.

[3] First session Seventy-fourth Congress, Caucus Journal, Jan. 2, 1935.

[4] Second session Sixty-sixth Congress, Record, p. 1999.

In response to a reference by Mr. Claude Kitchin, of North Carolina, the minority leader, to the majority steering committee, Mr. Frank W. Mondell, of Wyoming, the majority leader and ex officio chairman of the steering committee, explained:

We have a steering committee. The chairman of the various committees of the House, after having given careful consideration to the matters that come before their committees, very frequently say to the Speaker or to the chairman of the steering committee, or some member of it, "We have some matters with regard to which there is some difference of opinion as to the proper policy to follow. We are trying to carry out a policy of economy. We want to provide properly for the public service, but we want to cut out all unnecessary appropriations, and the members of our committee would like to take up with the steering committee and with the Speaker, and with such other members as you see fit to invite in, the general questions of policy before our committee." We frequently have conferences thus suggested. We have done that with regard to every appropriation bill that has been presented to the House thus far. That policy will be followed with regard to other appropriation bills, not doubt. The conference not only takes in the members of the committee having the matter in charge, the members of the steering committee, and the Speaker but generally chairmen or members of other committees interested in the carrying out of the general policy and having to do with legislative and appropriation matters somewhat akin to those under consideration. And after full consideration we have always reached a unanimous agreement. It is not a matter of a showing of hands with the idea of finding out whether there is a preponderance of opinion on one side or the other; but after all have discussed the matter, frequently, not once but a number of times, there is eventually a unanimous agreement.

We keep at it until there is a unanimous agreement as to the general policy that ought to be followed. That is what we ought to have had here years ago. It is the best way to legislate and appropriate—that is, to bring the membership of the House together frequently in groups, first one and then another; bringing in those who desire to be heard, those who are particularly interested in the matter before us, those who have a special responsibility with regard to the general policy of the party, and finally coming to an agreement as to what we shall do. The steering committee has never told any committee what is should do, what it could do, or what it could not do, and has no thought of doing anything of the sort. But I am thankful that out of this policy of cooperation and coordination and constant and frequent conference we are able to secure an agreement as to what should be done.

3625. The majority steering committee in the Sixty-fifth and Sixty-sixth Congresses consisted of five members.

The steering committee was nominated by the majority committee on committees and elected by the party conference.

The membership of the steering committee is subject to recall whenever the conference determines it is not representative of party sentiment in the House.

The leader serves as chairman of the steering committee which meets on call.

On April 27, 1920,[1] during consideration of the soldiers' compensation bill in the House, Mr. Nicholas Longworth, of Ohio, replying to an inquiry as to the functions of the steering committee addressed to the House generally by Mr. Henry T. Rainey, of Illinois, earlier in the debate, said:

A word about the steering committee. I am, as the gentleman from Illinois has said, a member of it. I am also a member of the Committee on Ways and Means, which is drafting this soldiers' legislation, and a member of the committee on committees, which created them both. I

[1] Second session Sixty-sixth Congress, Record, p. 6177.

ought to be competent, therefore, to know just what the steering committee has had to do with the taxation and any other features of this bill.

Now, first let me correct the misapprehension that the steering committee is a boss on this side of the House. On the contrary, we are the mere legislative agents and servants of the majority. We were elected unanimously, and we can be removed tomorrow if we fail to be representative of the mind of the majority. That we are still here is proof of the fact that, so far at least, we have done fairly well in crystallizing the thought of the majority into legislation.

I will candidly admit, that I had some doubt when the steering committee was first formed as to whether it was sufficiently representative. When it came time to organize this House I made just as hard a fight as I knew how upon two propositions: First, to enlarge the steering committee; and, second, to modify in some respects the seniority rule.

My thought in regard to the steering committee was that it should consist of nine rather than of five members, so that it might be more representative, geographically, and in cleavage of thought, of the body of the majority. The majority of the conference, however, thought that inasmuch as the committee was apt to be called together at any time, practically, of the day or night, a committee of nine would be unwieldy, and they defeated our proposal, so that the committee was left at five.

3626. The majority steering committee in the Seventieth Congress.

On May 11, 1928,[1] Mr. Guy U. Hardy, of Colorado, in the course of a speech inserted in the Record under leave to extend remarks, included the following:

An influential factor in government is the steering committee. It exerts a powerful influence but makes no effort to exhibit power. It works along diplomatic lines to feel out and consolidate sentiment for administration measures and procedure. It meets at the call of the chairman, and considers the welfare of the Government from the party point of view. It advises with the White House, the chairmen of important committees, the party leaders, and the Rules Committee. It helps to iron out differences, and to formulate the majority program in the House. The chairman of the Steering Committee is the floor leader. When the committee meets the Speaker sometimes and the chairman of the Rules Committee usually are invited in for consultation. Other members of the committee are:

George P. Darrow, Pennsylvania; Edward E. Denison, Illinois; Nicholas J. Sinnott, Oregon; Allen T. Treadway, Massachusetts; Walter H. Newton, Minnesota; Homer Hoch, Kansas; Frederick R. Lehlbach, New Jersey; S. Wallace Dempsey, New York; Royal C. Johnson, South Dakota.

3627. The patronage of the House is distributed through a patronage committee nominated by the committee on committees and elected by the majority caucus.

Chairmen of committees control the patronage of their respective committees and do not participate in the general distribution.

The patronage of the House, exclusive of the committee assignments, is divided as equitably as may be among the majority Members exclusive of chairmen, the amount assigned to the individual Member varying with the size of the party majority.

Employees designated for appointment shall be competent, and are subject to removal by the committee for cause, or by the Members appointing them, at will.

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[1]First session Seventieth Congress, Record, p. 8439.

On May 9, 1911,[1] Mr. John C. Floyd, of Arkansas, from the Committee on Accounts, by direction of that committee, presented a report[2] on a resolution vacating offices and employments in the service of the House, and quoting the following sections from a resolution adopted by the majority caucus for the Sixty-second Congress:

SEC. 3. That the Democratic members of the Committee on Ways and Means be, and they are hereby, instructed to nominate to the caucus for its action a committee of three members, to be known as the Committee on Organization, who shall have charge of the proper distribution of all of the appointive places in the House organization as provided herein, except the cloakroom men and such other places as are by law or resolution to be filled by the minority. And that said committee shall distribute said appointive places amongst the members of the various State delegations, exclusive of committee chairmen having patronage as under section 4, giving to each State the proportion in number of places and aggregate salaries thereof, as nearly as may be done, which its Democratic delegation bears to the entire Democratic membership of the House, excluding such chairmen, leaving to the individual members of the several State delegations or the several State delegations the nomination of persons to the places to which such State shall be so entitled; Provided that each member from a State shall receive, so far as practicable, a fair and equal proportion of the patronage to which his State is entitled; and said committee to have entire charge of the adjustment of such appointive places after the nominations have been made to said committee by the various State delegations; and the several elective officers of the House shall appoint only such persons to fill the various appointive offices as shall have been named by the said Committee on Organization, provided that the elective officers shall not be charged to any Member or delegation.

SEC. 4. That in the distribution of patronage, the clerk, assistant clerk, janitor, messenger, or other employees of each standing committee shall be charged to the chairman of the committee, who shall have the right to appoint the same by and with the approval of his committee; and that such chairman shall receive no other patronage until every other member shall have been given the opportunity to name the occupants of positions, whose salaries shall equal those of the persons so appointed by the respective committee chairmen.

3628. On March 19, 1918, preceding the opening of the Sixty-sixth Congress, the following letter was dispatched to majority Members elect:

DEAR SIR: The Members nominated by the committee on committees, under the instructions of the Republican conference of February 27, as the Republican steering committee, were instructed by the committee on committees to consider the question of patronage with a view to its equitable distribution, having especial regard for efficiency and the proper conduct of the business of the House.

The steering committee will recommend that the general patronage of the House, after eliminating that of committees, certain positions in which the incumbents' past services seem to warrant their retention and positions not heretofore deemed to be a part of the general patronage, be distributed through and by State delegations whose members are not chairman of committees, upon the basis of about $1,800 per Member.

The steering committee finds that 266 positions will be available, the aggregate salaries of which amount to $330,000, to be apportioned among 179 Members through their respective State delegations. Accordingly, for instance, your State will be entitled to patronage amounting to $———, distributed among ——— Members who are chairmen of committees.

It is suggested by the steering committee that, in order to be in readiness to assume control of the House and be prepared for the prompt dispatch of business when an extra session shall be called, Members entitled to patronage confer as early as possible with their colleagues upon the subject in order that delegations may be prepared to submit their recommendations before or at

[1] First session Sixty-second Congress, Record, p. 1148.

[2] House Report No. 25.

the time of the assembling of Congress. All letters of inquiry and recommendations agreed upon should be addressed to Wm. Tyler Page, Republican nominee for Clerk of the House, House of Representatives, Washington, D.C.

For your information there is inclosed a statement showing the offices or positions in the House of Representatives and their statutory salaries, to which the plan above mentioned applies.

In addition to such salaries the law, effective July 1st next, provides a bonus of $240 for the next fiscal year. This bonus, however, is not included in the committee's basic computation of $1,800 per Member.

Inviting your earliest possible consideration of this important matter,

Very truly yours,

F. W. MONDELL,
Temporary Chairman, Committee on Committees.

3629. On December 15, 1931, following the change in the control of the House in the Seventy-second Congress, majority Members received the following:

DEAR COLLEAGUE: The patronage committee has assigned to you your quota of patronage with the following conditions:

First. That those selected by you shall be placed on the pay roll on either the 15th or the 1st of the month.

Second. That any person assigned to you may be removed by you at any time you see fit.

Third. That the committee reserves the right to remove any person for incompetency or misconduct.

Fourth. Should you be assigned more than your quota, the committee reserves the right to reduce this amount, but hopes that it will not be necessary to do so.

Fifth. Patronage is assigned for the Seventy-second Congress only. If the Democratic majority is increased at the next election it will probably be necessary to rearrange assignments so as to take care of the new Members.

Your quota is as follows: ———.

When you so desire, please give me the name of the person or persons you wish to have placed on the pay roll in writing. The committee desires to express appreciation for the splendid spirit of cooperation that has been manifested by the Members. We have done the best that we could to satisfy every person, and hope that these assignments will be satisfactory.

Very sincerely,

JAMES V. MCCLINTIC, *Chairman.*

Chapter CCLXXIX.[1]

MISCELLANEOUS.

3630. A motion to go into executive session is in order when any Member shall inform the House that he has communications which he believes should be considered in confidence, and takes precedence of a motion to resolve into the Committee of the Whole for the consideration of an appropriation bill.—On February 7, 1919,[2] Mr. Lemuel P. Padgett, of Tennessee, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill.

Pending that motion, Mr. Benjamin G. Humphreys, of Mississippi, rising to a parliamentary inquiry, referred to statements that a communication had been received by the Committee on Naval Affairs which properly could not be made public, and asked if a motion to go into executive session would be in order.

The Speaker[3] replied that the motion was in order if there was occasion for a secret session.

3631. Following revision of the rule relating to secrecy, the Senate practice of considering executive business in closed session has been largely discontinued.—On June 18, 1929,[4] in the Senate, the long-established custom of

[1] Supplementary to Chapter CXLVIII.

[2] Third session Sixty-fifth Congress, Record, p. 2898.

[3] Champ Clark, of Missouri, Speaker.

[4] First session Seventy-first Congress, record p. 3053.

considering executive business behind closed doors was discontinued by the adoption of an amendment to the rule relating[1] to secrecy under which amendment all Senate business is transacted in open session unless otherwise ordered by majority vote.

While the rule as amended provides for closed sessions on contingency, in practice the provision is seldom invoked.

3632. An exceptional instance in which the Hall of the House was used for other than legislative business.—On February 11, 1911,[2] Mr. Irving P. Wanger, of Pennsylvania, asked unanimous consent for the consideration of this resolution:

Resolved, That Members of the House of Representatives and their invited guests, and Senators, may assemble in the Hall of the House on Monday evening, February 13, 1911, at 8 o'clock, and that in said Hall of the House an address upon the construction of the Panama Canal be pronounced by Col. George W. Goethals, United States Army, chairman of the Isthmian Canal Commission and chief engineer of the commission.

Resolved, That the Superintendent of the Capitol and the Doorkeeper of the House be charged with the execution of the proper arrangements for the occasion.

There was no objection. During the debate on the resolution reference was made to the use of the House on the occasion of the memorial exercises in honor of President McKinley, and on the occasion of an address by Charles Edward Parnell, the English parliamentarian, also to the admission of the public to the floor to hear a speech by William Jennings Bryan in the course of the fifty-third Congress.

The resolution was agreed to largely on considerations expressed by Mr. James R. Mann, of Illinois, as follows:

We considered this very carefully. I felt very much indisposed at first blush to permit the Hall of the House to be used for any purpose of this sort. But here is the Panama Canal being constructed by us; Colonel Goethals is in charge of the construction; he is in this country from abroad by direction of the Government for the purpose of giving information to Members of Congress, and it hardly seems to the committee that it is setting any precedent which would be injurious to direct him, practically, to give the information directly to Members of the House in the Hall of the House instead of to the committee. Gentlemen understand that this comes up by unanimous consent, and anyone could object to it, and the committee does not think there is any danger of creating a precedent that would embarrass us in the future.

3633. The House has investigated the advantages of amplifying devices.

A resolution relating to the installation of accessories proposed to improve the acoustics of the Hall of the House was entertained as privileged.

On January 26, 1923,[3] the Speaker recognized Mr. Guy E. Campbell, of Pennsylvania, from the Committee on Rules, to present as privileged the following resolution:

Resolved, That the Committee on Rules or a subcommittee thereof is hereby authorized and directed to make full inquiry into the matter of the permanent installation in the House wing of the Capitol Building and in the Hall of the House of Representatives of the apparatus or device, now experimentally in operation therein, designated as a "Public address or voice amplifying system." The committee shall report to the House at the earliest practicable date its recom-

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[1] Paragraph 2 of Senate Rule XXXVIII.

[2] Third session Sixty-first Congress, Record, p. 2390.

[3] Fourth session Sixty-seventh Congress, Record, p. 2543.

mendations as to the desirability and advisability of such system for use in the House of Representatives, together with detailed information covering the cost of installation, operation, and maintenance.

Under this authorization, amplifying applicants were installed by way of experiment but after trial were discarded. Radio facilities for broadcasting the proceedings of the House were also installed at this time and after brief tests wee discontinued.[1]

The installation of a similar system was also considered by the Senate.[2]

3634. The rules limit strictly the classes of persons having the privileges of the floor during sessions of the House.

The Speaker is forbidden to entertain a request for the suspension of the rule relating to the privilege of the floor.

The President and Vice President of the United States and their secretaries have the privilege of the floor.

The Justices of the Supreme Court have the privileges of the floor.

"Heads of Departments," meaning members of the President's cabinet, have the privilege of the floor.

Members of Congress, Members Elect, and, under certain conditions, ex-Members of the House and contestants in election cases have the privilege of the floor.

The Secretary and Sergeant at Arms of the Senate, the Superintendent of the Capitol, the Librarian of Congress and his assistant in the law library have the privilege of the floor.

Ministers from Foreign Governments and Governors of States (but not Territories) have the privilege of the floor.

The Resident Commissioners to the United States from Porto Rico and the Philippine Islands have the privilege of the floor.

Persons who have by name received the thanks of Congress have the privilege of the floor.

Form and history of Rule XXXIII.

Rule XXXIII provides:

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant at Arms of the Senate, heads of departments, foreign ministers, governors of States, the Superintendent of the Capitol Building and Grounds, the Librarian of Congress and his assistant in charge of the law library, the Resident Commissioner to the United States from Porto Rico, the Resident Commissioners from the Philippine Islands, such persons as have, by name, received the thanks of Congress, ex-Members of the House of Representatives who are not interested in any claim or directly in any bill pending before Congress, and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the Chair the request of any Member for unanimous consent.

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[1] Record, p. 3900.

[2] Record, pp. 7666, 9110, 9962.

This is the form agreed to in the revision of 1880,[1] with a few subsequent modifications. The Committee on Rules in 1880[2] gave a history of the various modifications of the rule since 1802.

The words "heads of departments" is construed to mean the member of the President's Cabinet, as is evident from the fact that in 1886[3] the House did not agree to a proposition to add such officers as the Commissioners of Patents, Internal Revenue, Pensions, etc.

The words "foreign ministers" are construed to mean the representatives of foreign governments duly accredited to this Government and not representatives of this Government abroad who may be in Washington temporarily. This is evident from the fact that in former years the language was "foreign minister and their secretaries,"[4] indicating an official with his established office in Washington. As early as December 8, 1798,[5] the ministers of Great Britain and Denmark attended a joint meeting of the two Houses in Representatives' Hall to hear the President's speech. Foreign ministers have not often in later years availed themselves of the privilege, usually preferring the diplomatic gallery.

The "Superintendent of the Capitol Building and Grounds" was included by amendment of June 28, 1902,[6] when the designation of the old office of "Architect of the Capitol" was changed. At the same time the "Resident Commissioner to the United States from Porto Rico" was included, after proposed legislation to authorize a Delegate from that island had failed, and the Resident Commissioners from the Philippine Islands were added in the revision of 1911.[7]

Until 1857 persons who had been Members of either the Senate or the House were admitted to the privileges of the floor of the House under a very liberal[8] rule. In that year, when the House was about to move from the old Hall to the new, it was thought desirable, in view of the enlarged gallery accommodations of the new Hall, to restrict the admissions to the floor. So on December 23, 1857,[9] this rule was adopted:

> That no person except Members of the Senate, their secretary, heads of departments, President's private secretary, the governor for the time being of any State, and justices of the Supreme Court of the United States shall be admitted within the Hall of the House of Representatives.

This new rule cut off from the privilege of the floor the following persons who had enjoyed it under the old rule: The Treasurers of the United States, comptrollers, registers, auditors, Chaplains to Congress, judges of the United States, foreign ministers and their secretaries, officers thanked by Congress for gallantry and good conduct in the public service, governors of Territories, ex-Members of the House and Senate, persons who had been heads of departments, members of State and Terri-

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[1] Second session Forty-sixth Congress, Record, pp. 207, 1205.

[2] Second session Forty-sixth Congress, Record, p. 202.

[3] First session Forty-ninth Congress, Record, p. 2411.

[4] Second session Twenty-ninth Congress, Journal, p. 536.

[5] Third session Fifth Congress, Annals, p. 2420.

[6] First session Fifty-seventh Congress, Record, p. 7608.

[7] First session Sixty-second Congress, Record, p. 19.

[8] Third session Thirty-fourth Congress, Journal, p. 694.

[9] First session Thirty-fifth Congress, Journal, p. 116; Globe, pp. 170,171.

torial legislatures, and members of the legislative bodies of foreign nations in amity with the United States.

Ex-Members of Congress were readmitted to the floor by rule of March 16, 1867,[1] which excluded all such as were "interested in any claim pending before Congress" and required that ex-Members should register themselves as not so interested before admission.[2] The word "claim" in this rule was construed strictly, and on April 23, 1872,[3] an attempt of the Committee on Rules to change the word to "any legislative measure" was defeated by recommittal. With the exception of ex-Members of Congress and persons who have by name received the thanks of Congress[4] the strictness of the rules of 1857 was continued[5] until the revision of 1880. In that revision the rule was framed in practically its present form,[6] but ex-Members of Congress were admitted, as to whom it was provided, as now, that they should "not be interested in any claim or directly in any bill pending before Congress." In 1884[7] ex-Senators were excluded by confining the privilege to ex-Members of the House instead of ex-Members of Congress.

In the Fifty-second Congress the words "directly in any" were omitted before "bill" in the clause relating to ex-Members. In the Fifty-third Congress, the Secretary of the Smithsonian Institution was added to the number of privileged persons, and after the word "interested," in the clause relating to ex-Members, the words "either as party, agent, or attorney" were added. In the Fifty-fourth Congress the form of the Fifty-first Congress was restored.

3635. While former Members of Congress are entitled to the privilege of the floor they may not manifest approval or disapproval of the proceedings.

On December 20, 1932,[8] the Committee of the Whole House on the state of the Union was considering the bill (H. R. 13742) to provide revenue by the taxation of certain nonintoxicating liquors.

Mr. Fritz G. Lanham, of Texas, in the course of debate said:

> They can hardly be supposed to believe that the drinking public in America is going to expend enormous sums, a small fractional part of which as taxes will yield the Government hundreds of millions of dollars annually in revenue, for a beverage altogether lacking in the proverbial kick. [Applause.]

Whereupon person on the floor, including Mr. William D. Upshaw, of Georgia, a former Member of the House, applauded.

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[1] First session Fortieth Congress, Journal, p. 46; Globe, pp. 119, 120.

[2] Although this provision as to registering disappeared from the rule in the revision of 1880, the secretary of the Speaker still keeps the register, and ex-Members are required to sign it before receiving a card of admission.

[3] Second session Forty-second Congress, Globe, pp. 2688–2691.

[4] Included in rule of March 15, 1867 (first session Fortieth Congress, Journal, p. 46; Globe, pp. 119, 120).

[5] First session Forty-sixth Congress, Journal, p. 633.

[6] Second session Forty-sixth Congress, Journal, p. 1552.

[7] First session Forty-eighth Congress, Journal, p. 1777.

[8] Second session Seventy-second Congress, Record, p. 761.

Mr. William H. Stafford, of Wisconsin, rose to a question of order and said:

Mr. Chairman, I rise to a question of order.

It is that a former Member of this House, even though he was a candidate for the Presidency of the United States on the Prohibition ticket, has no right to applaud on the floor of the House remarks of the speaker having the floor.

The Chairman [1] sustained the point of order and ruled:

The gentleman has properly raised a question of order. Although the gentleman referred to is entitled to the privilege of the floor, it is a violation of the rules for him to indulge in approbation or disapproval of what may be said upon the floor.

3636. Clerks of committees other than the clerk of the committee in charge of the bill under consideration are not entitled to the privileges of the floor.—On January 19, 1923,[2] the Committee of the Whole House on the state of the Union had under consideration the Army appropriation bill, providing among other items appropriations for rivers and harbors.

After debate had proceeded for some time, Mr. William H. Stafford, of Wisconsin, raised a question of order and called attention to the presence on the floor of the clerk of the Committee on Rivers and Harbors.

The Chairman [3] sustained the point of order and said:

The Chair has not the rule before him, but the recollection of the Chair is that the clerk to the committee in charge of the bill is entitled to the privilege of the floor.

The Chair will read the rule, which is Rule XXXIII. After naming the persons entitled to the floor, the following clause with respect to clerks of committees is found: "and clerks of committees, when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule, or to prevent from the Chair the request of any Member for unanimous consent."

Whereupon, the clerk of the Committee on Rivers and Harbors, escorted by the Doorkeepers, retired from the Hall.

3637. A motion instructing the Sergeant at Arms to exclude all persons not entitled to the privileges of the floor was entertained as privileged.—On December 6, 1923,[4] the President of the United States having notified the Congress that it would be his pleasure to deliver a message to Congress in person, the Speaker [5] announced:

The Chair would like to state that complaint has been made at the desk by many Members that they are unable to get seats on the floor to which they are entitled. The rules of the House are exceedingly stringent, that nobody except Members and certain excepted classes are entitled to the floor of the House. If there are any persons on the floor who are not entitled to seats, the Chair must request that they retire.

Mr. Thomas L. Blanton, of Texas, as a parliamentary inquiry, asked if it was not the custom to permit minor children of Members to come on the floor.

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[1] William B. Bankhead, of Alabama, Chairman.

[2] First session Sixty-seventh Congress, Record, p. 2022.

[3] John Q. Tilson, of Connecticut, Chairman.

[4] First session Sixty-eighth Congress, Record, p. 95.

[5] Frederick H. Gillett, of Massachusetts, Speaker.

The Speaker replied:

The Chair knows of no rule to that effect. It has long been the custom that small children who could not necessarily occupy seats are brought in, and the Chair sees no objection to that.

Whereupon Mr. Frank Clark, of Florida, moved that the Sergeant at Arms be instructed to clear the floor of all persons not entitled to seats thereon.

The question being taken, on a division, there appeared yeas 314, nays none.

The Speaker directed:

The Sergeant at Arms will carry out the order.

3638. The privileges of the floor incident to receiving the thanks of Congress are limited to those who have been designated by name.—On February 4, 1929,[1] the House concurred in the bill (S. 5578) received from the Senate as follows:

Be it enacted, etc., That the term "crew" as used in the act shall mean and include any person carried on the ship's register or serving on the ship in any capacity, regardless of rank or rating, at the time of the rescue referred to in this act.

SEC. 2. That the thanks and appreciation of the Congress of the United States be, and they are hereby, tendered to the officers and crew of the U.S.S. *America* as constituted on January 23, 1929, for the heroic conduct shown and noble service rendered in the rescue of the officers and crew of the Italian steamship *Florida.*

Whereupon Mr. Fiorello H. LaGuardia, of New York, as a parliamentary inquiry, asked if enactment of the bill extending the thanks of Congress entitled all members of the crew of the *America* to the privileges of the floor.

The Speaker[2] replied:

The Chair thinks the proposition is covered in a sentence found in Rule XXXIII, that rule mentioning those who are entitled to the privilege of the floor of the House. After specifying a number of persons, like the President, Vice President, and so forth, there occurs this sentence:

"Such persons as have, by name, received the thanks of Congress."

The Chair thinks that the words "by name" mean literally that they shall be named and therefore, it would not cover a class like the captain and crew of a ship.

3639. A question of order being raised against the presence of unauthorized persons on the floor of the Senate, the Vice President directed the Sergeant at Arms to remove all persons not entitled to the privileges of the floor.

On May 22, 1929,[3] the legislative day of May 16, the Senate in Committee of the Whole resumed consideration of the bill (S. 312), to provide for the fifteenth and subsequent decennial censuses.

In the course of the debate, Mr. Robert M. LaFollette, jr., of Wisconsin, raised a question of order and said:

Mr. President, I make the point of order that Mr. Frazer Edwards, representing the Universal Service, is on the floor of the Senate without authority of the rules of the Senate; I request the chair to enforce the rule and instruct the Sergeant at Arms to escort him from the Chamber.

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[1] Second session Seventieth Congress, Record, p. 2767.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Seventy-first Congress, Record, p. 1729; Senate Journal, p. 72.

The Vice President[1] sustained the point of order and directed:

The Chair calls attention to the rule in reference to admission to the floor and requests the Sergeant at Arms to exclude from the floor all persons who are not entitled to it under the rule.

Thereupon, the Sergeant at Arms escorted Mr. Edwards from the floor.

3640. On occasions of special interest the House sometimes provides additional rules governing admission to the galleries.—On April 4, 1917,[2] preliminary to the consideration by the House of the joint resolution (S. J. Res. 1) declaring that a state of war exists between the imperial German government and the government of the United States, Mr. James R. Mann, of Illinois, asked unanimous conset that admission to the galleries be by special tickets issued by the Doorkeeper, each Member of the House to receive two tickets.

Mr. Allen T. Treadway, of Massachusetts, suggested that the request be modified to provide for coupon tickets permitting the bearer to leave the galleries and return at will.

Mr. William S. Howard, of Georgia, asked that the request include tickets for officers of the House.

Mr. Mann declined to accept either modification; and, the question being submitted to the House, the request was agreed to.

3641. During an epidemic the galleries of the House and Senate were closed.—October 7, 1918,[3] following the approval of the Journal, Mr. Henry T. Rainey, of Illinois, submitted a request for unanimous consent as follows:

Mr. Speaker, it is matter of common knowledge that an epidemic of alarming proportions is prevailing throughout the country. Out of an abundant precaution the Senate has ordered the galleries closed, which action, I understand, meets with the approval of the medical authorities, and so I ask unanimous consent that the Speaker be instructed to close the galleries of this House until further action shall be taken by the House.

The request was agreed to.

3642. Portions of the gallery over the Speaker's chair are set aside for the use of reporters and correspondents who are admitted thereto by the Speaker under such regulations as he may prescribe.

Representatives of certain specified news associations are admitted to the floor of the House under regulations prescribed by the Speaker.

Supervision of the press gallery, including designation of its employees, is vested in the standing committee of correspondents, subject to the direction and control of the Speaker.

Section 2 of Rule XXXVI provides:

2. Such portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use, and reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the standing committee of correspondents, subject to the direction and control of the Speaker; and the Speaker may assign one seat on the floor to

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[1] Charles Curtis, of Kansas, Vice President.

[2] First session Sixty-fifth Congress, Record, p. 265.

[3] Second session Sixty-fifth Congress, Record, p. 11164.

Associated Press reporters, one to the Sun Press Association, one to the United Press Association, one to the National News Association, one to the Central News Association of America, and one to the New York Herald Syndicate, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

This rule was taken from the old rule 135, which dated from December 23, 1857,[1] and was a portion of a report made by Mr. Charles J. Faulkner, of Virginia, from a select committee in relation to the accommodations in the new Hall of the House.

It was modified in the revision of 1880[2] and, aside from the designation of the news agencies, was retained in that form until 1911.[3]

Its amendment in 1911 was principally a change in phraseology without materially affecting its provisions, but on January 18, 1916,[4] a clause was introduced vesting supervision of the press gallery, including designation of its employees, in the standing committee of correspondents. Except for certain amendments caused by changes in the news associations,[5] the rule has been continued in the form adopted at that time.

3643. The history of National Statutory Hall.

A statute authorizes the contribution by each State of statues of two of its distinguished citizens to be placed in National Statutory Hall.

National Statutory Hall was formerly the Hall of the House of Representatives. When the south wing of the Capitol was completed and the present Hall was occupied in 1864, statutory provision[6] was made as follows:

* * * and the President is authorized to invite all the State to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof and illustrations for their historic renown or distinguished civil or military service, such as each State may deem to be worthy of this national commemoration; and when so furnished the same shall be placed in the old Hall of the House of Representatives, in the Capitol of the United States, which is set apart, or so much thereof as may be necessary, as a National Statutory Hall for the purposes herein indicated.[7]

The routine followed in the presentation and acceptance of such statues is thus summarized.[8]

As to the procedure of securing the admission of statues to Statuary Hall, it should be noted that only two statues are allowed from each State and that they must be in marble or bronze and of citizens of the State. The placing of a statue in Statuary Hall is usually the result of legislation from the State desiring to commemorate deceased citizens by the enactment of a resolution providing for the erection of a statue in honor of the deceased citizen or citizens to be commemorated and in the same legislation providing for a commission to represent the State in carrying out the provisions of the legislation. This commission acts as a business agent for the State; selects the sculptor and enters into an agreement with him for the preparation and erection of the statue in Statuary Hall. The Architect of the Capitol represents the Government in this matter and in con-

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[1] First session Thirty-fifth Congress, Journal, p. 116; Globe, pp. 170, 171.

[2] Second session Forty-sixth Congress, Record, p. 207.

[3] First session Sixty-second Congress, Record, p. 20.

[4] First session Sixty-fourth Congress, Record, p. 1214.

[5] The last change was made Dec. 13, 1916 (second session Sixty-fourth Congress, Record, p. 277.

[6] U.S. Code, section 187, p. 1300.

[7] For discussion of ceremonies on such occasion see sections 3545–3557 of this volume.

[8] Annual Report, Architect of the Capitol, 1932, p. 17.

ference with the commission arranges for the details of the erection of the statue and assists in the arrangement of such public exercises of presentation and acceptance as may be considered desirable by the commission.

Under a concurrent resolution adopted February 24, 1933,[1] one of the two statues from each State has been transferred to from the Hall to other parts of the Capitol.

3644. The history and authorization of the Capitol guide system.—Sections 7 and 8 of the Rules and Regulations Governing Capitol Police[2] provide:

7. Guides are permitted to charge 25 cents per hour and 25 cents for any additional part of an hour for each person, parties not to exceed 25 persons. Guides must conduct all parties to both floors; to the Senate wing; lower floor through the crypt; to the House gallery, and back to Rotunda, from which all parties will start.

8. For school organizations, 15 cents each person per hour or additional part thereof.

On February 12, 1925,[3] Mr. Edward R. Taylor, of Colorado, in discussing the history and operation of the Capitol guide system, said:

In 1876, during the Centennial Exposition at Philadelphia, great crowds visited Washington and came through this building. Up to that time there had been no guide system of any kind. Some shell-game and three-card fellows, numerous pickpockets, and other crooks got in. As a result Congress decided to establish some system in the handling of tourists, and they appointed five guides to superintend the sightseers, and they were allowed to collect tips as their remuneration. That is the way this system started. There has never been any salary paid. The act to regulate the use of the Capitol Grounds, approved July 1, 1882, was the first law on the subject and it is still in force. The number of guides has been gradually increasing, until now there are 14, and they are still allowed to take all the tips the public care to give them, and are also allowed and authorized to charge the fees provided for in the rules and regulations. The chief guide is the cashier and general director of operations. The other 13 guides turn in to him every night all the money they have received during the day from the 25-cent and the 15-cent charges they collect from the people under the regulations and every night that money is divided equally among the guides, and the chief guide gets 50 cents extra each day. During the year 1923 it amounted, he reports, to $2,379.05 apiece for the year for 13 guides. In 1924 the amount increased, so that it reached $2,597.80 a piece for the 14 guides. The total officially authorized receipts under the rules he says was $2,597.65 in 1922 and $36,349.20 for 1924. That does not include any tips or individual gratuities. In other words, the official charges increased $5,421.55 during the past year. So the sightseeing business is increasing at the rate of 20 percent a year, according to the guides' figures. I think, with the officially authorized charges that the guides account to each other and the tips that they do not have to account for, they are now receiving about $50,000 a year form all sources.

These guides were all appointed originally by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House, most of them many years ago. Benjamin J. Cady has been there 45 years, Albert Daugherty 25 years, Edward Ernst 20 years, James Crawford 15 years, George Glick 14 years, George Popkins 13 years, William Young 13 years, George Sarvin 12 years, Ira Bond 9 years, Harry Nash 9 years, William Jackley 6 years, Hynes Terry 6 years, Clifton Beckhart 3 years, and Mrs. Sykes-Lingo 1 year. And I might say that both the present Sergeant at Arms of the Senate and of the House desire to have some change made in this system. They are not sponsoring this system at all. They have simply inherited this whole performance, including those rules and regulations and nearly all of those guides.

I understand seven of the guides were appointed by the then Sergeant at Arms of the Senate, and seven were appointed by the then Sergeant at Arms of the House upon the vigorous recommendation of the Senators and Representatives of the States from which they hail, and those

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[1] Second session Seventy-second Congress, Record, pp, 4534, 4874.

[2] Second session Sixty-eighth Congress, Record, p. 3565.

[3] Record, p. 3566.

various Senators and Representatives from those States seem to be still interested in them, notwithstanding their predecessors, who brought about the appointments, have long since retired.

The Sergeant at Arms of the House and the Sergeant at Arms of the Senate get the authority to appoint these guides presumably from the act of July 1, 1882, the act of July 29, 1892, the act of April 29, 1876, and the act of March 2, 1895, and I do not recall that any of them mentions the word guide anywhere. But the rules and regulations issued by the Sergeants at Arms of the Senate and House mention guides and prescribe their duties. Apparently they get the authority under their general police power. At least, it is a system or custom that has grown up and been in use half a century.

3645. History of the House Office Buildings.—The bill initiating the construction of the original House Office Building [1] was introduced by Mr. Joseph G. Cannon, of Illinois, February 10, 1903,[2] and the corner stone was laid with elaborate ceremonies, April 14, 1906.

The building, erected at a cost of $4,500,000, comprised 410 individual offices, exclusive of other rooms. A fifth story added in 1913 [3] at a cost of $250,000 provided 47 additional offices. As remodeled in 1933, on the completion of the new House Office Building, it includes 207 office suites, 21 committee rooms, and other space for storage and service.

The building was first occupied in the Sixtieth Congress. On December 2, 1907,[4] the House, by resolution, directed the Speaker to appoint a select committee of five members to arrange for distribution of rooms. The first assignment of committee rooms was authorized by a resolution from the special committee agreed to by the House, December 19, 1907,[5] and on January 9,[6] office rooms were allotted to individual Members in the manner prescribed by rule XXXII, regulating the drawing of seats. The act of May 28, 1908,[7] confirmed the disposition of rooms and offices thus assigned, and provided a permanent system of assignment based on seniority of service.

The new House Office Building, authorized by the act of January 10, 1929,[8] includes 251 office suites and 12 committee rooms in addition to storage, service, and administration accommodations. Of $7,906,000 provided for the purpose, $1,077,745.74 was expended for the site, $6,277,672.86 for the building, and $230,582 for furnishings and equipment.[9]

The corner stone was laid without ceremony in the presence of the Chairman of the House Building Commission and the Architect of the Capitol, June 24, 1932, and the building was occupied April 20, 1933.

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[1] The Senate Office Building, authorized by the Act of April 28, 1904 (33 Stat. L., p. 481), was occupied March 5, 1909. The extension authorized by the act of February 20, 1931 (46 Stat. L., p. 1184) was completed and occupied in 1933.

[2] Second session Fifty-seventh Congress, Record, p. 1580; 32 Stat. L., p. 1113

[3] 37 Statutes L., p. 932.

[4] First session Sixtieth Congress, Record, p. 6.

[5] Record, p. 435.

[6] Record, p. 567.

[7] U. S. Code, p. 1299, sections 177–184.

[8] 45 Statutes L., p. 1071.

[9] First session Seventy-third Congress, Record, p. 1702.

3646. The House Office Building and its service are under the supervision of the Architect of the Capitol, subject to the approval and direction of the House Office Building Commission.

The House Office Building Commission consists of the Speaker of the House of Representatives and two Representatives in Congress appointed by the Speaker.

The House Office Building Commission shall prescribe rules regulating employments in the House Office Building together with regulations governing the use and occupancy of rooms in the building.

The revised Statutes [1] provide:

> The House of Representatives Office Building, which shall hereafter be designated as the House Office Building, and the employment of all service, other than officers and privates of the Capitol police, that may be appropriated for by Congress, necessary for its protection, care, and occupancy, shall be under the control and supervision of the Architect of the Capitol, subject to the approval and direction of a commission consisting of the Speaker of the House of Representatives and two Representatives in Congress, to be appointed by the Speaker. Vacancies occurring by resignation, termination of service as Representatives in Congress, or otherwise in the membership of said commission shall be filled by the Speaker, and any two members of said commission shall constitute a quorum to do business. The Architect of the Capitol shall submit annually to Congress estimates in detail for all services, other than officers and privates of the Capitol police, and for all other expenses in connection with said office building and necessary for its protection, care, and occupancy; and said commission herein referred to shall from time to time prescribe rules and regulations to govern said Architect in making all such employments, together with rules and regulations governing the use and occupancy of all rooms and space in said building.

3647. The Speaker's membership on the House Office Building Commission continues until his successor as Speaker is elected or his term as Representative expires.

A Speaker's membership on the House Office Building Commission having expired by reason of his election to the Senate, he was by joint resolution empowered to appoint in his stead a Member elect of the succeeding Congress to serve until the election of his successor as Speaker.

The Speaker continues a member of the House Office Building Commission until his successor as Speaker is elected or his term as a Representative in Congress expires.[2]

In 1925,[3] the Speaker's membership in the House having been terminated by his election to the Senate, a joint resolution was passed empowering him to appoint to the vacancy thus created a Member elect of the House of Representatives to the succeeding Congress to serve as a member of the commission until the election of a Speaker in the succeeding Congress.[4]

3648. A Member may file a written request for any room when vacated and if no other request has been filed when such vacancy occurs shall receive the assignment.

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[1] U. S. Code, title 40, section 175.

[2] U. S. Code, p. 1299, Section 176.

[3] Second session Sixty-eighth Congress, Record, p. 5142.

[4] 43 Statutes L., p. 1259.

Where two or more Members file requests for the same room, preference shall be given to the Member of the longest continuous service in the House.

If two or more Members of equal service in the House apply for the same room, the Member first filing shall have priority.

A Member may have only one request for a room pending at the same time, but may withdraw a request at will.

Assignment of a new room to a Member on his request, or his appointment as chairman of a committee having a committee room, shall operate as a relinquishment of any room previously assigned to him.

A room assigned to a Member shall be held by him during his membership in the House or until relinquished.

A Member shall restrict the use of this room to office purposes only.

The Revised Statutes [1] provide:

The assignment of rooms in the House Office Building, heretofore made by resolution or order of the House of Representatives, shall continue in force until modified or changed in accordance with the provisions of sections 177 to 184 of this title, and the room so assigned to any Representative shall continue to be held by such Representative as his individual office room so long as he shall remain a Member or Member elect of the House of Representatives, or until he shall relinquish the same, subject, however, to the provisions of sections 177 to 184 of this title, and no Representative shall allow his office room to be used for any other purpose.

Any Member or Member elect of the House of Representatives may file with the Architect of the Capitol a request in writing that any individual office room be assigned to him whenever it shall become vacant. If only one such request has been made for any room which shall at any time have become vacant, the room shall be assigned as requested. If two or more requests are made for the same vacant room, preference shall be given to the Representative making the request who has been longest in continuous service as a Member and Member elect of the House of Representatives. If two or more Representatives with equal length of continuous service, or two or more Representatives elect make request for the same room, preference shall be given to the one first preferring his request.

A Representative or Representative elect making request for the assignment of a vacant room may withdraw the same at any time and no one shall have pending at the same time more than one such request. The assignment of a new room to a Representative, upon his request, or the appointment of any Representative having an individual office room as chairman of a committee having a committee room, shall act as a relinquishment by him of the room previously assigned to him.

3649. Rooms in the House Office Building vacated by death or resignation before the end of the term become available for filing by sitting Members but not by Members elect for a period of 10 days, at the close of which the room will be assigned to the filing Member having the longest continuous service in the House.

A sitting Member filing on a new room shall vacate the room which he is relinquishing promptly on March 4.

On January 23, 1923, the House Office Building Commission addressed the following letter to Members of the House:

To the Members of the House of Representatives:

Your attention is called to the action of the House Office Building Commission with respect to the interpretation of the rules governing the filing on rooms in the House Office Building occupied as offices for Members.

[1] U. S. Code, title 40, sections 177–179.

CONSTRUCTION PLACED ON HOUSE JOINT RESOLUTION 186 RELATING TO THE ASSIGNMENT OF SPACE IN THE HOUSE OFFICE BUILDING BY THE HOUSE OFFICE BUILDING COMMISSION.

It is the sense of the House Office Building Commission that when rooms are to become vacant on March 4 of the odd year by reason of the retirement of Members from the House, such rooms shall be available until that date for filings by hold-over Members and by newly elected Members in the manner prescribed by law. But in the case of a room becoming vacant by reason of the death or resignation of a Member, such room will be listed for filing upon by Members of the House but not by Members elect to the succeeding Congress, for the period of 10 days beginning at 12 o'clock noon the day following such death or resignation, and ending at 12 o'clock noon on the 10th day thereafter. The room will then be assigned to the filing Member having the longest continuous service in the House.

When a hold-over Member files on a room other than that already occupied by him and such filing remains undisturbed until March 4 of the odd year, such Member shall on that date vacate the room occupied by him, which room shall then become available for assignment in the manner prescribed by law: *Provided,* That this shall not be construed to deprive another hold-over Member of longer service from filing on and being assigned to the same room before the time for filing expires, in which case the hold-over Member first filing shall continue to occupy his old room until otherwise provided.

3650. Offices in the new House Office Building were originally assigned under a resolution adopted by the House Office Building Commission.

Suites in the new building were assigned according to seniority in continuous service and Members were required to file for assignment on a designated day in person or by proxy.

On January 18, 1933,[1] Mr. Edward W. Pou, of North Carolina, a member of the House Office Building Commission, under leave to print, inserted in the Record as a part of his remarks the following:

RESOLUTION ADOPTED BY HOUSE OFFICE BUILDING COMMISSION REGULATING ASSIGNMENT OF OFFICES IN THE NEW HOUSE OFFICE BUILDING TO MEMBERS OF CONGRESS.

The suites of offices in the new House Office Building will be assigned to Members of Congress on the basis of seniority under the following regulations:

First. For purposes of filing, Members are grouped according to length of continuous service.

Second. As shown on attached schedule, each group is allotted one day on which to file, and no Member in any group will be permitted to file before the day allotted.

Third. Where two or more Members in the same group file on the same suite, the Members so filing shall meet immediately at the office of the superintendent and draw lots for the suite in question. The suite shall be assigned to the successful drawer, and this assignment shall be final. The unsuccessful drawers shall file immediately on any unassigned suites and shall take precedence over following groups only if their files are placed immediately.

Fourth. A Member may file on only one suite.

Fifth. Any Member who can not be present to file in person on the day allotted must arrange to have some one place a file for him on that day.

SCHEDULE OF DATES ON WHICH FILES WILL BE RECEIVED.

Any time prior to noon, January 23: All Members who have served ten or more terms.
Noon, January 23, to noon, January 24: Members who have served nine terms.
Noon, January 24, to noon, January 25: Members who have served eight terms.
Noon, January 25, to noon, January 26: Members who have served seven terms.
Noon, January 26, to noon, January 27: Members who have served six terms.

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[1] Second session Seventy-second Congress, Record, p. 2037.

Noon, January 30, to noon, January 31: Members who have served five terms.
Noon, January 31, to noon, February #1: Members who have served four terms.
Noon, February 1, to noon, February 2: Members who have served three terms.
Noon, February 2, to noon, February 3: Members who have served two terms.
Noon, February 6, to noon, February 7: Members who have served one term.
Noon, February 7, to noon, February 8: Members who have served less than one term.
Noon, February 8, to noon, February 9: Former Members of Congress.
From February 9 to February 19: New Members.

3651. The term "continuous service" governing seniority in the assignment of rooms in the House Office Building is held to refer to uninterrupted service, and seniority of a Member dates from the beginning of his last uninterrupted service regardless of previous terms of membership in the House.—On February 8, 1930, in response to a formal inquiry from the Custodian of the House Office Building, Mr. Speaker Longworth, as chairman of the House Office Building Commission, replied:

The CUSTODIAN,

House Office Building, Washington, D.C.

DEAR SIR: As chairman of the House Office Building Commission I am writing to call your attention to the act of May 28, 1908, a copy of which is inclosed.

You will note in the second paragraph of this act the sentence: "If two or more requests are made for the same vacant room, preference shall be given to the Representative making the request who has been longest in continuous service as a Member and Member elect of the House of Representatives."

This refers to continuous service. Under this law a Member who returns to Congress after an interval of one or more terms is entitled to seniority in the filing on rooms only to that length of service which is continuous. In other words his seniority for the filing of rooms dates only from the beginning of his continuous and uninterrupted service in the House. This communication is addressed to you by direction of the commission for your guidance on this point.

Yours very truly,

NICHOLAS LONGWORTH,
Chairman, House Office Building Commission.

3652. Members may exchange rooms with each other, but such exchange is valid only so long as both Members remain in the House.

Applications for rooms are on file in the custodian's office and are open to the inspection of Members at any time.

The assignment of rooms in the House Office Building is subject to the control of the House by rule, resolution, or otherwise.

The Revised Statutes [1] provide:

Representatives having rooms assigned to them in the foregoing manner may exchange rooms one with another, but such exchange shall be valid only so long as both Members making the exchange shall remain continuously Members or Members elect of the House of Representatives.

The Architect of the Capitol shall keep a record of the assignment of rooms heretofore or hereafter made, exchanges which may be made, requests for vacant rooms which may be filed, and the assignment thereof, which record shall be open for the inspection of Representatives or Representatives elect of the House.

In the matter of the assignment of rooms under sections 177 to 184 of this title, Delegates in Congress and the Commissioners from Porto Rico and the Philippine Islands shall be treated the same as Representatives.

[1] U.S. Code, title 40, sections 180, 181, 183.

The assignment and reassignment of the rooms and other space in the House Office Building shall be subject to the control of the House of Representatives by rule, resolution, order, or otherwise.

3653. A resolution proposing assignment of rooms in the House Office Building was not entertained as privileged.—On April 10, 1911,[1] Mr. A. Mitchell Palmer, of Pennsylvania, offered as privileged, a resolution (H. Res. 33) providing for the assignment of rooms in the House Office Building to various standing committees of the House.

Mr. James R. Mann, of Illinois, objected to its consideration on the ground that it was not privileged.

Mr. Palmer contended that it was entitled to immediate consideration as involving the privilege of the House.

The Speaker[2] declined recognition to offer the resolution as privileged and Mr. Palmer, thereupon, asked unanimous consent for its consideration.

There being no objection, the resolution was considered and was agreed to.

3654. A resolution proposing assignment of rooms in the House Office Building is not privileged against a demand for the regular order.—On June 3, 1913,[3] Mr. A. Mitchell Palmer, of Pennsylvania, proposed consideration of this resolution:

Resolved, That the following assignment of rooms in the House Office Building be, and the same is hereby, made:

To the Committee on Roads, rooms 153 and 154 in the House Office Building.

Mr. James R. Mann, of Illinois, raised a question of order and objected that the resolution was not privileged.

Mr. Palmer insisted that the resolution related to the privileges of the House and was entitled to immediate consideration.

After exhaustive discussion, the Speaker[4] sustained the point of order.

3655. Rooms assigned at the close of Congress become vacant on March 4 at 12 noon and Members to whom they are assigned are entitled to possession at that time.

Rooms of newly appointed chairmen of committees do not become vacant until their appointment is confirmed by the House at the opening of Congress and Members assigned to their rooms on March 4 are not entitled to possession until the new chairman vacates.

Ex-chairmen who remain Members of the House are not required to move until the new chairman is confirmed.

Where chairmen are defeated or where they voluntarily vacate, their successors may move into committee rooms at once.

The law creating the House Office Building Commission authorizes them to function as long as there is one acting member.

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[1] First session Sixty-second Congress, Record, p. 140.

[2] Joseph G. Cannon, of Illinois, Speaker.

[3] First session Sixty-third Congress, Record, p. 1873.

[4] Champ Clark, of Missouri, Speaker.

The following decisions were reported by Mr. James R. Mann, of Illinois, acting chairman of the House Office Building Commission, as having been rendered by the commission between March 4, 1919, and May 10, 1919, the date of the convening of the first session of the Sixty-sixth Congress:

1. All rooms occupied by defeated Members become vacant on March 4, at 12 noon, and Members or Members-elect who have filed on said rooms will be assigned them at that hour according to seniority of service.

2. In case of change of House, rooms of Members who are assigned as chairmen of committees, do not become vacant until their assignments are confirmed by the House at the opening of Congress and Members and Members-elect will be assigned their rooms on March 4, and will take said room as soon as the new chairman vacates or is confirmed as chairman.

3. An ex-chairman of a committee who is not defeated or is not retiring, is not required to move from his committee room until the new chairman is confirmed.

4. A newly assigned chairman may move into committee rooms where the chairman of said committee was defeated for reelection or has resigned as soon as the rooms can be made ready for him.

5. Likewise where any ex-chairman has moved out or is willing to vacate.

6. Vacant rooms in the House Office Building created by the appointment of Members to rooms in the Capitol will be assigned by the Architect of the Capitol under the direction of the House commission.

7. The House commission is composed of three Members of Congress; namely, the Speaker, who is chairman; one majority member, and one minority member.

8. The law under which the House commission operates gives them the power to function as long as there is one acting member.

3656. The Capitol power plant and its service, like the House Office Building, are under the control of the Architect of the Capitol subject to the approval of the House Office Building Commission.—The Revised Statutes [1] provide:

The heating, lighting, and power plant constructed under the terms of the act approved April 28, 1904, shall be known as the Capitol power plant; and all vacancies occurring in the force operating said plant and the substations in connection therewith shall be filled by the Architect of the Capitol with the approval of the said commission in control of the House Office Building.

3657. The House Office Building Commission is charged with control of the Capitol power plant.

Instance wherein the local courts sustained the jurisdiction of the House Office Commission.

On April 16, 1930, [2] Judge Isaac R. Hitt, judge of the police court of the District of Columbia, rendered a decision in the case of L.R. Smith *v.* David Lynn, Architect of the Capitol, holding the House Office Building Commission to be charged by law with care and control of the Capitol power plant.

The Architect of the Capitol had been arraigned on warrant charging violation of the law prohibiting excessive discharge of smoke within the District of Columbia, and had filed a plea in demur in abatement, to which the plaintiff had demurred.

The court overruled the demurrer on the ground that the House Office Building Commission and not the Architect of the Capitol was responsible for the plant, and

[1] United States Code, p. 1299, section 185.

[2] Case No. 952, 187 Police Court docket.

held warrants charging such violations should properly be directed against the Speaker of the House as the chairman of the commission.

3658. History of the Congressional Cemetery.—On March 22, 1928,[1] Mr. Charles L. Abernethy, of North Carolina, in discussing the bill (H. R. 11916) to provide for the care and preservation of certain land and monuments in the Washington Parish Burial Ground, quoted from historical sources as follows:

Nearly a century ago Christ Church burying ground was chosen as the resting place for Senators and Representatives who died in office. Later this custom was extended so as to include the burial of other public officers, with a result that the cemetery for years enjoyed a semiofficial character and became generally known as Congressional Cemetery.

It is said that more patriots whose names are linked with the early periods of our history are buried along this river slope, perhaps, than in any other single cemetery in the country. Two Vice Presidents of the United States, one of them a signer of the Declaration of Independence, have been buried there. Private soldiers and those in high command in the Continental Army sleep here side by side in the democracy of death. Statesmen of colonial times, Members of the Cabinet, of the United States Supreme Court, and of the Congress repose beneath stately monuments and somber cenotaphs, weather stained and moss covered by passing years.

In these surroundings are to be found the only group of cenotaphs—a memorial customary in Europe—ever erected by the United States Government in honor of deceased Senators and Representatives. The strict usage of the cenotaph, however, is not adhered to in every case, for beneath the bleak, gray sandstones lie the bodies of many Members of Congress and other dignitaries of the Government who died in Washington during their term of office.

From the time the first cenotaph was erected by the Government over the grave of Senator Uriah Tracy in 1807 until 1876 the same pattern was followed for each stone. Just who selected the form of these monuments early records do not indicate. But the custom of placing cenotaphs in memory of Members of the Lower House originated with the monument placed for James Lent, Representative from New York, who died February 22, 1833.

According to the register of graves, 109 interments of Government officials have been made in Congressional Cemetery. Monuments have been erected over 100 of these graves. In addition 85 cenotaphs have been placed in honor of Members of Congress who are buried in other cemeteries. Among these latter are cenotaphs bearing the names of John C. Calhoun, the great "nullifier," and Henry Clay, the "compromiser." Grouped together in even rows in a conspicuous section of the grounds, these funeral monuments at once arouse curiosity. The cenotaphs are uniform in material and design. Fashioned from sandstone on a base about 5 feet square, upon which is placed a base about 3 feet high; they are surmounted by a rounded top reaching to a broad height of about 5 feet above the ground.

Up to 1835 practically every Member of Congress who died in office was buried in Congressional Cemetery. Means of transportation were so limited that few families were able to convey the remains of their dead from the Capital, but as facilities for transportation grew more adequate this practice gradually ceased. By act of May 23, 1876, Congress abolished the custom of erecting cenotaphs, and provided that thereafter monuments should be authorized only when the deceased Member was actually interred in the cemetery.

A list of Senators, Representatives, and other officials interred in the cemetery was appended.

3659. Formerly authority to requisition printing and binding was granted severally to committees of the House by separate resolutions, but beginning with the Sixty-fifth Congress general leave to order necessary printing and binding has been provided by blanket resolution.—On May 21,

[1] First session Seventieth Congress, Record, p. 5215.

1919,[1] Mr. Edgar R. Kiess, of Pennsylvania, from the Committee on Printing, submitted the following resolution:

Resolved, That the standing committees of the House of Representatives, the floor leader, and chairman of the conference minority are hereby authorized to have such printing and binding done as may be actually necessary for the transaction of their official business during the Sixty-sixth Congress.

During debate on the resolution, in discussing the practice of the House as to authorization of committee printing, Mr. Kiess explained that formerly each committee had asked permission to order printing and binding as necessity arose and had been granted such authority by separate resolution, but that beginning with the Sixty-fifth Congress, general authority had been conferred by authorization similar to that provided by the pending resolution.

The resolution was agreed to, and in succeeding Congresses similar resolutions have been offered at the opening of the session as a part of the routine of organization.

3660. The standing committees and the floor leaders are ordinarily authorized by resolution to order necessary official printing, including printing for party conferences.—On December 5, 1923,[2] at the organization of the Sixty-eighth Congress, Mr. Edgar R. Kiess, of Pennsylvania, chairman of the Committee on Printing in the preceding Congress, offered the following resolution, which was agreed to:

Resolved, That the standing committees of the House of Representatives and the floor leader and the chairman of the conference minority are hereby authorized to have such printing and binding done as may be actually necessary for the transaction of their official business during the Sixty-eighth Congress.

3661. The approved form of resolutions authorizing printing begin "Resolved, That there shall be printed."

The approved phraseology for making documents available through the folding room is "Distributed through the House folding room;" for distribution through the document room is "For the use of the House document room."

Provisions for distribution of documents through the folding room allot an equal number to each Member of the House, to be issued on his order only; distribution through the document room renders them subject to application without limitation on the number which may be issued to any one applicant.

On February 17, 1914,[3] Mr. Henry A. Barnhart, of Indiana, from the Committee on Printing, offered the following:

Resolved, That the Committee on Printing is hereby authorized and directed to have printed 16,000 copies of House Document No. 1477, Sixty-second Congress, third session, entitled "Hygiene of the Painter's Trade."

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[1] First session Sixty-sixth Congress, Record, p. 78.

[2] First session Sixty-eighth Congress, Record, p. 20.

[3] Second session Sixty-third Congress, Record, p. 3551.

Mr. James R. Mann, of Illinois, objected that the resolution was not in proper form and should provide "there shall be printed, etc."

After debate, Mr. Barnhart withdrew the resolution and later submitted it in the usual form.

Subsequently, Mr. Barnhart also submitted this resolution:

Resolved, That the Committee on Printing is hereby authorized and directed to have printed 9,200 copies of the report of the hearings before the Committee on Rules on a resolution establishing a committee on woman suffrage, said hearings having been held on December 3, 4 and 5, 1913, and that the same be distributed through the document room of the House of Representatives.

Mr. Mann objected that the approved phraseology for ordering documents to the folding room was "distributed through the House folding room" and to the document room was "for the use of the document room."

On motion of Mr. John J. Fitzgerald, the resolution was amended to read:

Resolved, That there shall be printed 9,200 copies of the report of the hearing before the Committee on Rules on a resolution establishing a committee on woman suffrage, said hearings having been held on December 3, 4, and 5, 1913, 9,000 copies to be distributed through the House folding room and 200 copies for the use of the House document room.

The resolution as amended was agreed to.

3662. Reports of communications to Congress from bureaus, boards, delegates to conferences, or heads of departments are printed under the direction of the Speaker and are within his discretion unless otherwise provided by law.

On January 26, 1928,[1] during the consideration of the Consent Calendar the House agreed to the joint resolution (H. J. Res. 156) authorizing the President to appoint delegates to the Eighth International Dairy Congress, with the following committee amendment:

SEC. 3. That the delegates shall make a report to Congress of the results and conclusions of the said dairy congress.

Pending agreement to the amendment, Mr. Louis C. Cramton, of Michigan, stipulated:

Mr. Speaker, with reference to the committee amendment, as I understand this report made to Congress is not printed as a matter of course. It is not printed except such printing as is directed by the Speaker. With that understanding I would not have any objection to the amendment. If it is to be printed as a matter of course, no matter what its size or value, I would feel opposed to it, but I understand they are not printed except under direction of the Speaker.

The Speaker[2] held the printing of reports or communications of that character to be within the discretion of the Speaker.

3663. On July 23, 1919,[3] in response to a resolution of inquiry (H. Res. 128) requesting the Secretary of Labor to furnish the House with certain information relative to the activities of an employee of the Department of Labor in connection

[1] First session Seventieth Congress, Record, p. 2088.

[2] Nicholas Longworth, of Ohio, Speaker.

[3] First session Sixty-sixth Congress, Record, p. 3073.

with the case of Thomas J. Mooney, convicted in California of a crime, the Secretary of Labor transmitted [1] to the House a voluminous report.

The report was referred, in the regular routine, to the Committee on Labor, such reference carrying with it automatically under the rules an order to print.

On the following day the Government Printing Office returned for the inspection of the Speaker certain portions of the report containing matter of an unfrankable and objectionable nature. The Speaker,[2] after a conference with the majority and minority leaders, held that the report should be expurgated.

Accordingly the report was returned to the Public Printer with the following notation:

The Speaker of the House directs that the attached portions of the report be not printed.

3664. The statutes governing the numbering in series and binding of House and Senate documents and reports.

Committee hearings may be printed as Congressional documents only when specifically ordered by Congress or either House thereof.

The act of January 15, 1908,[3] provides:

That publications ordered printed by Congress, or either House thereof, shall be in four series, namely: One series of reports made by the committees of the Senate, to be known as Senate reports; one series of reports made by the committees of the House of Representatives, to be known as House reports; one series of documents other than reports of committees, the orders for printing which originate in the Senate, to be known as Senate documents, and one series of documents other than committee reports, the order for printing which originate in the House of Representatives, to be known as House documents. The publications in each series shall be consecutively numbered, the numbers in each series continuing in unbroken sequence throughout the entire term of a Congress, but the foregoing provisions shall not apply to the documents printed for the use of the Senate in executive session: *Provided,* That of the "usual number," the copies which are intended for distribution to State and Territorial libraries and other designated depositories of all annual or serial publications originating in or prepared by an Executive Department, bureau, office, commission, or board shall not be numbered in the document or report series of either House of Congress, but shall be designated by title and bound as hereinafter provided, and the departmental edition, if any, shall be printed concurrently with the "usual number:" *And provided further,* That hearings of committees may be printed as Congressional documents only when specifically ordered by Congress or either House thereof.

SEC. 2. That in the binding of Congressional documents and reports for distributions by the superintendent of documents to State and Territorial libraries and other designated depositories, every publication of sufficient size on any one subject shall hereafter be bound separately and receive the title suggested by the subject of the volume, and the others shall be distributed in unbound form as soon as printed. The Public Printer shall supply the superintendent of documents sufficient copies of those publications distributed in unbound form, to be bound and distributed to the State and Territorial libraries and other designated depositories for their permanent files. The library edition, as well as all other bound sets of Congressional numbered documents and reports, shall be arranged in volumes and bound in the manner directed by the Joint Committee on Printing.

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[1] First session Sixty-sixth Congress, Record, p. 157.

[2] Revised Statutes, title 44, sections 142, 143.

[3] Frederick H. Gillett, of Massachusetts, Speaker.

3665. The printing of documents is governed by statute, and motions to authorize such printing are not in order.

On February 12, 1932,[1] Mr. Marvin Jones, of Texas, requested unanimous consent to insert in the Record the regulations prepared by the Department of Agriculture governing loans to farmers.

Under reservation of the right to object, Mr. John D. Clark, of New York, referred to the importance of the material and suggested that it be printed as a House document.

Accordingly, Mr. Jones submitted a request for unanimous consent that the regulations be printed as a document.

The Speaker[2] denied recognition for the motion and said:

> The gentleman can not do that by unanimous consent. The printing of documents is governed by statute.

3666. A committee of the House may order printed 1,000 copies of its hearings irrespective of cost.

Extra copies of hearings and other documents may be ordered by simple resolution, by either House, within the cost of $500.

Reprints of hearings and other documents at a cost in excess of $500 may be ordered by the two Houses by concurrent resolutions.

One reprint of a document at a cost not to exceed $500 having been ordered by the House, an order by simple resolution for a second reprint, although within the cost limit of $500, is in violation of a law and requires concurrence of the other House.

The Joint Committee on Printing may order printed extra copies of hearings or other documents at a cost not to exceed $200 in any one instance.

Hearings, bills, resolutions, documents, etc., distributed through the document room, are dispensed on application without reference to the number received by any one Member, while those distributed through the folding room are credited to the accounts of Members pro rate and are issued only on the order of Members to whom assigned.

Reprints may be ordered for the use of the document room in any number, but when ordered for the folding room require a minimum of 2471 copies.

On August 18, 1911,[3] Mr. David E. Finley, of South Carolina, from the Committee on Printing, submitted the following concurrent resolution:

> *Resolved by the House of Representatives (the Senate concurring),* That there shall be printed 1,000 additional copies of the hearings of the special committee of the House of Representatives, appointed under House resolution 157 (62d Cong., 1st sess.) to investigate the American Sugar Refining Co. and others, for the use of the document room of the House of Representatives.

Mr. James R. Mann, of Illinois, questioned the necessity of employing a concurrent resolution and inquired if it was not within the power of the House to order such extra copies by simple resolution.

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[1] First session Seventy-second Congress, Record, p. 2816.

[2] John N. Garner, of Texas, Speaker.

[3] First session Sixty-second Congress, Record, p. 4176.

Ms. Finley referred to the law [1] governing reprints and explained that the committee had already ordered the 1,000 copies to which they were entitled by law; that under the statutes the House in ordering extra copies was limited to a cost of $500, whereas the cost of the copies provided by the pending resolution was $1,387.53; that the cost limit of reprints ordered by the Joint Committee on printing was $200; and therefore a reprint of the number of hearings required by the committee could only be provided legally by concurrent resolution.

Mr. George W. Norris, of Nebraska, inquired if it was not preferable to provide for distribution of the hearings through the folding room rather than the document room.

Mr. Finley replied that the resolution provided for only 1,000 copies, whereas an order for distribution through the folding room required a minimum of 3,471 copies; and that there was no such general demand for the hearings as to warrant distribution pro rata through the folding room, but that local interest in certain sections required distribution through the document room in order to render available larger supplies for Members from such sections.

The Speaker [2] acquiesced and put the question on agreeing to the concurrent resolution.

3667. The rules do not require the printing of hearings, and the distribution of records of hearings is within the discretion of the committee in charge of the bill.

On February 13, 1932,[3] Mr. Fiorello H. LaGuardia, of New York, having been recognized to submit a parliamentary inquiry, called attention to the lack of printed copies of the hearings before the Committee on Banking and Currency on the bill current hearings before that committee on the issuance of additional currency would be available.

The Speaker [4] explained.

As the gentleman is aware, the rules of the House do not require the printing of hearings before committees. The gentleman will have to address his inquiry to the chairman of the committee having the bill under consideration.

3668. Under provision of law, documents not withdrawn by a retiring Member prior to the convening of the next Congress are forfeited to his successor.

Instance where the law providing for distribution of documents to Members was suspended by joint resolution to permit outgoing Members to distribute publications which by reason of the calling of an extra session would otherwise have been allotted to their successors.

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[1] Revised Statutes title 44, section 133.

[2] Champ Clark, of Missouri, Speaker.

[3] First session Seventy-second Congress, Record, p. 3850.

[4] John N. Garner, of Texas, Speaker.

On March 1, 1909,[1] Mr. James B. Perkins, of New York, moved to suspend the rules and pass the following joint resolution

Resolved, etc., That all documents and books ordered to be published by the Sixtieth Congress which are actually printed prior to the first Monday in December next, to which Members of that Congress not Members of the Sixty-first Congress, would have been entitled if published prior to the 4th day of March, shall be allotted such Members, and the term allowed to distribute the same shall be extended to the first Monday of December next.

Mr. John R. Mann, of Illinois, being recognized in opposition to the motion, said:

Mr. Speaker, under the existing law,[2] as I understand it, the ex-Member of Congress receives the public documents until the meeting of the first session of the ensuing Congress, so that if the Sixty-first Congress did not meet until the first Monday in December, the ex-Member of the Congress would be entitled to the public documents distributed through the folding room until that time, but as the next Congress will meet in extra session on the 15th of March, the rights of the ex-Member expires on the first day of the special session.

Some of the gentlemen who have spoken seem to think that these public documents are their private property, that they are printed by the Government as a perquisite to the Members of Congress, to be used for politics or for any purpose they desire.

I have always considered that these public documents were printed for the public good, and they were only distributed by Members of Congress as a most convenient method of reaching the constituents in the different districts.

The resolution is a proposition to make an unjust discrimination against the Members elected for the first time, in favor of those who go out.

Under the law a man is entitled to the documents belonging to his district until the first session of the next Congress meets, which in this case will be, I suppose, the 15th of March.

The new Members come here about the 15th of March, are sworn in, and they will have constant applications from their constituents for documents. How can it be considered fair to say that they shall have no documents; that their predecessors shall have all the documents until the first of next December? If Congress was not in session the situation would be different. But when a man comes here, when he is in Washington attending the sessions of Congress, all decent regard for the consideration of other men will lead us to treat the newly elected Members of Congress fairly.

Mr. George W. Norris, of Nebraska, said in rebuttal:

Mr. Speaker, the passage of this resolution is but an act of common justice. I would not do an injustice to the incoming Member; neither would I do an injustice to the outgoing Member. These gentlemen who have argued against the passage of the resolution have rather, I think assumed that it was a proposition to change the permanent law. But the defeat of this resolution will not change the general law, and we will come back after the coming Congress with men distributing documents up to the first of December, after they have gone out. Now, as a matter of fact I have in mind several instances of where men have been elected to this Congress for the first time. They got no documents to distribute until in December, more than one year following the time of their election. If this resolution does not pass, those men will lose the right on the 15th of March giving them but a little more than one year of distribution of documents. Everybody will admit that is an injustice to them.

But that is not the end of it. Their successors, instead of having a distribution of documents for two years, the length of their terms, unless a special session of Congress should take it away, will have the right to distribute documents for nearly three years, although they may never be reelected to succeed themselves.

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[1] Second session Sixtieth Congress, Record, p. 3510.

[2] Revised Statutes, title 44, section 158.

I submit, gentlemen, that is is nothing more than fair, both to the outgoing man and to the incoming man, that this resolution should pass, and that these Members who go out should be put on the same basis with Members who have gone out before, and that the Members who come in should be put on the same basis with all the balance of the Members who have come in.

The question being put, on a division, the yeas were 240, the nays were 81, and the rules were suspended and the joint resolution was agreed to.

3669. The accumulation of obsolete documents in the folding room becoming burdensome, the House authorized distribution of all for which there was demand and directed that the remainder be sold as waste paper.—On January 13, 1910,[1] the House agreed to a resolution submitted by James B. Perkins, of New York, from the Select Committee on Useless Paper and Documents, as follows:

Resolved, That the documents now in the folding room of the House of Representatives, described by name in the list hereafter set forth under the heading of "List of Documents," shall be disposed of in the following manner:

First. Members, Delegates, Commissioners from Porto Rico and the Philippine Islands, and officers of the House, having such documents to their credit, may dispose of the same in the usual manner at any time within 30 days from the date of the adoption of this resolution by the House.

Second. Upon the expiration of the said 30 days, the Doorkeeper shall furnish to the Members of the House, as promptly as practicable, a list of the documents herein referred to then remaining in the folding room, and thereupon such documents shall be subject to the order of any Member or Delegate in the order in which they are applied for, for the period of 30 days after the day when such list shall be furnished by the Doorkeeper.

Third. The Doorkeeper shall furnish a list of all such documents remaining in the folding room at the expiration of the last-name period to the various departments and commissions of the Government at Washington, including the Superintendent of Documents, Smithsonian Institution, Library of Congress, Bureau of American Republics, and the Commissioners of the District of Columbia, and any such documents shall be turned over to any such department, commission, etc., above referred to, in the order in which their application shall be made, and all such documents which shall remain in the folding room for a period of 10 days after such list shall have been furnished to the departments or commissions aforesaid shall be sold by the Doorkeeper as waste paper.

Fourth. No documents which are described by name in the list aforesaid shall hereafter be returned to the folding room from any source.

3670. The thanks of Congress are bestowed in recognition of public services.—On September 16, 1919,[2] proceeding by unanimous consent, the House by a standing vote, agreed to the following joint resolution offered by Mr. Julius Kahn, of California, chairman of the Committee on Military Affairs:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of the American people and the Congress of the United States are due, and are hereby tendered, to Gen. John J. Pershing for his highly distinguished services as commander in chief of the American Expeditionary Forces in Europe and to the officers and men under his command for their unwavering devotion and heroic valor throughout the war.

The resolution was passed by the Senate September 16,[3] and received the approval of the President on September 29.

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[1] Second session Sixty-first Congress, Record, p. 594.

[2] First session Sixty-sixth Congress, Record, p. 5418.

[3] Record, p. 5491.

3671. The House thanked its Clerk for his service in presiding during a delayed election of a Speaker.—On December 6, 1923,[1] following a delay in the election of a Speaker, extending over a period of three days, Mr. Frank Clark, of Florida, by unanimous consent, proposed the following resolution:

Resolved, That the thanks of this House are eminently due and are hereby tendered to William Tyler Page, Clerk of the House of Representatives, for the distinguished ability, fidelity, and impartiality with which he has presided over the deliberations of the House of Representatives during the contest for Speaker.

The resolution was unanimously agreed to.

3672. The development of the bulletin service announcing in advance the legislative program for the week.—On October 26, 1921,[2] Mr. Frank W. Mondell, of Wyoming, the majority leader of the House, having been granted unanimous consent to address the House on a matter of procedure, said:

Mr. Speaker, for years there has been a sentiment in the House that in the interest of good legislation, and for the convenience of Members, we ought to know a little further in advance than we have generally been informed in the past as to legislation that was likely to be taken up for consideration. Members on both sides have called attention to the need and advisability of arranging, so far as it is possible under the rules of the House a program at least a few days in advance in order that Members may study the bills that are likely to be brought up and that they may give particular attention to matters that they are informed about and interested in. We have made a very earnest effort in the last year to outline programs so far as it was possible to do so. The programs thus tentatively agreed upon have been announced from time to time from the floor.

We have now taken another step in the matter to accommodate the Members of the House, and, we believe, in the public interest. Yesterday there placed on the bulletin board in the lobby a tentative program for the week. Members realize that such a program must be purely tentative. Certain matters come up under the general rules of the House, but the House must determine what will be done at any given time. So these programs indicate only a tentative agreement of program subject to change at any time the House may determine and as conditions may warrant.

I am not sure that we will find we can follow these programs closely enough to make it worth while to continue them, but I am very much in hopes that through consultation with the Speaker, members of the steering committee, chairmen and members of the various legislative committees, and chairmen and members of the Rules Committee we may be able to present a fairly accurate picture a week in advance of what the House is likely to consider. We have undertaken this new departure in the hope that it will be useful to the Members, particularly in the hope that it will not only enable but will incline Members to give careful attention in advance to the legislation that is likely to be considered.

3673. On January 18, 1924,[3] during debate on the resolution (H. Res. 146) to amend the rules of the House of Representatives, Mr. R. Walton Moore, of Virginia, adverted to a resolution which he had introduced proposing a weekly bulletin announcing the legislative program. In support of the proposal, Mr. Moore had the Clerk read from the desk a statement made by Mr. Speaker Clark, on May 11, 1920, in advocacy of such advance announcement of measures proposed to be taken up for consideration.

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[1] First session Sixty-eighth Congress, Record, p. 97.

[2] First session Sixty-seventh Congress, Record, p. 6810.

[3] First session Sixty-eighth Congress, Record, p. 1141.

On January 23,[1] Mr. Moore again broached the subject and inquired of Mr. Nicholas Longworth, of Ohio, the majority leader, if advance notice of bills to be considered could be given the House through such weekly bulletins.

Mr. Longworth replied:

I shall be very glad to do that if it is the desire of the House. I shall begin next week and put up a bulletin in the lobby, giving the best of my ability, the program of prospective legislation.

In accordance with this assurance, the plan of posting in the lobby of the House the legislative program for the week was resumed and has been continued through succeeding sessions.

3674. Rank and prerogatives of Senators and Representatives when moving with the Army.—On January 22, 1929,[2] in testifying before the subcommittee of the Senate Committee on Appropriations, during hearings on the War Department appropriation bill, Maj. Gen. B. F. Cheatham, Quartermaster General of the Army, said:

The law provides, and the Secretary of War has made, certain priorities. Officers under orders come first; then Army officers on leave; and civilian employees of the War Department.

The officers under orders accompanied by their families have the first priority; then officers on leave with their families come second; and then members of families traveling without an officer. Of course, Members of Congress and their families have priority with the officers of the Army. They are assumed to be under orders, and on Government business, and are placed on board under that priority.

Testifying at the same hearing, Brig. Gen. Francis H. Pope, Assistant Quartermaster General, stated:

The Act of March 2, 1907,[3] authorizes Members of Congress to travel on transports when, in the opinion of the Secretary of War, space is available. The theory of the War Department, I believe, is that Members of the Senate and the House are in the nature of a board of directors so far as the War Department is concerned, and any such travel they make we consider as being on official business.

In our order of priority, officers who travel under orders for change of station have first priority. Then, the next priority goes to Senators and Congressmen.

You see, we make the assignments on the transports in accordance with the regulations of the War Department which provide that a Senator has the relative rank of a major general, and a Congressman that of a brigadier general, and that is the way in which we have to assign them. It is a War Department regulation.

3675. Official precedence of Senators and other officials of Government.—On December 5, 1913,[4] in the Senate, Mr. Jacob H. Gallinger, of New Hampshire, was given unanimous consent to have printed in the Record a statement by Mr. Augustus O. Bacon, of Georgia, chairman of the Committee on Foreign Relations, with reference to the official precedence incident to membership in the Senate.

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[1] Record, p. 1328.

[2] Second session Seventieth Congress, hearings before subcommittee on H. R. 15712, pp. 172, 214, 215.

[3] U. S. Code, title 10, section 1371.

[4] Second session Sixty-third Congress, Record, p. 247.

The statement is in part as follows:

You ask what is the proper relative rank of Senators. There should be no difficulty in answering that question by anyone who recalls the fundamental and controlling fact that the Constitution of the United States creates no offices, except those of the Presidency and Vice Presidency, the Supreme Court, and the Congress, composed of the Senate and House of Representatives.

All other offices of the United States, excepting only those above mentioned, have been created by act of Congress.

All officers of the United States, excepting only the President and Vice President, and the judges of the Supreme Court, and the Senators and Representatives have, without exception, been created by act of Congress; and, if deemed necessary, Congress can at any time abolish any one of these offices and create others in their stead. These offices, while most honorable positions, are nevertheless the creatures of Congress.

It is a plain proposition that the creature can not be greater than his creator. The Senate, as the upper branch of Congress, can not be the inferior in rank of offices which are the mere creatures of Congress.

There is no controversy as to the relative rank of the officers created by the Constitution. Of course, the President and Vice President in their order stand first without any question.

In former times the question of precedence was in dispute between the Supreme Court and the Senate; but later the Senate courteously yielded the right of precedence to the Supreme Court. When, then, the Senate, as the head of the legislative branch of the Government, recognized the precedence of the head of the executive branch, and also of the head of the judicial branch, it has always declined to concede more in this regard.

There is one exception to the claim of precedence over statutory officers, which Senators, as a courtesy, seem willing to concede, and that is in the case of the Secretary of State. The late Senator Allison, who served for more than 30 years as a Senator and who was naturally very jealous of the dignity and rank of the Senate, said he was willing to concede this precedence to this officer, who is the immediate representative of the President in our far-reaching foreign relations, but he would go no further.

It may be further said, in recognizing as a proper courtesy the precedence of the Secretary of State, that he holds a great office, dealing as it does with world-wide and most momentous international questions, and that it existed under the Confederation before the adoption of the Constitution of the United States and before the creation of the office of President.

Senators under other circumstances would be willing that they, as well as other officials, should forego all distinctions of rank, but that is impossible in the official life of Washington. In official circles Senators will of necessity be assigned to a certain rank and, that being so, they will insist on being accorded their proper rank; and, speaking generally, they prefer not to be present at any function, public or private, where this proper rank is not recognized and accorded to them.

If this were a matter which related only to the personal dignity of a Senator, he might, if he saw fit, waive the question of his rank; but as the question of his precedence touches him in his official station, his duty to his State leaves him no option in the premises.

3676. The Biographical Congressional Directory is compiled at irregular intervals under special authorization.—The Biographical Congressional Directory, listing by Congresses and by individuals in alphabetical order, all Members and Senators who have served in Congress since the establishment of the Government, with summaries of biographical data on each, is compiled at irregular intervals under the direction of the Joint Committee on Printing under authorization of concurrent resolutions [1] making it available for distribution and sale.

[1] Second session Sixty-second Congress, Record, p. 11823; Second session Sixty-ninth Congress, Record, p. 5897.