

## Chapter CCIII.<sup>1</sup>

### QUESTIONS OF PRIVILEGE AND THEIR PRECEDENCE.

---

1. Debate and other procedure on. Sections 553–562.
  2. Basis for raising question of privilege. Section 563.
  3. During call of the House. Section 564.
  4. Presentation of, by Member. Sections 565–570.
- 

**553. A question of privilege takes precedence over business in order under the rule on “suspension day.”**

**A Member, questioned because of words spoken in debate, rose to a question of privilege and submitted the matter to the House for consideration and disposition.**

**The issue raised by the questioning of a Member for words spoken in debate was referred to the Judiciary Committee.**

**A newspaper correspondent who violated the privileges of the House was, by resolution, excluded from that portion of the Capitol under the jurisdiction of the House for a period of 10 days.**

On February 6, 1911,<sup>2</sup> a suspension day, Mr. Robert B. Macon, of Arkansas, rose to a question of personal privilege and stated that he had been questioned by one Walter J. Fahy, a newspaper correspondent, for words spoken in debate on the floor of the House, and that he submitted the matter to the House for its consideration and disposition.

Thereupon Mr. Augustus P. Gardner, of Massachusetts, offered the following resolution:

*Resolved*, That the matter brought to the attention of the House by the gentleman from Arkansas [Mr. Macon] be referred to the Committee on Rules, with authority to send for persons and papers, to examine witnesses upon oath, with instructions to report not later than March 1, 1911.

Mr. James R. Mann, of Illinois, made the point of order that, the day being set apart by the rules for the consideration of bills on the unanimous consent calendar and for motions to discharge committees, the resolution proposed by Mr. Gardner was not in order.

The Speaker<sup>3</sup> said:

The Chair is prepared to rule. The constitutional provision is as follows:

“\* \* \* They [the Senators and Representatives] shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; \* \* \*.”

---

<sup>1</sup>Supplementary to Chapter LXXX.

<sup>2</sup>Third session Sixty-first Congress, Journal, p. 258; Record, p. 1997.

<sup>3</sup>Joseph G. Cannon, of Illinois, Speaker.

And further:

“\* \* \* and for any speech or debate in either House, they [the Senators and Representatives] shall not be questioned in any other place.”

Now, this resolution, as it seems to the Chair, raises the question of high constitutional privilege, namely, touching the questioning of the Representative from Arkansas, Mr. Macon, in another place than in a session of the House.

The gentleman from Illinois, Mr. Mann, makes the point of order that, even if it be a question of privilege, this is a day especially set apart by the rules for the Unanimous Consent Calendar, Discharge of Committee Calendar, and Suspension Calendar. The Chair has no hesitation in holding that when a constitutional privilege, affecting a Member of this House, is presented, and affecting the freedom of debate in the House, it takes precedence of any other business affected by any rule that the House has made or can make governing its order of business.

The resolution was then amended and agreed to, as follows:

*Resolved*, That the matter brought to the attention of the House by the gentleman from Arkansas (Mr. Macon) be referred to the Committee on the Judiciary, with authority to send for persons and papers and to proceed, by subcommittee or committee, to examine witnesses upon oath, and with instructions to report not later than February 18, 1911.

On February 9 the Speaker laid before the House a letter of apology from Walter J. Fahy, which was referred to the Committee on the Judiciary.

On February 15,<sup>1</sup> Mr. Wayne R. Parker, of New Jersey, submitted the report of the committee, recommending the adoption of the following resolution, which was agreed to without debate or division:

*Resolved*, That Walter J. Fahy did, on the fourth day of February, nineteen hundred and eleven, commit a breach of the privileges of the House of Representatives, and that he be excluded from the House of Representatives and from all privileges therein for ten days.

**554. A question of privilege is in order after the House has voted to resolve into Committee of the Whole, the Speaker being still in the chair.**

**A question of privilege may not interrupt a roll call.**

On April 29, 1918,<sup>2</sup> the House agreed to a motion to resolve into the Committee of the Whole House on the state of the Union for the consideration of the war metals bill.

After the result of the roll call had been announced but before the Speaker had left the chair, Mr. Britten, of Illinois, claimed the floor for a question of privilege.

Mr. Otis Wingo, of Arkansas, made the point of order that the House having voted to go into the Committee of the Whole, it was too late to present a question of privilege.

The Speaker<sup>3</sup> replied that a question of privilege took precedence over all other business and was in order at any time except during roll call, and recognized Mr. Britten.

**555. A statement by a Member in debate that he would “need a crooked spine to walk in the crooked paths” in which a colleague would lead him was ruled not to entitle the latter to recognition on a question of privilege.**

<sup>1</sup> House Report No. 2167.

<sup>2</sup> Second session Sixty-fifth Congress, Journal, p. 347; Record, p. 5774.

<sup>3</sup> Champ Clark, of Missouri, Speaker.

**A question of personal privilege takes precedence over matters merely privileged under the rules and is in order following the adoption of a resolution granting privilege to motions to resolve into Committee of the Whole.**

On March 4, 1927,<sup>1</sup> the House agreed to the resolution (H. Res. 447) giving precedence to motions making it in order to move to resolve into the Committee of the Whole for the consideration of the bill (S. 3896) to amend the merchant marine act, when Mr. Albert Johnson, of Washington, demanded recognition to speak to a question of personal privilege.

Mr. Thomas L. Blanton, of Texas, made the point of order that questions of privilege were not in order after the adoption of the resolution.

The Speaker<sup>2</sup> declined to entertain the point of order, and Mr. Johnson submitted in support of his claim to the floor the following excerpt from a speech made by Mr. John C. Box of Texas, in the House on the preceding day:

I would hate to be a sheep and have the gentleman from Washington for a shepherd. I would need a crooked and weak spine to walk in all the crooked paths in which he would lead me.

Mr. Tom Connally, of Texas, objected that the remarks complained of did not impute any personal reflection on which a question of privilege could be based.

The Speaker sustained the point of order and said:

The Chair has read this language carefully several times. The Chair does not think that it raises a question of privilege. He does not think there is any imputation upon the standing of the gentleman from Washington as a Member. It occurs to the Chair that the word "crooked" there simply refers to a path, and not to the gentleman from Washington.

There is much latitude allowed in debate. In the opinion of the Chair the gentleman from Texas did not impute anything dishonorable to the gentleman from Washington. The Chair sustains the point of order.

**556. A Member rising to a question of privilege was recognized in preference to the Member in charge without inquiry as to the purpose for which the latter rose.**

On August 7, 1919,<sup>3</sup> Mr. Frank W. Mondell, of Wyoming, the majority leader, addressed the Chair. Simultaneously Mr. Thomas L. Blanton, of Texas, claimed the floor for a question of privilege.

The Speaker<sup>4</sup> said:

The gentleman from Texas rises to a question of personal privilege. The Chair thinks that takes precedence.

**557. Although a Member had been recognized to present a privileged report from the Committee on Ways and Means, a question of privilege was given precedence.**

On August 5, 1919,<sup>5</sup> Mr. Joseph W. Fordney, of Michigan, from the Committee on Ways and Means was recognized to submit a privileged report from that committee, when Mr. William L. Igoe, of Missouri claimed the floor for a question of privilege.

<sup>1</sup> Second session Sixty-ninth Congress, Record, p. 5936.

<sup>2</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>3</sup> First session Sixty-sixth Congress, Record, p. 3701.

<sup>4</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>5</sup> First Session Sixty-sixth Congress, Record, p. 3662.

The Speaker<sup>1</sup> recognized Mr. Igoe, who proceeded to address the House relative to a newspaper statement—

that the Speaker, in explaining his action, said that he “did not intend that one man, Igoe, should bulldoze the House.”

Mr. Frank W. Mondell, of Wyoming, made the point of order that Mr. Igoe was not discussing a matter of personal privilege.

The Speaker said:

Inasmuch as the matter affects what the Speaker is reported to have said, the Speaker, of course, is going to be very liberal and will hold that it is a matter of personal privilege.

**558. A motion raising a question relating to the privilege of the House was held to take precedence over a special order.**

On November 10, 1919,<sup>2</sup> the House was considering the resolution (H. Res. 6) declaring Victor L. Berger, of Wisconsin, ineligible to take the oath of office as a Member of the House. Under a special order providing for five and one-half hours debate, certain time was allotted to Mr. Berger. At the conclusion of Mr. Berger's remarks, Mr. William W. Rucker, of Missouri, moved that the remarks be excluded from the Record.

Mr. Frederick W. Dallinger, of Massachusetts, made the point of order that under the special order debate continued for five and a half hours and therefore Mr. Rucker's motion was not then in order.

The Speaker<sup>3</sup> held that the motion raised a question of the privilege of the House and took precedence over the special rule.

**559. A Member proposing a resolution relating to the privilege of the House was recognized in preference to a Member requesting recognition to call up a conference report.**

On March 11, 1924<sup>4</sup> Mr. Finis J. Garrett, of Tennessee, submitted as privileged a resolution (H. Res. 217) providing for an investigation by a select committee of certain charges against two Members of the House.

Mr. Louis C. Cramton, of Michigan, asked recognition to call up the conference report on the Interior Department appropriation bill.

The Speaker,<sup>3</sup> after expressing doubt as to the relative privilege of the conference report and the resolution, held that the resolution involved the privilege of the House and recognized Mr. Garrett.

**560. A question of privilege has precedence at a time set apart by special order for other business.**

**The question of consideration may be raised on a question involving the privilege of the House.**

**A resolution presenting a question of privilege may be laid on the table.**

---

<sup>1</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>2</sup> First session Sixty-sixth Congress, Record, p. 8236.

<sup>3</sup> Frederick H. Gillett, of Massachusetts, Speaker.

<sup>4</sup> First session Sixty-eighth Congress, Record, p. 3995.

On August 20, 1921,<sup>1</sup> during the consideration of the revenue bill under a special order adopted by the House, Mr. W. Bourke Cochran, of New York, claimed the floor for a question of privilege, and proposed to present a resolution relating thereto.

Mr. James R. Mann, of Illinois, submitted that, under the special order under which the House was proceeding, no business could be transacted until the pending bill was disposed of, and a question of privilege was not then in order.

The Speaker<sup>2</sup> said:

This is a question for the Chair to decide. It has been held constantly that questions of privilege may be presented at any time, and the Chair finds in the precedents one case which it seems to the Chair cannot be distinguished from this, where in the House a certain time was set apart by a rule for the business of the House, but a question of privilege was brought in, and it was allowed, on the theory that the rights and privileges of the House and its Members take precedence of everything else. If the House wishes to consider it, any person who thinks it is a proper time to bring it up has the right and the Chair feels constrained to rule that it is a question of privilege of the House the gentleman brings up, he has the right to present it.

Thereupon Mr. Joseph Walsh, of Massachusetts, raised the question of consideration.

The Speaker held that the question of consideration was in order, but before it could be raised the resolution should be reported.

The resolution was read by the Clerk, when Mr. Frank W. Mondell, of Wyoming, moved to lay the resolution on the table.

Mr. Cochran made the point of order that the motion to table could not be applied to a resolution relating to the privilege of the House.

The Speaker overruled the point of order and, the question being taken, the motion was agreed to and the resolution was laid on the table.

**561. Although the previous question had been ordered on a pending resolution, it was held that a question of privilege might be debated.**

**A Member may present a question of privilege involving words spoken in debate notwithstanding the rule affording another method of procedure under such circumstances.**

On December 12, 1912,<sup>3</sup> the House was considering the contested election case of McLean *v.* Bowman. The previous question had been ordered on the resolution offered by Mr. S. F. Prouty, of Iowa, as a substitute for the resolution (H. Res. 687) recommended by the Committee on Elections No. 1, when Mr. A. Mitchell Palmer, of Pennsylvania, claimed the floor for a question of privilege based on personal references made in debate by Mr. John R. Farr, of Pennsylvania.

Mr. James R. Mann, of Illinois, submitted that the proper procedure under the circumstances was to demand that the words objected to be taken down under the rule, and a question of privilege was not involved.

The Speaker<sup>4</sup> said:

It seems to the Chair it would be an outrageous decision to hold that a man can stand here as a Member and say anything he happens to think of about another Member and the one who is

<sup>1</sup>First session Sixty-seventh Congress, Journal, p. 436; Record, p. 5356.

<sup>2</sup>Frederick H. Gillett, of Massachusetts, Speaker.

<sup>3</sup>Third session Sixty-second Congress, Journal, p. 52; Record, p. 549.

<sup>4</sup>Champ Clark, of Missouri, Speaker.

assaulted shall not have personal privilege of replying. That is a general rule. If the gentleman, Mr. Palmer, will state what the other gentleman from Pennsylvania, Mr. Farr, said, then the Chair will rule whether it is a question of personal privilege.

Thereupon Mr. Mann made the further point of order that the previous question having been ordered Mr. Palmer could not be recognized to present a question of privilege until the vote was taken on the pending resolution.

The Speaker said:

The only question in deciding this point of order is whether, the previous question having been ordered on this contest, it brings the transaction to such a conclusion that the gentleman will have to wait until the House gets through voting. That is the point of order last made by the gentleman from Illinois, Mr. Mann.

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.

**562. Having presented one question of privilege, a Member, before discussing it, may submit a second question of privilege related to the first and discuss both on one recognition.**

**Newspaper statements that Cabinet members regard the official acts of a Member as a nuisance do not present a question of privilege.**

**The application of epithets which subject a Member to ridicule give rise to a question of privilege.**

**Assertions in a circular letter that a Member has broken faith with his constituents involve a question of privilege.**

On June 14, 1919,<sup>1</sup> Mr. Thomas L. Blanton, of Texas, presented, as involving a question of privilege, an extract from a newspaper article, which he read, as follows:

The Cabinet officials make no secret of the fact that they regard the Blanton resolutions as a nuisance.

Mr. Finis J. Garrett, of Tennessee, submitted that the extract did not constitute a question of privilege. The Speaker pro tempore<sup>2</sup> Sustained the point of order.

Mr. Blanton then submitted, as involving a question of privilege, the following paragraph from another paper:

He then took occasion to refer to Representative Blanton, of Texas, as "Bleating Blanton" for remarks the Congressman recently made.

"As time goes on," said Mr. Gompers, "Blanton will be eliminated or left at home, as others of his stamp have been."

Mr. James B. Aswell, of Louisiana, raised the point of order that the quotations submitted did not present a question of privilege.

The Speaker pro tempore said:

The Chair will state that the reference to the gentleman from Texas in the newspaper article as "a man of his stamp," in the Chair's opinion, does not present a question of personal privilege. The reference to the gentleman from Texas as "Bleating Blanton" might be considered a reference which would hold the gentleman up to ridicule and contempt, and, although the question is rather close, the Chair is inclined to rule that the gentleman has stated a question of personal privilege in the characterization of the article as referring to him as "Bleating Blanton." The gentleman will proceed and confine his remarks to that characterization.

---

<sup>1</sup>First Sixty-Sixth Congress, Record p. 1102.

<sup>2</sup>Joseph Walsh, of Massachusetts, Speaker pro tempore.

Mr. Blanton then proposed to present, as related to the question already submitted and pending, the following excerpt from a circular letter mailed to newspapers from a departmental bureau—

Asserting that Congressman Blanton has broken faith with his constituents, and, despite his promises to support an appropriation for the United States Employment Service, he has killed it in the House on a point of order.

Mr. Clifton N. McArthur, of Oregon, made the point of order that only one question could be pending at a time, and a second question of privilege was not in order until the first had been disposed of.

The Speaker pro tempore overruled the point of order and recognized Mr. Blanton.

In response to an inquiry from Mr. Blanton, the Speaker pro tempore added:

The words charge the gentleman with a breach of faith, and the Chair thinks the gentleman has presented a question of personal privilege, and the gentleman will proceed.

**563. A Member recognized to present a question of privilege based on a telegram was permitted to discuss subjects indirectly referred to in a resolution mentioned in the telegram.**

**A Member recognized to discuss a question of privilege may not yield for debate.**

**The statement in a telegram, published in a newspaper, that a resolution introduced by a Member was “a tissue of misrepresentation” was held to involve a question of personal privilege.**

On May 6, 1909,<sup>1</sup> Mr. Arthur P. Murphy, of Missouri, rose to a question of privilege and stated that he had recently introduced in the House a resolution relating to the 2-cent passenger fare litigation in Missouri, and then read a telegram from an attorney representing litigants in the case, which included the following:

Representative Murphy's resolution about the Missouri Rate case is an outrageous tissue of misrepresentation by one who has no knowledge of the facts.

Mr. Henry D. Clayton, of Alabama, made the point of order that no question of personal privilege was presented.

The Speaker<sup>2</sup> held that the communication reflected upon the Member in his representative capacity and recognized Mr. Murphy.

During his discussion of the question of privilege Mr. Murphy proposed to yield to Mr. William W. Rucker, of Missouri, for a corroborating statement, when Mr. Sereno E. Payne, of New York, made the point of order that in addressing himself to a question of privilege a Member may not yield for debate. The Speaker sustained the point of order.

Mr. Payne made the further point of order that in debating the question of privilege Mr. Murphy was referring to incidents attending the trial of the rate cases, which were not mentioned in either the telegram or the resolution on which the question of privilege was premised.

---

<sup>1</sup>First session Sixty-first Congress, Record, p. 1801.

<sup>2</sup>Joseph G. Cannon, of Illinois, Speaker.

The Speaker said:

The Chair understands the gentleman from New York to make the point of order that the remarks of the gentleman from Missouri are not the question of privilege that arises from his resolution, and would not arise were it not for the telegram which the Chair now holds in his hand. The Chair has hastily glanced at the resolution, and will read the telegram. This is a telegram to the Attorney General. The telegram is very broad:

“Representative Murphy’s resolution about the Missouri Rate case is an outrageous tissue of misrepresentation by one who has no knowledge of the facts.”

It clearly refers to that part of the resolution touching the rate cases. The resolution is broader than the rate cases, somewhat general in its terms. But the telegram is also broad. The gentleman’s resolution is broad; the telegram is broad. The gentleman is familiar with his resolution and with the telegram. The gentleman will proceed in order.

**564. A roll call may not be interrupted for the presentation of a question of privilege.**

March 1, 1919,<sup>1</sup> during a roll call on the adoption of a resolution offered as a substitute for the resolution reported by the Committee on Elections No. 3 in the contested election case of *Britt v. Weaver*, Mr. Martin Dies, of Texas, claimed the floor on a question of privilege.

Mr. James R. Mann, of Illinois, made the point of order that a roll call may not be interrupted by the presentation of a question of privilege.

The Speaker<sup>2</sup> sustained the point of order.

**565. In presenting a question involving the privilege of the House the Member is required in the first instance to make a motion or offer a resolution, but not in presenting a question of personal privilege.**

**A question of privilege takes precedence over business in order under the rule on “suspension day.”**

**A resolution condemning an official act of the Speaker was decided by the House not to involve a question of privilege.**

**A quorum is presumed to be present unless it is otherwise determined and it is not necessarily the function of the Speaker to ascertain the presence of a quorum unless the point is raised.**

**The Speaker called a Member to the chair during consideration of a resolution criticizing his official conduct.**

**Instance in which a question of procedure was submitted by the Speaker to the House, which overruled his former decision.**

On April 20, 1908,<sup>3</sup> immediately following the reading and approval of the Journal, Mr. John Sharp Williams, of Mississippi, addressed the Speaker and announced that he desired to be heard on a question involving the privilege of the House.

In response to an inquiry from the Speaker as to whether he proposed to offer a resolution thereon, Mr. Williams said:

It is not easily susceptible of a resolution. It is a question concerning the privilege of the House under Rule IX.

<sup>1</sup>Third session Sixty-fifth Congress, Record, p. 4803.

<sup>2</sup>Champ Clark, of Missouri, Speaker.

<sup>3</sup>First session Sixtieth Congress, Journal, p. 760, Record, p. 4972.

If the Chair will permit me to state the question, I think the Chair will agree with me it is almost impossible to put it specifically in the shape of a resolution.

The Speaker<sup>1</sup> held:

The gentleman can proceed by unanimous consent without a resolution, but under the rules the question of the privilege of the House requires a resolution. A question of personal privilege to the Member does not.

Mr. Williams continued:

Does the Chair decline to let me state what the question of privilege, in my opinion, is before arguing? The power of recognition is within the discretion of the Chair. If the Chair will recognize me to state—

The Speaker said:

Not on a question of privilege of the House. That is a question of the highest privilege and under the rules requires a resolution.

Whereupon Mr. William submitted the following:

*Resolved*, That the action of the Speaker of the House of Representatives in adjourning the House on Saturday, April 18, 1908, was a breach of the privileges of the House affecting its safety, dignity, and the integrity of its proceedings.

Mr. Sereno E. Payne, of New York, having raised the point of order that the resolution did not present a question of privilege, the Speaker overruled the point of order and called Mr. John Dalzell, of Pennsylvania, to the chair.

On motion of Mr. Payne, the resolution was laid on the table, yeas 148, nays; 119.

**565a.** On April 18, 1910,<sup>2</sup> the Speaker directed the Clerk to read the Journal of the proceedings of the previous day, when Mr. Robert L. Henry, of Texas, claimed the floor and offered as involving the privilege of the House the following resolution:

*Resolved*, That the action of the Speaker in refusing each day to ascertain the appearance of a quorum before the reading of the Journal of proceedings of the previous day is in violation of the mandatory provisions of Rule I, subdivision 1, and other rules, and subject to objection, and he is hereby instructed to enforce the mandates of said rule.

Mr. Sereno, E. Payne, of New York, made the point of order that the resolution did not present a question of privilege.

Mr. Martin E. Olmsted, of Pennsylvania, made the further point of order that, under paragraph 3 of Rule XIII, the consideration of bills on the Unanimous Consent Calendar was in order and might not be displaced by a question of privilege.

The Speaker<sup>3</sup> said.

The Chair, on this unanimous-consent and committee suspension day, desires to consume as little time as possible in disposing of this resolution. The rule referred to and read by the gentleman from Pennsylvania [Mr. Olmsted] on the point of order made by the gentleman from New York [Mr. Payne] is mandatory in its language, that on this day, Monday, the House shall, immediately

---

<sup>1</sup> Joseph G. Cannon, of Illinois, Speaker.

<sup>2</sup> Second session Sixty-first Congress, Journal, p. 579; Record, p. 4900.

<sup>3</sup> Joseph G. Cannon, of Illinois, Speaker.

after the approval of the Journal, proceed to the consideration of bills on the Unanimous Consent Calendar.

The resolution which the gentleman submits reads as follows:

*Resolved*, That the action of the Speaker in refusing from day to day to ascertain the appearance of a quorum before the reading of the Journal of proceedings of the previous day is in violation of the mandatory provisions of Rule I, subdivision 1, and other rules, and subject to objection, and he is hereby instructed to enforce the mandates of said rule."

Now, the rule to which the gentleman referred reads as follows:

"The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order, and on the appearance of a quorum cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same."

Now, the following note appears to that rule:

"This rule was adopted in 1789 and perfected in 1811 and 1824."

But the part to which the gentleman referred was adopted in 1789, one hundred and twenty years ago. In all that time the question that the gentleman from Texas raises has never been raised in any Congress by any Member.

Now, the Speaker assumes the presence of a quorum. At that time and at all other times under the universal practice of the House in all the history of the Republic the Speaker has never assumed otherwise. Now, before the Journal is read, after the Journal is read, or at any time, it is within the power of any one of the 391 Members of the House to suggest the absence of a quorum. And the Chair has never found a precedent, and, in fact, there is no precedent, of any Speaker ever having refused to proceed as the rules provide to ascertain the presence of a quorum, except in the case of a mere dilatory proceeding, where a quorum was, in fact, present. And whenever the gentleman from Texas [Mr. Henry] or anyone else has, before the reading of the Journal, raised the question of the absence of a quorum, the Chair has immediately proceeded under the rule to ascertain whether or not a quorum was present. So the Chair has not refused, as the resolution says, to ascertain the presence of a quorum.

The gentleman from Texas calls attention to the index, which reads:

"A resolution condemning an official act of the Speaker was offered and submitted as a matter of privilege. (60th Cong., 1st., pp. 4972, 4974; from the old Digest.)"

The Chair has the Record showing the resolution that was offered, and the disposition made of it by the House. Mr. Williams offered the following resolution:

*Resolved*, That the action of the Speaker of the House of Representatives in adjourning the House on Saturday, April 18, 1908, was a breach of the privileges of the House, affecting its safety, dignity, and the integrity of its proceedings."

Mr. Payne moved to lay the resolution on the table.

The conditions then existing will be recollected by the House, as it was during the famous filibuster that was led in the Sixtieth Congress for many weeks by the gentleman from Mississippi [Mr. Williams], then minority leader. If this were an original question, the Chair might well question whether it presents a question of privilege, but the Chair, under the then conditions, held that it did present a privileged question. The motion was made and the resolution was laid on the table. And as this resolution affects the conduct of the Chair, the Chair prefers to treat it as a question of privilege to the extent of submitting it to the House.

Thereupon the Speaker submitted to the House the question, as follows:

Does the resolution presented by the gentleman from Texas [Mr. Henry] involve a question of the privileges of the House? As many as are of the opinion that the resolution involves such question of privilege will say "aye," and those opposed will say "no."

The yeas and nays being demanded by Mr. Henry, and ordered, it was decided in the negative, yeas 120, nays 162.

So the House decided that the resolution did not present a question of privilege.

**566. In presenting a question of personal privilege a Member is not required to offer a motion or resolution, but must take this preliminary step in raising a question involving the privilege of the House.**

**Strictures in newspaper articles, however severe, do not present a question of privilege unless directed against a Member in his representative capacity.**

**A newspaper reference to Members as “demagogues” does not warrant the raising of a question of privilege.**

On February 19, 1917,<sup>1</sup> Mr. J. Hampton Moore, of Pennsylvania, presented, as involving a question of privilege, a newspaper editorial referring to Members of Congress as “demagogues.”

The Speaker asked if the question related to the privileges of the House or to a matter of personal privilege, and explained that if it related to the former it would be necessary to offer a resolution; if to the latter, no resolution was required.

Mr. Moore read extracts from the editorial, and Mr. Swagar Sherley, of Kentucky, made the point of order that a question of privilege was not involved.

Mr. Moore retorted that the statements read were untrue and he desired to reply to them.

The Speaker<sup>2</sup> said:

A reply is one thing and a question of privilege is another. The rule is this: A newspaper can print all sorts of things about a Member personally; but if the charge is as to his conduct as a Member of the House, that makes it a question of privilege.

**567.** On February 13, 1917,<sup>3</sup> Mr. J. Hampton Moore, of Pennsylvania, claiming the floor for a question of privilege, proceeded to read remarks printed in the Congressional Record of February 9, under leave, by Mr. Oscar Callaway, of Texas, charging that English interests had purchased control of newspapers in the United States and through them were attempting to influence Congress in favor of the Allies.

Mr. John N. Garner, of Texas, made the point of order that a question of privilege was not presented.

The Speaker<sup>4</sup> inquired if the question presented was one of personal privilege or of the privilege of the House, and upon Mr. Moore's statement that it related to the latter, held that a question of privilege of the House could be presented only through the submission of a resolution. Thereupon Mr. Moore proceeded by unanimous consent.

**568. Questions of the privileges of the House are raised by presentation of resolutions.**

**Proceedings in the Senate reflecting on the dignity of the House or affecting the comity between the Houses were held to justify a resolution calling the attention of the Senate to the infringement of the rule.**

---

<sup>1</sup> Second session Sixty-fourth Congress, Record, p. 3618.

<sup>2</sup> Champ Clark, of Missouri, Speaker.

<sup>3</sup> Second session Sixty-fourth Congress, Record, p. 3216.

<sup>4</sup> Champ Clark, of Missouri, Chairman.

**While it is in order to discuss proceedings of conference committees, it has been held improper to criticize the conferees of the other House in such a manner as to reflect on them in their official capacity.**

**It is not in order in debate to criticize Members of the other body, but such rule does not apply to criticism of statements made by Members of the other body outside the Chamber.**

On June 8, 1929,<sup>1</sup> in the Senate, during consideration of the conference report on 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, Mr. Kenneth McKellar, of Tennessee, said:

As I understood the Senator a few moments ago, it is his judgment, after this conference, that the sole reason actuating the members of the conference committee on the part of the House in not submitting the debenture plan to the House was the desire to relieve Members of the House of the embarrassment which would come from voting on the debenture plan.

On the following legislative day<sup>2</sup> Mr. Edward E. Denison, of Illinois, rising to a parliamentary inquiry, cited sections 364 and 301 of Jefferson's Manual and proposed to read from the Record the statement made by Mr. McKellar in the Senate on the preceding legislative day, when Mr. John N. Garner, of Texas, interposed the point of order that the gentleman was violating the very rule which he had just read and his reference to debate in the Senate was not in order.

The Speaker<sup>3</sup> ruled:

As the Chair understands the custom, questions of the privileges of the House are raised by the presenting of a resolution. The Chair has been listening to the gentleman to find out whether his remarks were introductory to the offering of a resolution.

If the gentleman will pardon the Chair for a moment, it seems to the Chair that so far this proceeding has been quite irregular.

The attention of the House has not been called to any specific thing upon which to base a question of privilege of the House. Of course, the gentleman may propound a parliamentary inquiry any time he sees fit; but if we are proceeding now on a question of the privilege of the House, the Chair thinks his attention should be called to a specific subject and that the remedy should be offered at the same time.

It is almost the invariable custom in the House, where a question of privilege of the House is raised, to proceed by resolution.

The Chair thinks that the House may at any time, when in its opinion the Senate has violated or reflected on the dignity of the House or brought up questions that would affect the comity between the Houses, it would be in order to offer a resolution respectfully calling the attention of the Senate to the matter to which it took exception.

In response to an inquiry by Mr. Denison as to whether the matter could be referred to the Committee on Rules, the Speaker continued:

The Chair thinks it would be in order to refer such a resolution to the Committee on Rules, but would doubt the propriety of such a course in instances like these. The Chair thinks that would go further in destroying amity between the Houses. The Chair thinks the only thing the House could do, if in its opinion certain things said in another body reflected on the dignity of the

---

<sup>1</sup>First session Seventy-first Congress, Record, p. 2565.

<sup>2</sup>First session Seventy-first Congress, Record, p. 2617.

<sup>3</sup>Nicholas Longworth, of Ohio, Speaker.

House and threatened to destroy friendly feeling between the two bodies, would be to send a resolution to the other body calling attention to that fact, and nothing more; then the other body could take such action as it saw fit.

Replying to a further inquiry as to propriety of calling the attention of the House to passages in the Record submitted as violating the rule, the Speaker reiterated:

The Chair thinks the gentleman can not call the attention of the House to such matters unless they are based on a resolution. Then it would be for the House to decide whether it desired to call the attention of the Senate to those remarks or not.

Mr. Denison then inquired:

I desire to present this parliamentary inquiry: Does the rule to which I have been referring make it improper to criticize in either Chamber the conferees that are appointed by the other Chamber on account of what they say or do in the performance of their duty as conferees? When conferees are appointed to manage the conference on the part of the respective Chambers, they are usually appointed at the request of the other Chamber and are performing the duties of their respective Chambers. They are representing their respective Chambers. If it is improper to criticize in one Chamber the actions or the words of Members of the other Chamber, I propose the inquiry to the Speaker whether or not that rule would apply to the actions and the words of the representatives of the Chambers when they are engaged in their business in the conference for which the two Houses have appointed them.

The Speaker replied:

The Chair thinks that if reference be made to the proceedings of conferees on the part of another House which tend to reflect upon them, such reference would not be in order, but the mere discussion of the proceedings the Chair thinks would be in order.

Of course, the trouble the Chair finds himself in is upon the question whether such criticism was made. Generally speaking, all the Chair can say, until his attention is called to some specific instance, is that it is not proper for Members of either House to criticize Members of the other House, either on the floor or as members of a conference committee. Before ruling any further on the question the Chair thinks the gentleman from Illinois ought to introduce a resolution and call attention to the remarks of which he complains, and it will then be for the House to decide whether or not those remarks invade the rule of comity between the two Houses; and if so, the House may then send a resolution to the Senate respectfully calling the attention of the Senate to that fact.

**569. In presenting a question involving the privilege of the House, a Member is required to submit a resolution before proceeding in debate.**

**While a question relating to the privilege of the House may be raised by any Member, a question of personal privilege may be raised only by the Member to whom it relates.**

**A newspaper article criticizing a Member personally and not in his representative capacity does not present a question of privilege.**

On February 8, 1923,<sup>1</sup> Mr. Manuel Herrick, of Oklahoma, presented, as a question of personal privilege, a newspaper article relating to personalities.

The Speaker<sup>2</sup> held that as it did not attack the gentleman in his representative capacity, no question of privilege was presented.

Thereupon Mr. Thomas L. Blanton, of Texas, submitted that the article involved the privilege of the House. The Speaker sustained a point of order by Mr. Everett Sanders, of Indiana, that such question must be presented by resolution.

<sup>1</sup> Fourth session, Sixty-seventh Congress, Journal, p. 196; Record, p. 3266.

<sup>2</sup> Frederick H. Gillett, of Massachusetts, Speaker.

Mr. Blanton then submitted, further, that the article ridiculed a Member of the House and claimed the floor for a question of personal privilege relating to Mr. Herrick.

The Speaker said:

Any Member of Congress has the right to raise the question of privilege of the House. Any gentleman has the right to raise the question of his own privilege, but the Chair is not aware of any precedent where one gentleman can rise to a question of personal privilege respecting another gentleman.

Mr. Blanton appealed from the decision of the Chair. On motion of Mr. Frank W. Mondell, of Wyoming, the appeal was laid on the table.

**570. Vague charges in newspaper articles have not been entertained as questions of privilege.**

**A Member has the right to withdraw a resolution before a decision thereon, and may modify the proposition in the House, but not in the committee.**

On March 7, 1924,<sup>1</sup> Mr. Thomas L. Blanton, of Texas, offered as involving a question of the privilege of the House, the following:

Whereas the Star, Times, and News, published in Washington, D.C., yesterday afternoon, and the Post, published this morning, all state that when arrested near the House Office Building one B. F. Dorsey had in his possession a half-gallon jug of whisky which he claimed he had procured for and was taking to a Congressman in said House Office Building, where he claimed to be employed: Therefore be it

*Resolved*, That the said B. F. Dorsey be directed to transmit to the House of Representatives the name of the Congressman whom he alleges he procured said whisky for, and instructions, if any, that were given him by such Congressman.

The resolution having been read by the Clerk, Mr. Blanton asked to amend the last paragraph to read as follows:

*Resolved*, That the Speaker appoint a special committee of five Members of the House to investigate as to the truth or falsity of these charges and report back to the House at the earliest possible moment.

Mr. Nicholas Longworth, of Ohio, objected, and argued that the resolution could be modified only by consent of the House.

The Speaker<sup>2</sup> said:

In committee he has not, but in the House the gentleman has the right to modify his resolution.

Mr. Bertrand H. Snell, of New York, made the point of order that the resolution did not present a question of privilege.

The Speaker sustained the point of order and said:

Of course, the Chair always wishes, as the membership undoubtedly wishes, to protect the privileges of the House, but the Chair is disposed to think that the citations made by the gentleman from New York [Mr. Snell], stating that vague rumors or accusations against the House do not constitute privilege, are applicable here. This is simply a statement by an individual whom the gentleman from New York says is not an employee of the House endeavoring to excuse himself from a breach of the law by implicating a Member of the House. The Chair does not think this is such a charge against the dignity of the House as to make it privileged. The Chair sustains the point of order.

<sup>1</sup> First session Sixty-eighth Congress, Record, p. 3773.

<sup>2</sup> Frederick H. Gillett, of Massachusetts, Speaker.