

Chapter CCXXXV.¹

ORGANIZATION AND PROCEDURE OF COMMITTEES.

1. Rule as to chairman. Section 2201.
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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.

¹Supplementary to Chapter CV.

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

³First 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 Speaker⁴ 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 represented⁶ 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.

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 1880¹ with an amendment added in 1911² 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

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 discussion² 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 Speaker⁵ 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.

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 Chairman² 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?

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:

"Hereafter 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 from 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

¹Record, 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 in 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 Speaker² 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:

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 Speaker² 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 Speaker² 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

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

²Nicholas 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

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 Speaker² 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.

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

²Nicholas Longworth, of Ohio, Speaker.

³First 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. Shackelford, 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. Shackelford requesting an investigation of this office in conjunction with the subtreasury. * * *

* * * Mr. Shackelford 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. Shackelford'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. Shackelford 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 Speaker² 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

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

²Joseph 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. Shackelford’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. Shackelford 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 Speaker² 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 Speaker⁴ replied:

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

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 Speaker² 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.

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

²Nicholas Longworth, of Ohio, Speaker.