

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

### REPORTS OF COMMITTEES.

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

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

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

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

<sup>2</sup>Second session Sixty-second Congress, Record, p. 5889.

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

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

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

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

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

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

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

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

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

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

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

Mr. Britten conceded:

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

The Speaker ruled:

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

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

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

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

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<sup>1</sup>Second session Seventy-first Congress, Record, p. 11705.

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

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

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

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

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

After further debate, the Speaker<sup>2</sup> decided:

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

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

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

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

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

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<sup>1</sup> Second session Sixty-seventh Congress, Record, p. 8928.

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

<sup>3</sup> First session Sixty-sixth Congress, Record, p. 6652.

After debate the Speaker<sup>1</sup> held:

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

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

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

The Chair, therefore, overrules the point of order.

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

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

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

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

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

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

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

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

<sup>2</sup> Second session Sixty-sixth Congress, Record, p. 7236.

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

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

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

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

Third. To send for persons and papers.

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

Fifth. To take testimony.

Sixth. To sit during sessions of the House.

Seventh. To appoint subcommittees.

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

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

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

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

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

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

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

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

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

**The Speaker<sup>1</sup> ruled:**

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

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

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

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

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

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

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

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

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

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

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

The Speaker<sup>3</sup> overruled the point of order and said:

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

<sup>2</sup> Second session Seventy-first Congress, Record, p. 9320.

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

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

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

The Speaker ruled:

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

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

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

Mr. Weldon Brinton Heyburn, of Idaho, inquired:

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

The Vice President<sup>2</sup> said:

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

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

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

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

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

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

<sup>1</sup> Second session Sixty-second Congress, Record, p. 2188.

<sup>2</sup> James S. Sherman, of New York, Vice President.

<sup>3</sup> Third session Sixty-fifth Congress, Record, p. 4925.

<sup>4</sup> H. Res. 469, Record, p. 258.

<sup>5</sup> Report No. 1173.

<sup>6</sup> Champ Clark, of Missouri, Speaker.

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

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

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

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

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

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

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

**The Speaker<sup>2</sup> rules:**

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

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

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<sup>1</sup>First session Sixty-sixth Congress, Record, p. 3331.

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

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

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

After interruption, he continued:

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

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

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

Mr. Longworth answered:

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

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

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

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

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

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

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

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

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

The Speaker<sup>3</sup> sustained the point of order.

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

<sup>1</sup>First session Sixty-seventh Congress, Record, p. 5343.

<sup>2</sup>First session Sixty-second Congress, Record, p. 1229.

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

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

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

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

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

The minority has the right to file its views as a part of the majority report.

The Chair would assume that the minority views will be ready at the time the majority files its report. Ordinarily, the request put to the House is that the minority may have until a certain time to file its views.

The rule on the subject is as follows:

“All reports of committees, except as provided in clause 45 of Rule 11, together with the views of the minority, shall be delivered to the Clerk for printing”——

And so forth.

The Chair thinks a proper interpretation of the rule would give the minority the right to file minority views with the report, provided they were ready at the same time.

Minority views would have to be filed in time for the printer to be able to incorporate them along with the majority report; in other words, except by unanimous consent, minority views could not hold up presentation of the printed report.

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

The Speaker<sup>4</sup> sustained the point of order and directed that the Journal be corrected and that the bill be stricken from the calendar until reported from the floor.

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

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

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

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<sup>1</sup> Second session Sixty-first Congress, Record, p. 429.

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

<sup>3</sup> Second session Sixty-third Congress, Record, p. 6680.

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

<sup>5</sup> Second session Sixty-seventh Congress, Record, p. 6342.

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

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

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

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

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

Section 2a of Rule XIII provides:

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

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

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

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

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

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

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

<sup>2</sup> Second session Seventieth Congress, Record, p. 2371.

<sup>3</sup> Third session Seventy-first Congress, Record, p. 4259.

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

The Speaker pro tempore<sup>1</sup> ruled:

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

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

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

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

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

The Speaker<sup>3</sup> sustained the point of order and said:

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

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

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

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

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

After debate, the Speaker pro tempore<sup>4</sup> ruled:

Section 64 of the bill provides:

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

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

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

<sup>1</sup> Bertrand H. Snell, of New York, Speaker pro tempore.

<sup>2</sup> Second session Seventy-first Congress, Record, p. 2982.

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

<sup>4</sup> John Q. Tilson, of Connecticut, Speaker pro tempore.

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

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

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

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

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

The Speaker pro tempore<sup>2</sup> held:

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

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

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

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

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

The Speaker pro tempore<sup>4</sup> dissented from this view and said:

Section 9 of the bill provides:

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

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

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

<sup>1</sup> Second session Seventy-first Congress, Journal, p. 16; Record, p. 10933.

<sup>2</sup> John Q. Tilson, of Connecticut, Speaker pro tempore.

<sup>3</sup> Second session Seventy-first Congress, Record, p. 11105.

<sup>4</sup> John Q. Tilson, of Connecticut, Speaker pro tempore.

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

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

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

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

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

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

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

The Speaker pro tempore<sup>4</sup> held:

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

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

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

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

After exhaustive debate the Speaker<sup>6</sup> ruled:

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

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<sup>1</sup> Second session Seventy-first Congress, Record, p. 7363.

<sup>2</sup> Bertrand H. Snell, of New York, Speaker pro tempore.

<sup>3</sup> First session Seventy-second Congress, Record, p. 8144.

<sup>4</sup> John J. O'Connor, of New York, Speaker pro tempore.

<sup>5</sup> Second session Seventy-first Congress, Journal, p. 803; Record, p. 1328.

<sup>6</sup> Nicholas Longworth, of Ohio, Speaker.

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

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

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

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

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

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

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

“Will this rule apply to appropriation bills?”

The gentleman from New York replied:

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

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

#### “LIMITATIONS AND LEGISLATIVE PROVISIONS

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

And then follow three recommendations specifying changes in existing law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Speaker pro tempore<sup>4</sup> ruled:

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

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

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<sup>1</sup> Second session Seventy-first Congress, Record, p. 11539.

<sup>2</sup> C. William Ramseyer, of Iowa, Speaker pro tempore.

<sup>3</sup> First session Seventy-second Congress, Record, p. 8142.

<sup>4</sup> John J. O'Connor, of New York, Speaker pro tempore.

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

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

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

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

The Speaker said:

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

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

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

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

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

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

After debate, the Speaker pro tempore<sup>4</sup> ruled:

Section 64 of the bill provides:

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

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

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

<sup>1</sup>First session Seventy-third Congress, Record, p. 198.

<sup>2</sup>Henry T. Rainey, of Illinois, Speaker.

<sup>3</sup>Second session Seventy-first Congress, Journal; p. 15, Record, p. 10595.

<sup>4</sup>John Q. Tilson, of Connecticut, Speaker pro tempore.

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

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

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

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

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

In the absence of citation to specific statues which would be amended or repealed by the pending bill, the speaker pro tempore<sup>2</sup> overruled the point of order and said:

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

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

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

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

On that ground the Speaker<sup>4</sup> overruled the point of order.

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

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

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<sup>1</sup> Second session Seventy-first Congress, Record, p. 11105.

<sup>2</sup> John Q. Tilson, of Connecticut, Speaker pro tempore.

<sup>3</sup> Third session Seventy-first Congress, Record, p. 5049.

<sup>4</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>5</sup> First session Seventieth Congress, Record, p. 5446.

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

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

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

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

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

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

The Speaker,<sup>3</sup> however, sustained the point of order and said:

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

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

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

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

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

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

The Speaker pro tempore<sup>5</sup> sustained the point of order and said:

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

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<sup>1</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup> Second session Seventy-first Congress, Record, p. 11705.

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

<sup>4</sup> Second session Seventy-first Congress, Journal, p. 804; Record, p. 5457.

<sup>5</sup> Bertrand H. Snell, of New York, Speaker pro tempore.

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

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

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

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

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

The first paragraph of section 56 of Rule XI provides:

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

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

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

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

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

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<sup>1</sup> Second session Sixty-sixth Congress, Record, p. 8121.

<sup>2</sup> Second session Seventy-first Congress, Record, p. 97.

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

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

The Speaker<sup>1</sup> replied.

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

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

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

On January 26, 1920,<sup>2</sup> Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported as privileged the following:

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

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

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

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

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

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

On February 24, 1908,<sup>4</sup> the Committee on Rules, through Mr. John Dalzell, of Pennsylvania, presented as privileged the following report:

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

<sup>1</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup> Second session Sixty-sixth Congress, Record, p. 2063.

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

<sup>4</sup> First session Sixtieth Congress, Record, p. 2395.

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

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

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

Rule XI provides that—

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

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

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

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

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

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

On August 15, 1912,<sup>2</sup> Mr. Robert L. Henry, of Texas, reported from the Committee on Rules as privileged:

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

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

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

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

<sup>2</sup> Second session Sixty-second Congress, Record, p. 11017.

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

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

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

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

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

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

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

Mr. Speaker,<sup>1</sup> ruled:

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

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

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

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

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

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

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

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

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

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

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

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

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

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

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

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

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

<sup>1</sup> Second session Sixty-fifth Congress, Record, P. 833.

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

<sup>3</sup> First session Seventy-third Congress, Record, p. 3498.

or has adjourned, to hold such hearings, to employ suitable counsel, assistants, and investigators in aid of its investigation, as well as such experts, and such clerical, stenographic, and other assistants, to require the attendance of such witnesses and the production of such books, papers, and documents, by subpoena or otherwise, to take such testimony, to have such printing and binding done, and to make such expenditures as it deems necessary; and all such expenses thereof shall be paid on vouches ordered by said committee and approved by the chairman thereof. Subpoenas shall be issued under the signature of the chairman of the Judiciary Committee or of the chairman of any subcommittee and shall be served by any person designated by any of them. The chairman of the committee or any member thereof may administer oaths to witnesses.

Mr. Thomas L. Blanton, of Texas, made the point of order that the resolution was not privileged for the reason that it authorized the committee to sit elsewhere than in Washington, to employ legal and clerical assistants, and to have printing done, all of which involved expenditures and were foreign to the jurisdiction of the Committee on Rules.

Mr. John J. O'Connor, of New York, in opposing the point of order, took the position that the committee had been exceeded its jurisdiction, since specific amounts were not appropriated by the resolution and further action by the House on reports from the Committee on Accounts or the Committee on Appropriations would be required in order to effectuate these provisions.

After further debate, the Speaker<sup>1</sup> sustained the point of order and said:

The Chair thinks that the provision incorporated in section 5 of the resolution authorizing the committee to employ suitable counsel, assistants, and investigators in the aid of its investigation, and also the provision authorizing all necessary expenses of the investigation to be paid on vouchers approved by the chairman of the committee, is a matter properly within the jurisdiction of the Committee on Accounts. It has been held that where the Committee on Rules reports a resolution of this kind and there is incorporated therein matter which is within the jurisdiction of another committee the matter so included destroys the privilege of the resolution in so far as it prevents consideration at any time by the mere calling up of the report by the Committee on Rules. For this reason the Chair thinks that the point of order is well taken.

**2258. A resolution authorizing the offering of an amendment otherwise not in order during consideration of a bill pending in Committee of the Whole was held to be privileged when reported by the Committee on Rules.**

On April 28, 1924,<sup>2</sup> Mr. Bertrand H. Snell, of New York, by direction of the Committee on Rules, reported this resolution:

*Resolved*, That when the House proceeds in Committee of the Whole to the further consideration of H. R. 7962, entitled, "A bill to create and establish a commission as an independent establishment of the Federal Government to regulate rents of the District of Columbia," it shall be in order at any time to offer the following as a substitute for the text of the bill:

"Strike out all after the enacting clause and insert in lieu thereof the following:

"That it is hereby declared that the emergency described in Title II of the food control and District rents act still exists and continues in the District of Columbia, and that the present housing and rental conditions therein require the further extension of the provisions of much title.

"SEC. 2. That Title II of the food control and the District of Columbia rents act, as amended, is reenacted, extended, and continued, as hereinafter amended, until the 22d day of May, 1926. Notwithstanding the provisions of section 2 of the act entitled "An act of extend for the period of two years the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, as amended," approved May 22, 1922.

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<sup>1</sup>Henry T. Rainey, of Illinois, Speaker.

<sup>2</sup>First session Sixty-eighth Congress Record, p. 7373.

“SEC. 3. That subdivision (a) of section 102 of the food control and the District of Columbia rents act, as amended by section 4 of such act of May 22, 1922, is hereby amended by striking out the figures “1924” in said subdivision and inserting in lieu thereof the figures “1926;””

Upon the offering of the substitute there shall be not to exceed two hours general debate one-half to be controlled by those favoring the substitute and one-half by those opposing.

At the conclusion of the general debate the substitute shall be considered under the five-minute rule and during that consideration it shall be in order to offer an amendment to the substitute providing for the reduction of the number of commissioners provided for in said bill.

At the hour of 4 o'clock, if the consideration of the substitute shall not have been sooner completed, the committee shall vote upon the substitute as amended, if any amendments have been adopted, and immediately upon the conclusion of that vote the committee shall automatically rise and report the bill and any amendments, or the substitute and any amendments, to the House; and the previous question shall be considered as ordered on the bill and amendments for final passage.

Mr. J. N. Tincher, of Kansas, made the point of order that the resolution was not privileged, and Mr. Thomas L. Blanton, in support of the point of order, said:

Mr. Speaker, I have spent quite a lot of time looking up this question. The rules prescribe the jurisdiction of every committee of this House. They give to the District of Columbia Committee jurisdiction over all matters affecting the District of Columbia and prescribe the limitations and jurisdiction of the Rules Committee. The Chair will note that section 56 of Rule XI prescribes that the only jurisdiction which the Committee on Rules has is on rules, joint rules, and procedures; in other words, it fixes the procedure of the House.

This is the point: Part of this resolution is privileged in that it fixes the order of procedures of the House. The first seven or eight lines of the resolution as privileged, and the latter part of the resolution is privileged under the rules because it fixes procedures, but the part of the resolution which sets up three different sections as a proposed substitute is legislative matter and is not privileged because the Committee on Rules has no authority under its jurisdiction, under the rules, to propose to the House legislation. The Committee on Rules attempts to make in order a three-selection bill of its own prescribing as a substitute for the Lampert measure. It has no right to make in order legislation of this nature.

Applying this present rule, here is the Lampert measure of 35 pages which has been considered by the Committee on the District of Columbia, and the Committee on Rules attempts by this resolution not only to prescribe procedure for the Lampert bill, which it has the right to do, but it does not stop there. It attempts to provide a substitute for the Lampert bill, an entirely new piece of legislation, and legislation that is foreign to the provisions of the Lampert bill, and clearly that is legislation. It is legislation that properly belong to another committee. It goes beyond the jurisdiction that the House has conferred upon the Committee on Rules. Mr. Speaker, if we were to permit the Committee on Rules to offer this as a substitute for the Lampert bill, it could come in and offer a substitute for every bill that comes from every committee on this House. It would destroy the integrity and the stability of the jurisdiction of every committee of this House, and I submit that this Committee on Rules should be held within its jurisdiction and not be permitted to report as privileged of its own to this House.

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

It seems to the Chair that this is one of the functions which the Rules Committee is constituted to exercise. It is preparing the way for the House to express its will on the pending bill. The Rules Committee very often makes provisions in order which otherwise would not be in order, it sends bills to conference, and provides for legislation, and the Chair overrules that point of order.

**2259. A special rule providing for the consideration of a bill is not invalidated by the fact that at the time the rule was reported the bill was not on the calendar.**

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

**The privilege conferred on a bill by a special rule making in order a motion to resolve into the Committee of the Whole for its consideration is equivalent to that enjoyed by revenue and appropriation bills under clause 9 of Rule XVI.**

On June 28, 1930,<sup>1</sup> Mr. Fred S. Purnell, of Indiana, by direction of the Committee on Rules, called up the resolution (H. Res. 264), reported on June 20, 1930, making it in order to move to resolve into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 12549), reported on June 24, 1930, to amend and consolidate the copyright laws.

Mr. Carl R. Chindblom, of Illinois, objected that the resolution was not in order for the reason that it provided for the consideration of a bill which had not been reported and was not on the calendar at the time the resolution was reported to the House, and said:

The situation is novel and arises, so far as I can learn, for the first time, and it raises the question whether the Committee on Rules has authority in advance of the report of a bill, and in advance of the placing of a bill on any calendar of the House to bring in a rule for the consideration of the bill under the general rules of the House, as this resolution does, because the rule merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. As I construe the rule, it does not suspend any of the rules of the House in reference to the consideration of legislation. It does not suspend the rule which requires bills to be upon the calendar of the House before they can have consideration. It merely makes it in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

The Speaker<sup>2</sup> overruled the point of order and held:

As the bill now appears, so far as the Chair is advised, it is properly on the calendar as of June 24, 1930, and this special rule is properly reported to consider that bill. The Chair thinks that all that special rules of this sort do is to put bills for which they are provided in the same status that a revenue or appropriation bill has under the general rules of the House. Clause 9 of Rule XVI provides:

“At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering bills raising revenue, or general appropriation bills.”

Now all that this special rule does is to give the same status to this particular bill at this particular time. The Chair has no hesitation in saying that the Committee on Rules has acted with authority, and that it will be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill after the resolution is passed.

**2260. A report from the Committee on Rules has a special and high privilege, and one motion to adjourn, but no other dilatory motion may be entertained during its consideration.**

**Unless agreed to by a two-thirds vote, a report from the Committee on Rules shall not be called up on the same day on which presented except on the last three days of the session.**

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<sup>1</sup>Second session Seventy-first Congress, Record, p. 11995.

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

**No resolution shall be reported by the Committee on Rules to set aside Calendar Wednesday by a vote of less than two-thirds of the Members voting.**

**The Committee on Rules shall report no provision excluding the motion to recommit after the previous question has been ordered on the passage of a bill or joint resolution.**

**Form and history of the second paragraph of section 56 of Rule XI.**

The second paragraph of section 45 of Rule XI provides:

It shall always be in order to call up for consideration a report from the Committee on Rules (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.

That portion of the paragraph relating to reports from the Committee on Rules and dilatory motions during the consideration thereof dates from February 4, 1892.<sup>1</sup>

The limitations prohibiting the committee from reporting provisions dispensing with Calendar Wednesday and the motion to recommit after the ordering of the previous question were added March 15, 1909,<sup>2</sup> as a result of the parliamentary revolution of that session.

The parenthetical exception requiring reports from the committee to lie over for a day unless agreed to by a two-thirds vote was adopted January 18, 1924.<sup>3</sup>

**2261. Consideration of a report from the Committee on Rules on the day on which reported is not in order until the House has by a two-thirds vote authorized consideration.**

On July 15, 1932,<sup>4</sup> Mr. John J. O'Connor, of New York, from the Committee on Rules, by direction of that committee, presented as privileged the following resolution:

*Resolved*, That all Members of the House shall have leave to extend their own remarks in the Congressional Record until the last issue of the Record of the present session.

Mr. Carl E. Mapes, of Michigan, raised the question of order that the resolution could not be considered except by unanimous consent or by a two-thirds vote of the House, until it had been on the calendar one day.

The Speaker<sup>5</sup> said:

The Chair thinks he could recognize any member of the Committee on Rules to call up any resolution reported by that committee; and if two-thirds of the Members voted for its consideration, it would become the order of the House.

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<sup>1</sup> First session Fifty-second Congress, Record, pp. 734, 862.

<sup>2</sup> First session Sixty-first Congress, Record, p. 22.

<sup>3</sup> First session Sixty-eighth Congress, Record, p. 1143.

<sup>4</sup> First session Seventy-second Congress, Record, p. 15468.

<sup>5</sup> John N. Garner, of Texas, Speaker.

Mr. Mapes submitted:

The rule provides that it shall not be called up unless two-thirds of the House determine that it shall be. Now, my point is that the Speaker himself is determining that it shall be called up when he puts the question before the House and that the House and that the House ought to determine in advance whether it is to be called up or not.

The Speaker agreed:

The Chair is on the same opinion. The question is, Shall the House consider this resolution?

**2262. The Committee on Rules may report orders of procedure subject to two limitations only: it may not provide for abrogation of the Calendar Wednesday rule except by two-thirds vote or for denial of the motion to recommit while the previous question is pending on final passage.**

**While a question as to jurisdiction of a committee over a public bill is not in order after the bill is under consideration in the Committee of the Whole the question as to the right of a committee to report a private bill may be raised at any time prior to passage.**

On January 8, 1991,<sup>1</sup> Mr. Edward C. Little, of Kansas, made a point of order against the following resolution reported by Edward W. Pou, of North Carolina, from the Committee on Rules:

*Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 13274; that the amendment reported by the Committee shall be read and considered in lieu of the original bill; that there shall be not exceeding three hours of general debate, to be equally divided between those supporting and those opposing the bill, which debate shall be confined to said bill, at the end of which time the bill shall be read for amendment under the five-minute rule, and at the conclusion of such reading the committee shall rise and report the bill to the House, together with the amendments, if any, whereupon the previous question shall be considered as ordered upon the bill and all amendments thereto to final passage without intervening motion except one motion to recommit.

After debate the Speaker pro tempore<sup>2</sup> ruled:

The immediate matter before the House is House resolution 487, presented by the gentleman from North Carolina, Mr. Pou, as a report from the Committee on Rules. That resolution provides for the consideration of H. R. 13274. The gentleman from Kansas, Mr. Little, makes the point of order that the bill, when originally introduced, was improperly referred, and further that because of the improper reference the Committee on Rules has no authority to bring in a resolution for the consideration.

Upon the question whether it was improperly referred the Chair does not feel that it is now necessary to pass. That point would involve the question of whether it is a public bill or a private bill. The Chair has a very clearly defined idea about the character of the bill, but so far as the immediate question before the Chair is concerned, it seems that the question is whether the Committee on Rules has the authority to report the resolution that has been presented by the gentleman from North Carolina.

Paragraph 47 of the Rule XI, touching the question of reference of resolutions, provides as follows: "All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules."

Then, paragraph 56 of Rule XI provides:

"It shall always be in order to call up for consideration a report from the Committee on Rules, and pending the consideration thereof the Speaker may entertain one motion that the

<sup>1</sup> Third session Sixty-fifth Congress, Record, p. 1135.

<sup>2</sup> Finis J. Garrett, of Tennessee, Speaker pro tempore.

House adjourn; but after the result is announced, he shall not entertain any other dilatory motion until the said report shall have been fully disposed of.”

The Committee on rules is not a legislative committee. It is merely a procedure committee. This bill did not go to the Committee on Rules. That which the Committee on Rules has reported is a mere resolution providing for procedure. The only limitation laid upon the Committee on Rules by the general rules of the House is that which I now read:

“The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present”—

That refers to the Calendar Wednesday rule—“nor shall it report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.”

Those two propositions are the only limitations placed by the general rules of the House upon the Committee on Rules in reporting orders of procedure. The Committee on Rules can report a resolution discharging any committee of the House from further consideration of any bill that has been referred to it, and providing that the bill shall be placed upon its passage. It always rests with the House whether it will adopt the rule reported by the Committee on Rules. The limitations upon the power of the Committee on Rules to report are the two that the Chair just read.

This is a resolution of procedure. The Chair overrules the point of order.

The resolution being agreed to and the House having resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, Mr. Little raised the question of order that the bill was a private bill and not within the jurisdiction of the Committee on Military Affairs, which reported it, but should have been referred to the Committee on Claims.

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

The Chair will state to the gentleman from Kansas that he was in the Hall when the gentleman made his point of order, while the Speaker pro tempore was presiding, and the present occupant of the Chair listened to the argument of the gentleman from Kansas. In the opinion of the Chair the gentleman from Tennessee, Mr. Garrett, the Speaker pro tempore, correctly ruled upon the point of order, which I think is binding on the present occupant of the Chair as chairman of the Committee of the Whole on the state of the Union. The Committee on Rules brought in a rule providing for the consideration of this bill by number. Under the rules of the House, the Committee on Rules can bring in a special order changing and abrogating any rule of the House, with only two limitations, relative to Calendar Wednesday and a motion to recommit. It is in order for the Committee on Rules to bring in a rule providing that a bill that had never been before any committee at all, whether public or private, should be considered, and if the House adopts the special order it changes or abrogates any rules of the House conflicting with the special order.

The Committee on Rules is not a legislative committee. The Committee on Rules is not now considering any legislation. The Committee on Rules can bring in a special order for the consideration of legislation and could provide that any Member of the House or any committee could offer a resolution or a bill for immediate consideration that had never been before any committee at all. In the opinion of the Chair, the House having adopted this special order providing that this bill should be considered, and determining how it should be considered, it is not proper for the occupant of the Chair, as committee chairman to rule that the bill is not properly before the Committee of the Whole for consideration. The Committee of the Whole is simply a creature of the House. The House has provided that this bill shall be considered. In the opinion of the Chair, the bill before the House is a public bill, and it is too late to raise a question of jurisdiction. The question of estoppel would apply. If the bill—a public one—had been improperly referred, any time before it was reported to the House by the committee a motion would have been in order

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<sup>1</sup> Charles R. Crisp, of Georgia, Chairman.

to correct the reference. Not having been made, it is now too late to make it. Therefore the Chair overrules the point of order.

**2263. The Committee on Rules may not report a resolution which shall operate to prevent consideration of the motion to recommit after the previous question has been ordered on the passage of a bill.**

**Provision that “the House shall immediately proceed to vote upon he bill without any intervening motion” was construed to prevent the offering of the motion to recommit and to be in violation of the second paragraph of section 56 of Rule XI.**

On May 14, 1912,<sup>1</sup> the House was considering the resolution reported on a previous day<sup>2</sup> by Mr. Robert L. Henry, of Texas, and reading as follows:

*Resolved*, That immediately upon the adoption of this resolution the House shall proceed to consider H. R. 23635, a bill to amend an act entitled “An act to codify, revise, and amend the laws relating to the judiciary,” approved March 3, 1911. That there shall be three hours’ general debate on said bill and one substitute to be offered, and considered as pending, by the gentleman from Illinois, Mr. Sterling, and at the expiration of such time the previous question shall be considered as ordered on the bill and said substitute to final passage, and the House shall immediately proceed to vote on the bill and substitute without any intervening motion.

Mr. James R. Mann, of Illinois, in insisting on a point of order previously reserved against the provision authorizing a vote on the passage of the bill without intervening motion, said:

Mr. Speaker, I make the point of order that the resolution reported by the gentleman from Texas is not a privileged resolution, that it is not in order, and that the Committee on Rules had no jurisdiction to report the resolution. The rule provides that—

“At the expiration of such time the previous question shall be ordered on the bill and said substitute to final passage, and the House shall immediately proceed to vote on the bill and substitute without any intervening motion.”

Mr. Speaker, it became the practice in the Congresses prior to the Sixty-first Congress to adopt resolutions of this kind reported from the Committee on Rules. For instance, on November 16, 1903, the gentleman from Pennsylvania, Mr. Dalzell, reported a resolution for the consideration of the Cuban reciprocity bill, which conclude din this language:

“And whenever general debate is closed the committee shall rise and report the bill to the House, and immediately the House shall vote, without debate or intervening motion, on the engrossment and third reading and on the passage of the bill.”

The question was raised at that time whether that shut out any intervening motion, and it was so ruled, although an appeal was taken and the appeal was overruled. Subsequently various other resolutions were asked from the Committee on Rules, which eliminated even the right of appeal.

Following that course, many Members of the House have come to believe that the right to offer a motion to recommit, which originally was designed to permit the gentleman in charge of the bill to move to recommit for the purpose of correcting an error in the bill—that the right to offer a motion to recommit had become a right of the minority, and there was incorporated in the rules of the Sixty-first Congress, and it is in the rules of this Congress, this provision, on page 359 of the Manual, referring to the Committee on Rules:

“The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7, Rule XXIV, shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent a motion to recommit being made, as provided in paragraph 4 of Rule XVI.”

<sup>1</sup> Second session Sixty-second Congress, Record, p. 6408.

<sup>2</sup> Record, p. 6373.

Now, this rule endeavors to cut out the motion to recommit, because it expressly provides that the House shall immediately proceed to vote on the bill and substitute without any intervening motion; while the rule provides that the committee on Rules is not authorized to report any rule which shall operate to prevent a motion to recommit being made.

The right to offer the motion to recommit is preserved by the rules, and preserved in such a manner that the Committee on Rules can not report a rule which shuts it out. Doubtless they could report a rule which would amend the rule providing for a motion to recommit, or the Committee on Rules could report a rule eliminating the rule to recommit, but they can not report a rule which violates the rule providing for the motion to recommit.

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

You can report any rule which you see fit to put upon the books, but as long as that section stands there the Committee on Rules is precluded from bringing in such a resolution as this one. If you bring in a resolution amending the rules, that is a proposition which, of course, the Chair would entertain; but you are not bringing in a resolution to amend the rules, you are bringing in a resolution which violates a rule of the House.

Subsequently Mr. Henry was permitted, by unanimous consent, to amend the resolution by adding after the last word:

Except a motion to recommit.

**Whereupon the Speaker announced:**

If the House will permit, it seems to the Chair that it will save trouble in the future if the Chair will now give his own construction of this rule under which the gentleman made his point of order. The question is liable to come up again at any time. The last clause of paragraph 56 of Rule XI provides:

“Nor shall it”—

That is, the Committee on Rules—“report any rule or order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.”

Jefferson’s manual opens with the paragraph:

“Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say, ‘It was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power.’”

The Chair does not think the essence of the proposition was ever better stated than it is in those words. Rules are made primarily to fix an order of business and to preserve and maintain decorum. But they are also fixed in order that the minority and the individual member shall have all the rights that are permissible in a legislative body.

It is not necessary to go into the history of how this particular rule came to be adopted, but that it was intended that the right to make the motion to recommit should be preserved inviolate the Chair has no doubt whatever. If this arrangement as to amending the resolution had not been made, the Chair would have sustained the point of order of the gentleman from Illinois, Mr. Mann.

**2264. The Committee on Rules may not report any order of business under which it shall not be in order to offer the motion to recommit after the previous question is ordered on the passage of the bill.**

**A resolution reported by the Committee on Rules authorizing the Speaker to appoint conferees “without intervening motion” was held to**

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<sup>1</sup> Champ Clark, of Missouri, Speaker.

**be in conflict with the limitation placed upon the Committee on Rules in section 56 of Rule XI.**

On April 24, 1916,<sup>1</sup> Mr. Finis J. Garrett, of Tennessee, from the Committee on Rules, presented as privileged the following:

*Resolved*, that upon the adoption of this resolution the Committee on Military Affairs be, and hereby is, discharged from the consideration of H. R. 12766, a bill to increase the efficiency of the Military Establishment of the United States, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill; and the Speaker shall immediately appoint the managers on the part of the House, without intervening motion.

Mr. James R. Mann, of Illinois, having raised a question of order, Mr. Irvine L. Lenroot, of Wisconsin, differentiated between the pending point of order and one under discussion on October 9, 1913:

I would like to offer for the Chair's consideration the note in the Manual upon that ruling, giving the understanding of the compiler of the Manual of the Chair's decision. I read from the note under section 725:

"Ruled by Speaker Clark (Oct. 9, 1913, 1st sess. 63d Cong., p. 5522) that a special rule providing that a House bill with Senate amendments shall be taken from Speaker's table, Senate amendments disagreed to, conference agreed to, and that Speaker shall without intervening motion appoint conferees, is not in violation of clause 56 of Rule XI, since the motion to recommit may be made on the conference report."

That was true in respect to the question that was then before the House, but it is not true with reference to this case. Because in the case that was before the House then, the Senate had asked for a conference, and the Senate would act upon the conference report last. Therefore both sets of conferees would be in existence at the time the motion to recommit would be made. In this case the House asks for the conference, and the Senate will act first, agreeing to the conference report; the Senate conferees will be discharged, and therefore a motion to recommit would not be in order, because there would be no Senate conferees to recommit to.

**After extended debate the Speaker<sup>2</sup> ruled:**

The matter in controversy is the following resolution:

*Resolved*, That upon the adoption of this resolution the Committee on Military Affairs be, and hereby is, discharged from the consideration of H. R. 12766, a bill to increase the efficiency of the Military Establishment of the United States, with the Senate amendments thereto; that the said Senate amendments be, and hereby are, disagreed to by the House and a conference asked of the Senate on the disagreeing votes of the two Houses on the said bill; and the Speaker shall immediately appoint the managers on the part of the House, without intervening motion."

As the Chair understands it, no one is objecting to any part of this rule except the last three words, "without intervening motion." By reason of those three words the gentleman from Illinois, Mr. Mann, makes the point of order against the rule. Subdivision 4 of Rule XVI provides:

"When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a certain day, to refer, or to amend or postpone indefinitely; \* \* \*

"After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or resolution."

The gentleman from Illinois claims that the proposed rule deprives Members from the right to move to recommit. He bottoms his contention on rule XI, section 725, of the Manual, which is as follows:

<sup>1</sup> First session Sixty-fourth Congress, Record, p. 6761.

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

"It shall always be in order to call up for consideration a report from the Committee on Rules, and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced he shall not entertain any other dilatory motion until the said report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present"—

That refers to Calendar Wednesday—

"nor shall it report any rule order which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI."

On the 4th of March, 1911, Mr. Speaker Cannon, in ruling on a point of order raised by Mr. Dalzell to a motion of Mr. Fitzgerald to commit the Senate amendments to the bill to create a tariff commission to the Committee on Ways and Means, said:

"The Chair has ruled out, and in the opinion of the Chair properly so, all dilatory motions, as was his duty under the rules of the House. There are certain motions, there are certain demands, that can not be held as dilatory. One is a demand for the yeas and nays. The rules of the House govern the House, and the Chair finds a precedent in this case exactly in point, which the Chair believes to be sound in principle. The chair reads from page 287, volume 5, of Hinds, Precedents:

"The previous question having been ordered on a motion to agree to a Senate amendment to a House bill, a motion to commit is in order. On November 1, 1893, the House was considering the Senate amendments to the bill (H. R. 1) to repeal a part of the act of July 14, 1890, relating to the purchase of silver bullion.

"Mr. Leonidas F. Livingston, of Georgia, submitted the question of order whether, after the previous question should have been ordered on the motion to concur in a Senate amendment, it would be in order to commit the bill and amendment to a committee with instructions.

"The Speaker expressed the opinion that the motion to commit would in such case be in order."

"That is the ruling by Mr. Speaker Crisp, and the Chair, therefore, overrules the point of order made by the gentleman from Pennsylvania to the motion to commit the Senate amendments to the Committee on Ways and Means."

The gentleman from Illinois, Mr. Mann, and the gentleman from Wisconsin, Mr. Lenroot, and others contend that this rule, if adopted, cuts out the right of any gentleman to move to recommit the Senate amendment. That is one branch of this discussion. That seems to have been settled by these two decisions.

Jefferson's Manual provides:

"And in all cases of conference asked after a vote of disagreement, etc., the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case where they refused to receive them they were left on the table in the conference chamber."

The present occupant of the chair has passed substantially on both of those questions. When the first Underwood tariff bill was in process of passage the Senate conferees were entitled to the papers, which would enable them to pass on the conference report first, but Mr. Underwood came in here with the papers in his hand and the gentleman from Illinois, Mr. Mann, raised the point that we were not required, or had no right as far as that is concerned, to pass on the conference report first, because the Senate conferees were entitled to the papers. The Chair interrogated the gentleman from Alabama, Mr. Underwood, as to how he got possession of the papers. Of course, the Chair did not suspect he had used violence or had purloined them, but he wanted to know how he got them for the purpose of deciding, and the gentleman from Alabama stated that the Senate conferees threw the papers down on the table and intimated they did not care what was done with them. So under that set of circumstances the Chair ruled that the House would pass on the conference report first. That has been done on other occasions.

This very question came up here once before, October 9, 1913, but on a different presentation. In that case the House was entitled to pass on this question first and the Senate afterwards, and after a long wrangle the Chair overruled the point of order against the special rule, because the situation was different from what it is now and such that a motion to recommit could be made

The situation now, stated briefly, is as follows: If this rule is adopted the minority can not make a motion to recommit this Senate amendment, with or without instructions, and if the conference report is finally made up, then the Senate, under the practice, not the universal practice but the general practice, passes on it first, and usually when one body agrees to a conference report, or whatever it does to it, the conferees of that body are discharged automatically. In this case under the practice the Senate passes on the conference report first; that leave the House in a position where we can not make a motion to recommit the conference report because the Senate conferees have been discharged.

Usually these special rules provide that the Speaker shall do thus and so “without an intervening motion, except one motion to recommit.”

The rule to recommit was one of the most troublesome that ever pestered the House. The gentleman from Illinois did not state it fully. It was used as a sort of legislative trick frequently. The chairman, or whoever had charge of the bill, simply moved to recommit, because only one motion to recommit is permissible—just like the motion to reconsider—and the Chair would recognize the gentleman in control of the bill, and he would make the pro forma motion to recommit and thereby cut the minority out of making a motion to recommit that had some substance in it. So, finally, after much tribulation the rule was changed so that it makes one motion to recommit in order, and makes it imperative on the Speaker to give first recognition to the minority, if the minority member qualifies. That does not necessarily mean a minority politically in the House. It means a minority as to that particular bill, and it may not be improper to refresh the mind of the House of the ruling this Speaker made in an earlier Congress about recommitment, and that was that he would recognize a Member of the minority who said he was opposed to the bill to make the motion to recommit, and he would recognize Members of the minority—minority Members of the committee having the bill in charge—seriatim, if they qualified; and if they did not qualify, any gentleman who would qualify would be recognized.

The provision of the rule requiring the Speaker to give preference to the minority in recognitions for motions to recommit was placed there after profound deliberation, and is of great importance for the purpose intended. The proposed rule deprives the minority of the privilege and right to move to recommit and is therefore, in the judgment of the Chair, obnoxious to subdivision 4, Rule XVI; also to that subdivision of Rule XI which says: “Nor shall it”—that is, the Committee on Rules—“report any rule which shall operate to prevent the motion to recommit being made as provided in paragraph 4 of Rule XVI.”

Now, taking all these things into consideration, the Chair sustains the point of order that the proposed rule is not in order.

**2265. The limitation on the Committee on Rules in reporting orders of business operating to prevent the motion to recommit while the previous question is pending, applies to resolutions for the consideration of bills only and not to a resolution designating a day to be devoted to motions to suspend the rules.**

On March 23, 1992,<sup>1</sup> Mr. Philip P. Campbell, of Kansas, from the Committee on Rules, reported this resolution as privileged:

*Resolved*, That it shall be in order on Thursday, March 23, 1922, after the adoption of this resolution, to move to suspend the rules under the provisions of Rule XXVII of the House of Representatives: Provided, however, Instead of 20 minutes' debate being allowed to each side for and against the motion, there shall be two hours for such debate to each side.

Mr. Finis J. Garrett, of Tennessee, made the point of order that the resolution was in violation of the limitation placed upon the Committee on Rules in reporting orders operating to prevent the motion to recommit.

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<sup>1</sup> Second session Sixty-seventh Congress, Record, p. 4350.

After debate, the Speaker<sup>1</sup> ruled:

The Chair thinks, as intimated by the gentleman from Tennessee, Mr. Garrett, and as quoted by the gentleman from Kansas, Mr. Campbell, that his decision is determined by the ruling made two years ago, that the Committee on Rules has the right to bring in a rule providing that on certain days suspensions shall be in order. This practice, as the gentleman from Kansas suggested, has not been availed of much of late, but formerly it was a frequent practice. The Chair remembers one Congress when suspension was made in order for weeks, and he thinks for months, and where the vote need be only a majority instead of two-thirds. The Chair thinks that the provision in Rule XI, cited by the gentleman from Tennessee, applies to rules reported by the Committee on Rules for the consideration of bills and does not apply to a rule like this setting apart a day for suspensions, and the Chair overrules the point of order.

**2266. A resolution reported by the Committee on Rules providing that a House bill with Senate amendments be taken from the Speaker's table, Senate amendments disagreed to, conference agreed to, and that Speaker "without intervening motion" appoint conferees, was held not to be in violation of the second paragraph of section 56 of Rule XI, since opportunity would be afforded to offer the motion to recommit on the conference report.**

On October 9, 1913,<sup>2</sup> the House agreed to a resolution taking from the Speaker's table and sending to conference the urgent deficiency appropriation bill with Senate amendments, and providing that the Speaker should "without intervening motion appoint managers on the part of the House."

Mr. James R. Mann, of Illinois, raised the point of order that the Committee on Rules was without authority to report a resolution in violation of section 4 of Rule XVI and the resolution was therefore unprivileged, as it precluded the motion to recommit.

The Speaker<sup>3</sup> overruled the point of order on the ground that the special order did not prevent the motion to recommit, which could be made on the conference report when presented, and as to the previous question was not operating, the motion to recommit was not in order under section 1 of Rule XVII.

**2267. While the Committee on Rules is forbidden to report special orders abrogating the Calendar Wednesday rule or excluding the motion to recommit after order of the previous question, a resolution making possible that ultimate result was on one occasion held in order.**

On May 29, 1920,<sup>4</sup> a special order was reported by Mr. Philip P. Campbell, of Kansas, from the Committee on Rules as follows:

*Resolved*, That it shall be in order for six legislative days, beginning May 29, 1920, for the Speaker to entertain motions of members of committees to suspend the rules under the provisions provided by the general rules of the House.

Mr. Finis J. Garrett, of Tennessee, made the point of order that unless passed by a two-thirds vote the resolution violated provisions of section 56 of Rule XI in that it set aside Calendar Wednesday and excluded the motion to recommit.

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

<sup>2</sup> First session Sixty-third Congress, Record, p. 5522.

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

<sup>4</sup> Second session Sixty-sixth Congress, Record, p. 7923.

Mr. James R. Mann, of Illinois, said in support of the point of order:

Here is the rule:

“The Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the members present.”

Now, here is an order forbidding the Committee on Rules reporting any rule with permits other business on Calendar Wednesday than Calendar Wednesday business unless it is set aside by a two-thirds vote; but when the Speaker is given the right on Calendar Wednesday to recognize for suspension of the rules he may take up the entire time recognizing for suspension of the rules, although not a single motion is even seconded by the Members of the House, and may never get to a vote in the House on any motion. It gives the right to the Speaker to dispense with the proceedings on Calendar Wednesday by recognizing Members to move to suspend the rules, and absolutely abrogates the rule. Here is a rule of the House forbidding the Committee on Rules to report any rule which sets aside Calendar Wednesday without a two-thirds vote. Of course, if the Committee on Rules can do that in this way they can do it in some other way. The rule does not except Calendar Wednesday. I suppose the Committee on Rules might have reported a rule making in order suspension for six legislative days except Calendar Wednesday, but they have not so reported. They had better take it back to the committee on Rules and bring in a rule that is in consonance with the rule of the House.

Mr. Mann then made the further point of order that the Committee on Rules was not authorized to report the resolution for adoption by a two-thirds vote, and said:

I make the point of order that the Committee on Rules is not authorized to report this rule, regardless of the number of votes it may take to pass it. I read a moment ago to the Chair a rule, which the Chair was already familiar with, forbidding the Committee on Rules to report a rule which sets aside Calendar Wednesday. Now, this rule as reported makes the next six days, including to-day, suspension days.

That is what the rule does. It authorizes a motion to suspend the rules on next Wednesday. Now, the rule not only forbids the Committee on Rules to report such a rule—that is, Rule XI—but Rule XXIV provides, in reference to Calendar Wednesday, that on Wednesday of each week no business shall be in order except as provided by paragraph 4 of this rule unless the House, by a two-thirds vote on motion to dispense therewith, shall otherwise determine.

The Speaker recalls the long fight that there was in reference to inaugurating Calendar Wednesday, the right of the House to set aside one day of the week beyond the control of the Committee on Rules, when the committees of the House should have the right to call up bills reported from those committees, whether the Speaker or the Rules Committee wanted them to come up or not, unless the House by a two-thirds vote should set it aside. They provided twice in the rules that no other business should be in order, nothing else should be in order, except Calendar Wednesday business. And then in addition to that, fearing that that rule might be set aside by a report from the Committee on Rules, they expressly provided that the Committee on Rules could not report a rule setting aside the provisions in Rule XXIV about Calendar Wednesday. That is exactly what this rule does. It does not make a particle of difference whether the Speaker on Wednesday intends to recognize anybody to move the suspend the rules or not, this gives him the authority to do it. The Committee on Rules has no authority to report such a rule.

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

The Chair naturally knew that this question would be raised and has been considering it and will not deny that it has caused him a good deal of perplexity. But the Chair has in his own mind come to a conclusion which is clear, though, of course, he may not make it so to others.

The Chair, in the first place, thinks that this rule making in order for six legislative days motions is suspend the rules does include Calendar Wednesday; that by ordinary construction it

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

means six consecutive days; and that the Chair would have the right to entertain a motion to suspend the rules on Calendar Wednesday. The clause which creates the trouble is that "the Committee on Rules shall not report any rule or order which shall provide that business under paragraph 7 of Rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which shall operate to prevent the motion to recommit being made."

It seems to the Chair that the same argument applies to both. They stand together. It seems to the Chair that this clause means that the Committee on Rules shall not bring in a rule which is aimed strictly at overthrowing either of these privileged matters. But it does not mean that the committee shall not report any resolution which may have that ultimate result. The Committee on Rules, for instance, could bring in a report repealing all the rules of the House; that would dispense with Calendar Wednesday, but that would be in order. It could bring in a rule repealing a part of the rules, including the Calendar Wednesday rule, which would, of course, produce that effect. It seems to the Chair that the Committee on Rules is not permitted to do anything which directly dispenses with Calendar Wednesday or the motion to recommit, but it can bring in a general rule, like the present one, which indirectly produces that result as a minor part of its operation.

Of course, this resolution is brought in, as we all know, on the anticipation that the House will adjourn next Saturday. If a resolution to adjourn should be brought in by the Committee on Rules and passed by the two Houses, that makes the suspension in order for the next six days; that would dispose of Calendar Wednesday and the motion to recommit. Would anyone contend that on that account it was out of order? The Chair thinks that this motion is not so directly aimed at the rule which provides for Calendar Wednesday and the motion to recommit as to make it out of order.

The argument is made that this report from the Committee on Rules is not privileged. The subject matter seems to strictly within the language of the rule which gives the Committee on Rules jurisdiction over "rules, joint rules, and order of business," and the reports of that committee on the subjects over which they have jurisdiction are privileged under the general rule, and in addition there is a special section stating that "it shall always be in order to call up for consideration a report from the Committee on Rules."

The Chair overrules the point of order.

**2268. Reports from the Committee on Rules shall be presented within three legislation days and if not immediately considered shall be referred to the calendar and if not called up by the Member reporting them within seven legislative days may be called up by any member of the committee.**

**Adverse reports may be called up by any Member of the House on discharge days.**

**Form and history of the last paragraph of section 45 of Rule XI.**

The last paragraph of section 45 of Rule XI provides:

The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when ordered reported by the committee. If such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules shall make an adverse report on any resolution pending before the committee providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House any such adverse report, and it shall be in order to move the adoption of the House of said resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the member seeking recognition for that purpose as a question of the highest privilege.

The first provision of this paragraph was adopted January 18, 1924,<sup>1</sup> It was formulated for the purpose of insuring prompt presentation of reports ordered by the committee and thus avoiding delay in the filing of reports, a recourse known as the "pocket veto," by means of which unsympathetic chairmen could render nugatory majority action of the committee.

The provision for the consideration of adverse reports was added December 8, 1931.<sup>2</sup>

**2269. Under a former ruling a report ordered to be made by a committee was required to be made within a reasonable time.**

**The time within which a member of a committee authorized to make a report to the House should present such report was formerly held to depend on the circumstances of the situation.**

**While failure to present within a reasonable time a report ordered to be made by a committee was formerly construed to present a question of privilege, a delay of 23 days was held insufficient to support such a question under exceptional circumstances.**

**A rule requires the presentation of privileged reports from the Committee on Rules within three legislative days from the time ordered to be reported by the committee.**

**It is not in order in debate to refer to the proceedings of a committee unless the committee have formally reported their proceedings to the House.**

On May 26, 1922,<sup>3</sup> Mr. Royal C. Johnson, of South Dakota, rose to a question of the privileges of the House, and offered the following resolution:

House Resolution 323.

*Resolved,* That the Speaker of the House of Representatives be, and he is hereby, directed to appoint from the membership of this House a select committee of 15 Members for the Sixty-seventh Congress, and which said committee is hereby authorized to fully investigate all contracts and expenditures made by the War Department, or under its directions, the Navy Department, or under its directions, and the Alien Property Custodian, or under his direction, during and since the late war with Germany, and the settlement of any of such contracts by any officer or agent or department of the Government, and to investigate the criminal and civil prosecution, or lack of prosecution, of any or all of the claims of the Government arising out of such contracts, or the settlement thereof, by the Attorney General, the Alien Property Custodian, the Secretary of War, or the Secretary of the Navy, and in addition to the powers herein conferred shall have the same powers and authority as are now conferred by the rules of this House upon the standing Committee on Expenditures in the War Department. Said committee is hereby authorized to send for persons and papers, to administer oaths and affirmations, to take testimony, to sit during the sessions of the House and during any recess which may occur during its sessions, and may meet at such places as said committee deems advisable. Said committee is also hereby authorized and empowered to appoint such subcommittee as it may deem advisable, and such subcommittees, when so appointed, are hereby authorized to send for persons and papers, to administer oaths and take testimony, and to meet at such times and places as said committee shall from time to time direct.

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<sup>1</sup> First session Sixty-eighth Congress, Record, p. 1143.

<sup>2</sup> First session Seventy-second Congress, Record, p. 83.

<sup>3</sup> Second session Sixty-seventh Congress, Record, p. 7744.

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

*Resolved further*, That the Speaker of the House is hereby authorized to issue subpoenas to witnesses, upon the request of said committee or any subcommittee thereof, during any recess of Congress during the sessions.

*Resolved further*, That the Sergeant at Arms of the House be directed to serve all subpoenas and other process put into his hands by said committee or any subcommittee thereof.

Mr. Johnson said:

Mr. Speaker, that resolution was on May 3 of this year ordered to be reported out by the Rules Committee on a motion which I made that the chairman of the committee be instructed to bring it before the House at the earliest possible moment.

Mr. Johnson was proceeding to relate the circumstances attending the adoption of the report in the committee when the Speaker<sup>1</sup> interposed:

The Chair must say, of course, that it is not in order to repeat what occurs in the committee. The records of the committee will show what occurred.

Mr. Johnson continued:

This resolution was not reported by the chairman of the Rules Committee, but it has been resting in his pocket since May 3, and it is very evident there is no intention on the part of the chairman of the Rules Committee to report it. I do not question the motive of the chairman of the Rules Committee. The question of privilege, Mr. Speaker, is this: Whenever a resolution is ordered reported by a committee of the House, and that committee has spoken, the House is entitled to have the action of that committee translated into action and the report of the committee given to the House.<sup>2</sup>

Mr. Johnson then cited a decision<sup>3</sup> by Mr. Speaker Reed, rendered in the Fifty-first Congress, holding that failure to present the report of a committee within a reasonable time gave rise to a question of privilege.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution was not privileged and, after debate, the Speaker ruled:

The Chair is ready to rule. The gentleman from Georgia has stated explicitly and clearly the purpose and bearing of the rule, and the only decision the Chair is aware of is the one cited by the gentleman from South Dakota, Mr. Reed, whose reputation and intellect entitle it to great weight. The Chair thinks, according to that authority, the question is whether the chairman of the Committee on Rules makes his report in a reasonable time. There is a question whether this can come up on Calendar Wednesday, but the Chair waives that. In the case decided by Mr. Reed the committee had waited from September until January without making any report. It appears that in this case the Committee on Rules has adopted within the last month a number of rules, including this, and has instructed the chairman to report them. There is at least one that is much older than this still pending, and there are others which are a little older. According to the argument made by the gentleman from South Dakota, if he is correct, if he has the right to raise the question of privilege, then anybody interested in the adoption of any one of the rules which were adopted by the Committee on Rules previous to this one has still more right to come forward and demand its consideration. If we should adopt the doctrine that when the Committee on Rules had adopted several rules any individual interested in one of these rules had the right, as a matter of the privilege of the House, to rise and claim that that rule should immediately be reported, and that it was unreasonable for the chairman to withhold it, the business of the House

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

<sup>2</sup> Such contingencies are now provided for in the last paragraph of section 45 of Rule XI. See section 2268 above.

<sup>3</sup> Hinds' Precedents, III, 2609.

would be in confusion. Mr. Reed that it is a question of reasonable time. For some time the business of the House has been mostly on rules which have been reported by the chairman of the Committee on Rules. They are all of them in their time older than the one which the gentleman claims the right to call up.

If he could make that claim now, he could have made it at any time in the last weeks when we have been transacting business under the leadership and orders of the Committee on Rules, and any other Member interested in one of the other rules could have insisted on his rule. That would occasion interminable confusion. Therefore it seems to the Chair that, inasmuch as the House has been largely occupied with these rules, at least until the Committee on Rules has disposed of the rules that are older than this one it is preposterous to claim that a gentleman can rise as a matter of privilege and say that the chairman of the Committee on Rules is unreasonable in not bringing up this junior rule. Of course, this is under the complete control of the Committee on Rules, which can at any time instruct its chairman in what order to bring up its bills. The Chair, therefore, sustains the point of order, without considering the question of whether Calendar Wednesday business should be interrupted by this matter or not.

**2270. The motion to recommit is not in order after the previous question has been ordered on a report from the Committee on Rules.**

On October 5, 1917,<sup>1</sup> Mr. Finis J. Garrett, of Tennessee, by direction of the Committee on Rules reported this resolution:

*Resolved*, That the bill (H. R. 5723) entitled "An act to amend an act entitled 'An act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department,' approved September 2, 1914, and for other purposes," be, and hereby is, taken from the Speaker's table, with the Senate amendments thereto, to the end that the said amendments be, and hereby are, disagreed to; and the conference requested by the Senate on the disagreeing votes on said amendments be, and hereby is, agreed to, and the Speaker shall immediately appoint the conferees.

The previous question having been ordered, Mr. Frederick H. Gillett, of Massachusetts, moved to recommit the report to the Committee on Rules with instructions.

Mr. John J. Fitzgerald, of New York, made the point of order that after the previous question had been ordered it was not in order to move to recommit a report from the Committee on Rules.

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

**2271. A division of the question may be demanded on a privileged report from the Committee on Rules containing more than one substantive proposition.**

On April 8, 1908,<sup>3</sup> Mr. John Dalzell, of Pennsylvania, by direction of the Committee on Rules, submitted the following privileged resolution:

*Resolved*, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for consideration of H.R. 20471, the naval appropriation bill; that at 5 o'clock p.m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a.m. on Saturday, April 11; that at 5 o'clock p.m. Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a.m. on Monday, April 13.

<sup>1</sup> First session Sixty-fifth Congress, Record, p. 7849.

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

<sup>3</sup> First session Sixtieth Congress, Record, p. 4509.

That general debate on the naval appropriation bill shall close not later than at 5 o'clock p.m., Saturday, April 11; the time to be equally divided between the majority and minority and controlled by the chairman of the Naval Committee and by the senior member of the minority: *Provided*, That if general debate shall be concluded prior to 5 p.m. on Saturday the 11th, the Chairman of the Committee of the Whole shall at once declare the committee in recess until Monday, April 13, at 11.30 a.m.

Debate on the resolution having been concluded, Mr. John J. Fitzgerald, of New York, demanded a division of the question and said:

The rule provides that at 5 o'clock to-day and 5 o'clock on Thursday of this week the Speaker shall declare the House in recess until 11:30 o'clock the next calendar day. That is one substantive proposition. That at 11.30 on Friday of this week the Chair shall declare the House in Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill. That is the second distinct substantive proposition. That at 5 o'clock on Friday the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 on Saturday. That is the third distinct substantive proposition. And at 5 o'clock on Saturday of this week that the Chairman of the Committee of the Whole House on the state of the Union shall declare the House in recess until 11.30 o'clock on Monday of next week.

Then, there is a provision, Mr. Speaker, a distinct substantive provision, that if the general debate shall not be concluded on the naval appropriation bill at 5 o'clock on Saturday of this week, that the chairman of the committee shall then declare the committee in recess. Now, these are distinct substantive propositions, any one of which being taken from the resolution, other distinct substantive propositions remain. Under this rule of the House, which the Committee on Rules has not yet abrogated, a Member of the House is entitled to demand, before the question is put, that a separate vote be taken upon each substantive proposition in this resolution.

After further debate the Speaker<sup>1</sup> ruled:

On a careful examination of this rule, the Chair finds that there are five substantive propositions and five only, so that if the gentleman demands a separate vote upon either or all of them, a separate vote will be taken.

**2272.** On April 18, 1912,<sup>2</sup> Mr. Robert L. Henry, of Texas, from the Committee on Rules, reported a resolution providing a special order for the consideration of the bill (H.R. 21279) the post office appropriation bill.

After debate Mr. James R. Mann, of Illinois, demanded a division of the question on the substantive propositions contained in the resolution.

Mr. Henry made the point of order that the request was not in order.

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

There are not very many precedents on this subject, one way or the other.

The two precedents cited from Speaker Henderson are really parts and parcels of one precedent. A division was demanded in a resolution. His first decision was that there should be a separate vote taken on each resolve. When that was through with, somebody undertook to divide the first resolve, and he held that could not be done.

The most elaborate precedent in the lot, and the last one, is that on page 4509, Congressional Record, first session of the Sixtieth Congress. The gentleman from Illinois, Mr. Mann, was himself mixed up in that debate. He seems to have agreed that a division could be had, but he differed from gentlemen as to how many substantive propositions there were involved.

Mr. Speaker Cannon, after listening to the debate, decided that the division could be had.

So it seems to the Chair that the precedents are in favor of the contention of the gentleman from Illinois, Mr. Mann, and against the point of order of the gentleman from Texas, Mr. Henry.

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

<sup>2</sup> Second session Sixty-second Congress, Record, p. 5006.

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

In addition to that, it seems to the Chair that the reason of the thing is the same. There are several substantive legislative propositions embraced in this rule that have no connection whatever with one another. A Member might, and most probably would, be in favor of some and against others. He has a right to vote his sentiments on each, which he can not do if they are bunched together. Therefore the point of order is overruled, and the Clerk will report the first proposition.

**2273.** On January 30, 1923,<sup>1</sup> Mr. Philip P. Campbell, of Kansas, submitted, as a privileged report from the committee on Rules, this special order:

*Resolved,* That upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of Senate Joint Resolution No. 12; that there shall be not to exceed one hour additional general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it. Upon the conclusion of such general debate the resolution shall be read for amendment under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered on said resolution and all amendments thereto to final passage without intervening motion except one motion to recommit.

That immediately upon the conclusion of the consideration of Senate Joint Resolution No. 12 in the House, the House shall resolve itself into the Committee on the Whole House on the state of the Union for the consideration of Senate Joint Resolution No. 79; there shall be not to exceed one hour and thirty minutes general debate on said resolution, one-half of the time to be controlled by those favoring the resolution and one-half by those opposing it; that at the conclusion of the general debate the resolution shall be read for amendments under the five-minute rule, whereupon the resolution with amendments, if any, shall be reported back to the House, the previous question shall be considered as ordered on the resolution and the amendments thereto to final passage without intervening motion except one motion to recommit.

Debate having been concluded Mr. Marvin Jones, of Texas, demanded a separate vote on the two propositions carried in the resolution.

Mr. Campbell raised a question of order against the demand for a division. The Speaker<sup>2</sup> said:

The Chair finds that there is a precedent for dividing the rule. Therefore, the Chair thinks that this is divisible, and the vote will first come upon the portion of the rule which applies to Joint Resolution No. 12. The question is on that portion of the resolution applying to Senate Joint Resolution No. 12.

**2274.** On January 18, 1924,<sup>3</sup> the House having under consideration the resolution (H. Res. 146) adopting the rules of the Sixty-seventh Congress with certain amendments, as the rules of the Sixty-eighth Congress, reported as privileged from the Committee on Rules, Mr. John Q. Tilson, of Connecticut, demanded a division of the question on agreeing to the resolution.

Mr. Thomas L. Blanton, of Texas, made a joint of order that a division was not in order after the previous question had been ordered.

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

The Chair does not see how the previous question can affect it. The Chair's attention has been called to a precedent in the Digest, from which it would seem that a report from the Committee on Rules has a different rule applied to it from a report from any other committee. Mr. Speaker Clark held that if a report from the Committee on Rules contained substantive

<sup>1</sup> Fourth session Sixty-seventh Congress. Record, p. 2734.

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

<sup>3</sup> First session Sixty-eighth Congress, Record, p. 1142.

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

propositions a separate vote can be had on each proposition. It is hard for the Chair to see why that does not cover the cause.

The Chair does not see that the gentleman from Texas has discriminated or suggested any reasons why the Chair should not follow this very clear decision. The Chair thinks, while, of course, all amendments have been offered and considered, yet the bill was not read by sections and no vote had upon any section separately; and the Chair thinks the gentleman from Connecticut, if he so desires, is entitled to demand a division.

The Chair overrules the point of order.

**2275. A division of the question was denied on a privileged resolution reported by the Committee on Rules wherein the structural relation of the clauses containing several propositions was such as to render them interdependent and indivisible.**

On April 20, 1908,<sup>1</sup> the following privileged resolution was reported by Mr. John Dalzell, of Pennsylvania, from the Committee on Rules:

*Resolved*, That during the remainder of this session Rule XXVIII shall be, and hereby is, modified in the following particulars:

First. The use of the motion shall not be restricted to the first and third Mondays of the month.

Second. The vote on agreeing to the motion shall in all cases be by majority instead of by two-thirds; and upon the demand of any Member opposed to the motion a second shall be considered as ordered.

The previous question having been ordered, Mr. John Sharp Williams, of Mississippi, demanded a separate vote on the three substantive propositions carried in the resolution.

The Speaker pro tempore<sup>2</sup> ruled:

The resolution reads:

*Resolved*, That during the remainder of this session rule 28 shall be, and hereby is, modified in the following particulars—

That would mean nothing unless the particulars were stated. If that were voted down or up, it would have no effect whatever. And then it reads:

“The use of the motion shall not be restricted to the first and third Mondays of the month.”

Now, those two propositions, taken together, do make a substantive proposition; but if they were voted down and the House voted for the other proposition—the second proposition—it would have no effect whatever. It would be without sense; it would be nonsense if the House would adopt only what comes after the word “second.” Each proposition must stand alone; each proposition must be a substantive proposition. Neither of these propositions will stand alone or could have any effect unless some of the others are adopted. It says:

“Second. The vote on agreeing to the motion—”

What motion? There is no explanation of that proposition.

“Shall in all cases be by majority instead of by two-thirds, and upon the demand of any Member opposed to the motion a second shall be considered as ordered.”

There is nothing in the second proposition to show what motion it is or what rule is being affected. The Chair is very clear about it, and will put the motion on the adoption of the resolution.

**2276. A resolution to procure testimony in a contested election case is privileged when reported by a committee on elections, and is in order on Calendar Wednesday.**

<sup>1</sup> First session Sixtieth Congress, Record, p. 4978.

<sup>2</sup> Sereno E. Payne, of New York, Speaker pro tempore.

On Wednesday, January 30, 1924,<sup>1</sup> Mr. Richard N. Elliott, of Indiana, by direction of the Committee on Elections No. 3, reported as privileged the resolution (H. Res. 166) directing members of the board of elections of the city of New York to appear and testify before the Committee on Elections No. 3 in the contested-election case of *Chandler v. Bloom*, and to bring with them for counting the disputed ballots in the case.

Mr. Finis J. Garrett, of Tennessee, questioned the privilege of the resolution and the right of the Committee on Election No. 3 to report it on Calendar Wednesday.

The Speaker<sup>2</sup> overruled the point of order, holding the report to be privileged, and to take precedence of the business in order on Calendar Wednesday.

**2277. A rule provides that all contested election cases shall be reported within six months after the convening of the first regular session of Congress.**

**An exception allows nine months within which to report contested election cases from the territory of Alaska.**

**Form and history of section 58 of Rule XI.**

Section 58 of Rule XI provides:

The several elections committees of the House shall make final report to the House in all contested-election cases not later than six months from the first day of the first regular session of the Congress to which the contestee is elected except in a contest from the Territory of Alaska in which case the time shall not exceed nine months.

This rule was provided for in 1924<sup>3</sup> in the adoption of rules for the Sixty-eighth Congress to remedy a tendency to unduly prolong cases in which the sitting Member was unseated. Such cases were often delayed and frequently were not reported until shortly before final adjournment.

Originally the rule required reports on contested election cases within six months after the convening of the first session, but in order to avoid complications arising in extra sessions, it was amended in adopting the rules for the Seventy-first Congress<sup>4</sup> by computing the time from the opening of the first regular session.

**2278. The term "raising revenue," while broadly construed to cover bills relating to the revenue, does not apply to bills remotely affecting the revenue, as bills extending time of payment of foreign debts.**

On March 29, 1922,<sup>5</sup> Mr. Joseph W. Fordney of Michigan, from the Committee on Ways and Means, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the joint resolution (S. J. Res. 160) authorizing an extension of time for payment of the debt incurred by Austria in the purchase of flour from the United States Grain Corporation.

Mr. Frank W. Mondell, of Wyoming, made the point of order that the resolution was not privileged.

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<sup>1</sup> First session Sixty-eighth Congress, Record, p. 1715.

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

<sup>3</sup> First session Sixty-eighth Congress, Record, p. 1143.

<sup>4</sup> First session Seventy-first Congress, Record, p. 26.

<sup>5</sup> Second session Sixty-seventh Congress, Record, p. 4736.

In debating the point of order Mr. James R. Mann, of Illinois said:

We have in bills on irrigation projects and on a good many sales of public lands the provision that certain amounts of money shall be paid to the Government by those who purchase the land. We frequently extend the time of payment. Would the gentleman from Ohio claim that a bill to extend the time of payment of any of those sums should go to the Committee on Ways and Means and have a privileged status in the House as a bill affecting the revenue of the Government?

What is the distinction between a payment due to the Government that is not privileged and an extension extending the time for the payment of a loan due a private corporation owned by the Government and making that privileged?

The Committee on Ways and Means has reported in my day bills establishing a collection district and relative to any employee in a customhouse as privileged, but none of them ever got by as privileged. They used to call up those bills as privileged until some gentleman—I think I was the first one—made the point of order that those were not privileged. And the Speaker sustained the point of order that it was not a privileged bill, because it was not a bill raising revenue or a bill affecting the revenue, although it affected the customs service.

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

When this bill came over from the Senate the question was raised whether it was obnoxious to the provision of the Constitution that all bills for raising revenue must originate in the House, and, secondly, whether if that were not true that it was within our rule which gives the Ways and Means Committee power to report from the floor bills for raising revenue—both phrases being the same in the Constitution and the rules.

The Chair has had time to investigate the question with some care, and it seems to the Chair quite clear that this is not a bill for raising revenue as defined in the Constitution. The best definition the Chair has seen is in the Thirteenth of Blatchford, where the court says:

“Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people either directly or indirectly, or lay duties, imports, or excises for the use of the Government, and to give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment in common with the rest of the citizens of the benefit of good government.”

It seems to the Chair that that is a good definition of the phrase “for raising revenue,” and that it does not include this bill. At the same time the Chair does not feel that it is necessary in this case to define exactly what the phrase does mean. The Chair was struck by the prudence of the court in another case, where in the One hundred and sixty-seventh United States it said:

“What bills belong to the class of bills for raising revenue is a question of such magnitude and importance that it is the part of wisdom not to attempt by any general statement to cover every possible phase of the subject.”

In accordance with that the Chair will not attempt to rule what bills could and what may not come under this phrase “bills for raising revenue.” While it seems very clear that a bill which postpones the payment by the Government of Austria of an obligation incurred to the Grain Corporation is not a “bill for raising revenue,” the Chair recognizes force in the argument that there is a difference by construction in the meaning of the same phrase when it occurs in the Constitution and in our rules. That has arisen somewhat out of necessity or convenience because every tariff bill, for instance, contains necessarily administrative features which are connected with raising revenue and yet which strictly are not “bills for raising revenue.” Because of that and similar cases there have grown up by rulings of Speakers, acquiesced in by the House, precedents which hold some bills privileged, though not strictly and exclusively raising revenue, but relating to or affecting the revenue. But the Chair does not think these precedents can sustain the point made by the gentleman from Michigan that this bill is privileged. It seems to the Chair that it is not a bill for raising revenue under the rule any more than under the Constitution, and therefore the Chair sustains the point of order.

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

**2279. A bill merely affecting the revenue incidentally does not come within the privilege of the Ways and Means Committee to report at any time.**

**A bill regulating the importation of drugs and utilizing the customs office in that connection was held not to come within the rule.**

On May 4, 1922,<sup>1</sup> a day on which Calendar Wednesday business was in order, Mr. Lindley H. Hadley, of Washington, by direction of the Committee on Ways and Means, when that committee was reached in the call of the committees, called up the bill (H. R. 2193) prohibiting the importation of narcotics for other than medicinal purposes.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the bill provided for the raising of revenue and was privileged and therefore was not in order under the Calendar Wednesday call.

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

The Chair will state that he investigated that subject, and was conferred with by members of the Ways and Means Committee as to whether it was privileged or not. Of course, if it is privileged, that committee can call it up some other day. The Chair concludes that it is not privileged; that while, as the gentlemen from Massachusetts, Mr. Walsh, says, it relates to the revenues, yet that is incidental; that the main purpose of the bill is not to raise revenue; and that therefore it is not privileged. Of course, the fact that it was reported from the floor simply indicated what the gentleman reporting it thought at that time.

The Committee on Ways and Means reported the Harrison Act. That bill did not come from the Committee on Interstate and Foreign Commerce. If the Chair should hold that the bill is not in order today, he would be in an embarrassing position, because the Chair refused to recognize the Committee on Ways and Means to call up the bill as a privileged matter, on the ground that in his opinion it was not privileged, and that the only way in which the committee could bring it up would be either to get a rule or to bring it up on Calendar Wednesday. So the Chair not only by his individual opinion but by his conduct is bound to rule that the bill is in order to-day. Of course, the House can decide differently if it desires to do so. The Chair overrules the point of order.

**2280. To come within the privilege given the Committee on Ways and Means to report at any time a bill must show on its face that it relates to the raising of revenue.**

**In passing upon the privilege of a bill for report at any time the Speaker does not take into consideration his personal knowledge and estimate of the probable effects of the passage of the bill.**

**Where the major feature of a bill relates to the raising of revenue, lesser provisions incidental thereto but not strictly revenue producing do not destroy its privilege when reported by the Committee on Ways and Means.**

**A bill relating to the method of packing dutiable tobacco for parcel-post shipment was held not to be a revenue bill within the meaning of the rule giving such bills privilege.**

On January 22, 1927,<sup>3</sup> Mr. William R. Green, of Iowa, by direction of the Committee on Ways and Means, called up as privileged the bill (H. R. 8997)

<sup>1</sup> Second session Sixty-seventh Congress, Record, p. 6332.

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

<sup>3</sup> Second session Sixty-ninth Congress, Record, p. 2121.

providing for the admission of tobacco in smaller packages under parcel-post regulations.

Mr. John N. Garner, of Texas, made the point of order that the bill was not privileged because it did not show on its face that it affected the revenue.

After debate, the Speaker<sup>1</sup> ruled:

The Chair was advised yesterday that this point of order would be raised, and he has given some time to the consideration of the precedents.

The Committee on Ways and Means has larger authority in the reporting of bills than any other committee. It is given leave to report any time bills raising revenue while other committees given leave to report at any time are confined strictly to the subjects which they may report as privileged. The privilege of the Committee on Ways and Means has been broadly construed to apply to bills relating to the revenue. As has been stated, this privilege has been extended to a bill to provide for reciprocal trade relations with Cuba and to a bill to repeal the joint resolution in reference to the free zone on the Mexican frontier, which involves the transportation of dutiable goods and its relation to smuggling. But a bill providing for the consolidation and recognition of customs collection districts, which involved a question affecting the revenue and also commerce and shipping, was held by Speaker Cannon not to be privileged on the ground that, while the matter affecting the revenue was privileged, the matter affecting commerce was not privileged and thereby destroyed the privilege of the bill as a whole.

The Chair thinks that a broad summation of all the precedents would lead to about this statement of the rule:

If a major feature of a bill reported from the Ways and Means Committee relates to revenue the bill is privileged, and matters accompanying the bill not strictly raising revenue but incidental to this purpose do not destroy this privilege.

In this case it seems fairly obvious, if one is permitted to go outside of the face of the bill itself, that this bill will raise revenue. It seems to the Chair that the cutting down of the limitation necessarily would enable more people to import cigars than now import them.

But the question is, Does that appear on the face of the bill? Now the Chair has had a little inkling of the fact that some Members of the House did not approve his ruling recently on a question which involved the proper calendar for a bill to be placed upon. The objection made was that the bill did not show on its face that it would create a charge on the Treasury. This bill, while relating to an entirely different question, raises indirectly the question as to whether, by virtue of his knowledge of what will happen in all probability as result of the passage of the bill, the Chair should allow his decision to be influenced by that knowledge. The Chair regards this as one of the closest questions he has had to rule on either as Speaker or formerly as Chairman of the Committee of the Whole House on the state of the Union. The Chair is very anxious, while giving full leeway to the privileges of the Committee on Ways and Means, also to safeguard the House. The Chair, after considerable thought, thinks that he ought not to allow his knowledge of probabilities to affect his judgment of the bill as it appears on its face. The Chair does not think that the bill on its face shows that it necessarily will raise revenue or directly affect revenue. Therefore, the point of order made by the gentlemen from Texas is sustained.

**2281. A bill reported by the Committee on Ways and Means exempting profits on Treasury bills from taxation was held to be privileged.**

On June 6, 1930,<sup>2</sup> Mr. Willis C. Hawley, of Oregon, from the Committee on Ways and Means, called up the bill (H. R. 12440) exempting from taxation gains from sale or other disposition of Treasury bills.

Mr. William H. Stafford, of Wisconsin, inquired if the bill was to be considered as privileged.

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<sup>1</sup> Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup> Second session Seventy-first Congress, Record, p. 10191.

The Speaker<sup>1</sup> held the bill to be privileged and recognized Mr. Hawley to move to resolve into the Committee of the Whole for its consideration.

**2282. The right of the Committee on Appropriations to report at any time is confined strictly to the general appropriations bills.**

**The privilege of the Committee on Appropriations to report general appropriation bills at any time does not include resolutions extending appropriations.**

On July 1, 1912,<sup>2</sup> Mr. John J. Fitzgerald, of New York, by direction of the Committee on Appropriations, reported<sup>3</sup> to the House the joint resolution (H. J. Res. 331) extending appropriations for the necessary operation of the Government under certain contingencies, and asked unanimous consent for its consideration.

In explaining the necessity for enactment of the joint resolution as due to failure of the President to approve bills passed by the House and Senate, Mr. Fitzgerald gave the history of joint resolutions of this character and conceded their lack of privilege.

Unanimous consent having been secured for its consideration, the joint resolution, with brief debate, was ordered to be engrossed and read a third time, and was agreed to.

**2283.** On July 2, 1918,<sup>4</sup> Mr. Swagar Sherley, of Kentucky, from the Committee on Appropriations, asked unanimous consent for consideration of the joint resolution (H. J. Res. 311) continuing appropriations for the Government and District of Columbia for the month of July, 1918, made necessary by the failure of the conferees on the District of Columbia appropriation bill to agree on the ratio of District expense to be borne by the Federal Government.

Subsequently,<sup>5</sup> when the joint resolution was returned by the Senate, Mr. Sherley asked unanimous consent to take the joint resolution with Senate amendments from the Speaker's table for consideration.

**2284.** On August 29, 1918,<sup>6</sup> Mr. Joseph W. Byrns, of Tennessee, asked unanimous consent for the consideration of the joint resolution (H. J. Res. 323) continuing appropriations for the Government and District of Columbia for the month of September, 1918.

Mr. Frederick H. Gillett, of Massachusetts, objected.

**2285. Bills providing special appropriations for specific purposes are not general appropriation bills and therefore not privileged.**

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<sup>1</sup>Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup>Second session Sixty-second Congress, Record, p. 8532.

<sup>3</sup>Report No. 926. This report gives detailed statistics on the instances in which appropriations had been continued since 1876. Mr. Joseph W. Byrns, of Tennessee, also printed in the Record as a part of his remarks on August 1, 1919, a list of annual appropriation laws enacted too late to be effective from the first days of the fiscal year. First session Sixty-sixth Congress, Record, p. 3516.

<sup>4</sup>Second session Sixty-fifth Congress, Record, p. 8639.

<sup>5</sup>Record, p. 8821.

<sup>6</sup>Second session Sixty-fifth Congress, Record, p. 9652.

On December 17, 1931,<sup>1</sup> Mr. Joseph W. Byrns, of Tennessee, by direction of the Committee on Appropriations, asked unanimous consent for the immediate consideration of the joint resolution (H. J. Res. 141) to provide additional appropriations for the Veterans Administration for the fiscal year ending June 31, 1932.

Mr. Thomas L. Blanton, of Texas, made the point of order that the joint resolution was privileged and unanimous consent was not required.

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

The gentleman from Texas makes the point of order that this resolution is privileged. The Chair will call the attention of the gentleman from Texas to clause 45 of Rule XI, which provides:

“The following-named committee shall have leave to report at any time on the matters herein stated, namely: \* \* \*

“The Committee on Appropriations, the general appropriation bills.”

The Chair does not think this is a general appropriation bill. It is merely a bill making a special appropriation for a specific proposition. Therefore the Chair overrules the point of order.

**2286. The right of the Committee on Rivers and Harbors to report at any time is confined to river and harbor bills, and matter not germane to such bills, although within the jurisdiction of the committee, is subject to a point of order.**

**In exercising the right to report at any time committees may not include matters not specified by the rule as within the privilege.**

**The subjects of construction, maintenance, and operation of locks and dry docks are subjects within the jurisdiction of the Committee on Rivers and Harbors.**

On June 26, 1917,<sup>3</sup> while the river and harbor bill (H. R. 4285) was being read for amendment in the Committee of the Whole House on state of the Union, the following paragraph was reached:

That whenever any person, company, or corporation, municipal or private, or any State, or any reclamation, flood-control, and drainage district, or other public agency created by any State shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining, and operating dams for use in connection therewith, and shall be unable for any reason to obtain the same by purchase and acquire a valid title thereto, the Secretary of War may, in his discretion, cause proceedings to be instituted in the name of the United States for the acquirement by condemnation of said land or easement, and it shall be the duty of the Attorney General of the United States to institute and conduct such proceedings upon the request of the Secretary of War.

Mr. Irvine L. Lenroot, of Wisconsin, submitted the point of order that the paragraph was not germane to the bill.

After debate, the Chairman<sup>4</sup> held:

The Chair thinks that the Committee on Rivers and Harbors would have jurisdiction of this bill and that that committee might have reported it out and placed it upon the calendar. The

<sup>1</sup> First session Seventy-second Congress, Record, p. 714.

<sup>2</sup> John N. Garner, of Texas, Speaker.

<sup>3</sup> First session Sixty-fifth Congress, Record, p. 4327.

<sup>4</sup> Pat Harrison, of Mississippi, Chairman.

fact that part of it might be subject to a point of order would not destroy the right of the Committee on Rivers and Harbors to report that bill, let it take its usual place on the calendar, and come up in its order, without having a privileged status.

Under section 56 of Rule XI the Committee on Rivers and Harbors has the right to report as a privileged matter upon bills for the improvement of rivers and harbors. The Chair thinks that the proposition in this bill to amend the law so as to read as follows:

“That whenever any person, company, or corporation,, municipal or private, or any State, or any reclamation, flood-control, or drainage district or other public agency created by any State shall undertake to secure any land or easement therein, needed in connection with a work of river and harbor improvement duly authorized by Congress, for the purpose of conveying the same to the United States free of cost, or for the purpose of constructing, maintaining, and operating locks, dry docks, or other works to be conveyed to the United States free of cost, and of constructing, maintaining, and operating dams for use in connection therewith”—

And so forth, destroys its privileged status, and destroys the right of the Rivers and Harbors Committee to report such an amending provision in this bill; and therefore the chair sustains the point or order.

**2287. The privilege of the Committee on Rivers and Harbors to report at any time is confined to legislative propositions for the improvement of rivers and harbors and does not extend to provisions for the improvement of canals or artificial waterways.**

**Subjects relating to canals and their improvements are not within the jurisdiction of the Committee on Rivers and Harbors.**

On January 11, 1919,<sup>1</sup> while the House was considering the river and harbor bill in the Committee of the Whole House on the state of the Union, the Clerk read as follows:

Waterway between Beaufort, S. C., and St. Johns River, Fla.: For maintenance, \$23,000; completing improvement of Generals Cut, Ga., in accordance with the report submitted in House Document No. 581, Sixty-third Congress, second session, \$1,000.

Mr. Martin B. Madden, of Illinois, made the point of order that the item related to canals, a subject which was not within the jurisdiction of the Committee on Rivers and Harbors.

The Chairman<sup>2</sup> ruled:

The gentleman from Illinois, Mr. Madden, makes a point of order on that portion of the pending paragraph, beginning on line 24, on page 10 of the bill, and which reads as follows: “completing improvement of Generals Cut, Ga., in accordance with the report submitted in House Document No. 581, Sixty-third Congress, second session, \$1,000”—on the ground that a portion of it relates to the improvement of a canal.

Now, it is very clear to the Chair that the Committee on Rivers and Harbors does not in this bill have jurisdiction over the improvement of canals. Under section 56, Rule XI, bills reported from the Committee on Rivers and Harbors are given a privileged status where they relate to the improvement of rivers and harbors. As far as the Chair knows, it has been uniformly held heretofore that under this rule the Committee on Rivers and Harbors has no authority or jurisdiction to report an appropriation bill, which shall have a privileged status, for the improvement of any existing canal or to make a canal.

In the view of the Chair, this is simply a question of fact as to whether or not this paragraph relates to the improvement of a canal. It is stated by the gentleman from North Carolina, Mr. Small, that this is an existing waterway. But the gentleman from North Carolina also states that it does not exclusively consist of a natural waterway. The gentleman from Illinois,

<sup>1</sup>Third session Sixty-fifth Congress, Record, p. 1263.

<sup>2</sup>Joseph W. Byrns, of Tennessee, Chairman.

Mr. Madden, has called the attention of the Chair to the report and map submitted by the Chief of Engineers, which show that this is, for a portion of the distance, a canal; and in view of the ruling in the Hennepin Canal case, and the uniform rulings that have been made since that decision was rendered, the Chair does not think that this provision is in order, and therefore sustains the point of order made by the gentleman from Illinois.

On appeal, the decision of the Chair was sustained, yeas 67, nays 43.

**2288. A bill authorizing those failing to perfect a prior entry to make a second entry under the homestead law does not involve such a "reservation of the public lands" as to come within the privilege of the Committee on Public Lands to report at any time.**

On April 6, 1910,<sup>1</sup> it being Calendar Wednesday, Mr. Frank W. Mondell, of Wyoming, by direction of the Committee on Public Lands, when that committee was reached, called up the bill (H.R. 15660) providing for second homestead entries.

Mr. Herbert Parsons, of New York, raised the point or order that the bill, being privileged under the rule granting the Committee on Public Lands the right to report at any time, was not in order on Calendar Wednesday.

Mr. James R. Mann, of Illinois, in debating the point of order said:

Mr. Speaker, the provision in the rule is "and bills for the reservation of the public lands." If it shall be held that every bill relating to the settlement of public lands by homestead or other settlers is privileged, it will give practically a privilege to every bill reported from the Committee on the Public Lands.

The bill before us only provides that certain people who have forfeited all rights to a homestead may have a right to homestead. It does not purport in any way to be a reservation of affecting in any way the public land. It only affects persons who may avail themselves of existing public lands.

If it shall be held that this bill is in order, it must correspondingly be held that every bill practically relating to the subject-matter is in order, because the bill itself does not purport to be a reservation of public lands, and the only way you can hold it to be in order under the provision of the section is because it is on that subject-matter; and if you do that you make all of these bills reported from the Committee on the Public Lands, or practically all of them, privileged. That may be a wise thing to do, but the committee has never assumed that it had that jurisdiction.

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

The gentleman from New York, Mr. Parsons, makes the point of order upon the bill H.R. 15660. The Clerk will read the text of the bill.

The Clerk read as follows:

*"Be it enacted, etc.,* That any person who, prior to the passage of this act, has made entry under the homestead laws, but from any cause has lost, forfeited, or abandoned the same, shall be entitled to the benefits of the homestead law as though such former entry had not been made, and any person applying for a second homestead under this act shall furnish the description and date of his former entry: *Provided,* That the provisions of this act shall not apply to any person whose former entry was canceled for fraud."

The Speaker continued:

Clause 61 of Rule XI provides:

The following-named committees shall have leave to report any time on matters herein stated, viz,  
\* \* \* the Committee on Public Lands, bills for the forfeiture of land grants to

<sup>1</sup>Second session Sixty-first Congress, Record, p. 4334.

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

railroad and other corporations, bills preventing speculation in the public lands, bills for the reservation of the public lands for the benefit of actual and bona fide settlers.”

Now, clearly it was the intention of the House in enacting the rule to make those bills privileged that would forfeit railroad grants and bills that would tend by their operation, if enacted into law, to preserve the land for actual settlers. The Chair has glanced at the precedents referred to by the gentleman from New York. Perhaps the strongest one is the decision of Mr. Speaker Carlisle that the privilege belonged to a bill repealing the preemption laws, the timber-culture laws, and the laws authorizing the sale of desert lands, since the repeal of these laws would leave in operation no method of acquiring public lands except the homestead laws, which were for the benefit of actual settlers.

But the gentleman will notice that in all of these decisions the bills made a contest between those who were seeking to be actual settlers and those who were seeking under prior grants and under the general laws to obtain lands otherwise than by actual settlement.

This bill is merely to allow anybody who had made a prior homestead claim and did not perfect it to make a second claim. So that, in the opinion of the Chair, the point of order is not well taken, and therefore the Chair overrules it.

**2289. The right of the Committee on Public Lands to report at any time is confined strictly to the subjects enumerated in the rule.**

**A bill providing preference for a class in the administration of the homestead laws is not such a “reservation of the public lands” as to come within the purview of the rule authorizing the Committee on Public Lands to report at any time.**

**The inclusion of matter not privileged destroys the privileged character of a bill.**

**A bill privileged under the rules cannot be called up on Calendar Wednesday.**

**Historical statement that the privilege of the Committee on Public Lands to report at any time has been seldom exercised.**

On December 10, 1919,<sup>1</sup> this being Wednesday, when the Committee on Public Lands was reached in the call of committees, Mr. Nicholas J. Sinnott, of Oregon, by direction of the committee, called up the joint resolution (H. J. Res. 20) giving discharged soldiers preferred rights of homestead entry.

Mr. Rollin B. Sanford, of New York, made the point of order that the bill, being privileged, could not be called up on Calendar Wednesday.

Mr. Frank W. Mondell, of Wyoming, in opposition to the point of order argued that the bill was not privileged because not reported from the floor and did not in fact provide for a reservation of the public lands but a preference for a certain class of citizens. He also contended that the inclusion of Indian lands with public lands was sufficient to destroy the privilege of the joint resolution if otherwise privileged.

Mr. Mondell also said:

Mr. Speaker, my recollection is that only once or twice in the last 20 years has the Committee on Public Lands exercised the privilege of calling up a bill under the rule which has been referred to.

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

The point raised by the gentleman from New York, Mr. Sanford, is an interesting one. The Chair is disposed to agree with the gentleman from New York that the committee could not, by

<sup>1</sup> Second session Sixty-sixth Congress, Record, p. 366.

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

reporting a privileged bill through the basket proceed to take advantage of its own wrong and acquire rights which otherwise it would not have. To the Chair the principal question is whether this is a privileged resolution or not. The language of the rule is very clear. It is limited to bills for the reservation of the public lands for the benefit of actual and bona fide settlers, and it seems to the Chair that the distinction that the gentleman makes, that this is not a resolution providing for the reservation of public lands, is well taken, since it merely provides that where there is a reservation an additional privilege shall be granted. The Chair thinks on that ground that the committee was right in not reporting this resolution from the floor, but placing it in the basket.

The general rule is that when a privileged bill includes something not privileged, that takes away from it its privilege. That, however, raises an intricate question, which it is not necessary to consider here, because the Chair thinks this does not come strictly within the language of the rule, and it is not a resolution purely for the reservation of public lands for the benefit of actual and bona fide settlers.

Accordingly, the Chair overrules the point of order.

**2290. A bill providing for agricultural entries of coal lands in Alaska was held to be privileged as a reservation of the public lands for actual settlers.**

**Discussion of the privilege of the Committee on Public Lands to report at any time.**

On October 24, 1921,<sup>1</sup> Mr. Dan. A. Sutherland, of Alaska, by direction of the Committee on Public Lands, submitted as privileged a report on the bill (H. R. 7948), providing for agricultural entries on coal lands in Alaska.

Mr. Finis J. Garrett, of Tennessee, asked if the report was privileged.

The Speaker announced that he would hear arguments on that question at some future time.

Thereupon Mr. Nicholas J. Sinnott, of Oregon, was granted leave to extend his remarks by including an argument in favor of the privilege of the bill.

Mr. Sinnott's argument, after quoting from the precedents, concludes as follows:

Examining H. R. 7948 in the light of these decisions, it is apparent that the bill is entitled to a privileged character. Section 1 of the bill grants actual settlers a surface homestead right on public lands containing coal, oil, or gas, which are not now subject to homestead settlement. Section 1 enlarges the area of the public domain subject to homestead settlement. Section 2 of the bill provides for the issuance of a patent with a reservation to the United States of all the coal, oil, or gas in the land patented. Section 2 further protects and safeguards the rights of the homestead settler by restricting the operations of the coal, oil, or gas permittee or lessee in the interest of the homestead settler; it also requires the permittee or lessee to give a bond for the payment of damages to the crops or improvements on the land. It will be remembered that the coal, oil, or gas deposits in the land covered by H. R. 7948 are now subject to disposition under the Alaska coal leasing act of October 20, 1914 (38 Stat., 741), and the oil leasing act of the Sixty-sixth Congress, Public Law 146, approved February 25, 1920, United States Statutes at Large, volume 41, page 437. Said acts provide for the removal of said minerals by permit or lease.

Therefore, Mr. Speaker, the main provisions of section 2 are to insure to the settler the fullest use of the homestead with the least possible molestation from the permittee or lessee; the means for accomplishing this object are by requiring a bond or undertaking against damages to crops and improvements, also by restricting the permittee or lessee to so much of the surface only as may be reasonably required for his mining operations. Without such safeguards and restrictions the privilege of the homestead settler would be bootless and nugatory. This proposition is well stated in that part of Speaker Carlisle's decision on H. R. 7901, Fiftieth Congress, first session, not quoted in Hinds' Precedents, section 4633, and which I shall read:

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<sup>1</sup>First session Sixty-seventh Congress, Record, p. 6686.

“The Chair supposes that a bill reported from this committee might include matters having no relation to the public lands or to the privileged subject mentioned in the rule, and thus might lose its privilege; but the Chair will state that in such a bill all provisions relating to the preservation of the public lands for actual settlers, and providing the means for accomplishing that object are certainly privileged; otherwise the privilege would amount to nothing.”

Subsequently,<sup>1</sup> the bill was, on motion of Mr. Sinnott, by unanimous consent, recommitted to the Committee on Public Lands, and on October 27,<sup>2</sup> the bill H.R. 8842, of similar tenor, was reported from the floor as privileged by Mr. Sutherland.

Mr. Garrett reserved all points of order.

On November 1, 1921,<sup>3</sup> Mr. Sinnott moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill.

Mr. Garrett made the point of order that the bill was not privileged, and argued:

Mr. Speaker, I have no opposition to this bill. But I do not think it ought to be considered as a privileged bill unless it really be privileged, and I do not believe that the history of the rule, as cited by the gentleman from Oregon, Mr. Sinnott, would cause the philosophy of this bill to square with the rule.

The rule under which the House is operating provides that the following-named committees shall have leave to report at any time on the matters herein stated, namely, the Committee on the Public Lands, on bills for the forfeiture of land grants to railroad and other corporations, bills preventing speculation in the public lands, and bills for the reservation of the public lands for the benefit of actual and bona fide settlers.

I take it that what was in thought in the adoption of this rule was to preserve the public domain. Now, this bill is to open up the public domain for settlement, as I understand it. It is not for the forfeiture of any land grant to a railroad or other corporation. It is not for the purpose of reserving the public domain for future settlement. As I understand the purpose of the bill, it is to open up the country to settlement. I take it that that word “reservation” has and now has a technical meaning. If the rule had said “to provide for opening up public lands to settlement,” of course that would be the end of the matter; but the rule says “reserving the public lands for settlement.”

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

The Chair has investigated the question as to whether the bill is privileged, and has considered the very elaborate and thorough argument of the gentleman from Oregon.

The Chair comes to the conclusion very readily that these precedents and the logic upon which they were founded clearly show that this bill is a privileged bill under the rule which allows the Committee on the Public Lands to report from the floor bills for the reservation of public lands or for the benefit of bona fide settlers. The Chair confesses that the ingenious argument of the gentleman from Tennessee as to the meaning of the word “reservation” struck the Chair as forcible, but against that the gentleman from Oregon retorts that it reserves them against mineral claimants, and therefore is accurate. The Chair thinks beyond that that the word “reservation” has been so construed in the past. Speaker Carlisle said, over 30 years ago:

“In other words, as part of the land which can now be taken up under existing law as timberland or mineral land or desert land, if this bill passes, be subject to entry hereafter under the homestead law only.”

<sup>1</sup> Record, p. 7053.

<sup>2</sup> Record, p. 6896.

<sup>3</sup> Record, p. 7133.

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

Accordingly, Speaker Carlisle held the bill privileged. The Chair thinks the precedents are to the effect that this bill is one which the Public Lands Committee has the right to report from the floor, and therefore is privileged, and overrules the point of order.

**2291. General pension bills reported by the Committee on Invalid Pensions are privileged for consideration at any time.**

**The term "general pension bills" is construed to refer to bills or legislation general in character as distinguished from bills or legislation of a private character or bills restricted in their purpose or effect.**

**A bill authorizing monthly payment of pensions in lieu of quarterly payments was classified as a general pension bill and held to within the privilege accorded the Committee on Invalid Pensions to report at any time.**

**The right to report legislation at any time carries with it the right to consideration at any time when not in conflict with other rules of the House.**

**On a Friday set aside for the consideration of business on the Private Calendar it is in order to call up business privileged under the rule authorizing certain committees to report at any time.**

On Friday, June 21, 1921,<sup>1</sup> Mr. Oscar E. Bland, of Indiana, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2158) to provide for the monthly payment of pensions.

Mr. Eugene Black, of Texas having raised a point of order against the privilege of the bill, the Speaker pro tempore<sup>2</sup> ruled:

The gentleman from Texas, Mr. Black, makes the point of order that the bill reported and called up by the gentleman from Indiana, Mr. Bland, is not a privileged bill under the rule, and therefore that the motion that he has made is not in order at this time.

The rules of the House give to certain committees the right to report certain bills within their jurisdiction at any time. Among the committees that have that privilege is the Committee on Invalid Pensions, to report general pension bills. In the reporting of private bills the jurisdiction of the Committee on Invalid Pensions is restricted to cases over which jurisdiction is not given to the other pension committee, the Committee on Pensions. But in giving the Committee on Invalid Pensions the right to report at any time specific reference is made to general pension bills.

The Chair construes that to mean bills or legislation general in character, as distinguished from bills of a private character, or restricted in their purpose or effect.

The precedents seem to hold that the right to report legislation at any time carries with it the right to have it considered at any time, provided it is not in conflict with other rules of the House governing the procedure and precedence of legislation. The Chair upon examining the provisions of this bill finds that while it deals chiefly with the administration of the Pension Bureau, in that it authorizes the payments to be made monthly on the fourth day of each month beginning not later than July, 1921, as distinguished from quarterly payments, as has heretofore prevailed for some time, yet this provision seems to be general in its character. It is not restricted to any particular class of cases. Furthermore, by its second section it repeals legislation which has heretofore been enacted which may be inconsistent with the provisions of this bill, seemingly dealing with general legislation which is now in force covering the same subject.

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<sup>1</sup> First session Sixty-seventh Congress, Record, p. 2858.

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

The Chair feels that under a strict and fair construction of the rule, having in mind the idea that the rule when adopted was evidently so framed and phrased as to expedite the business of the House, this bill can fairly be considered as a general pension bill, being general in its character, and therefore comes within the provisions of the rule conferring authority upon the Committee on Invalid Pensions to report at any time general pension bills, and the Chair overrules the point of order.

**2292. A “general” pension bill was defined as a pension bill affecting a class of proposed beneficiaries and not certain specific individuals.**

**A bill to extend the provisions of pension law to State militia was held to be a general pension bill and privileged when reported by the Committee on Invalid Pensions.**

**A privileged motion to proceed to the consideration of a general pension bill reported by the Committee on Invalid Pensions is in order on Friday as on other days.**

On June 9, 1922,<sup>1</sup> Mr. John W. Langley, of Kentucky, from the Committee on Invalid Pensions, moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 211) to extend the provisions of the pension act of May 11, 1912, to the officers and enlisted men of all State militia that rendered service to the Union cause during the Civil War for a period of 90 days of more.

Mr. William H. Stafford, of Wisconsin, made the point of order that the bill was not privileged and said:

The point of order is that the motion of the gentleman is not privileged under the rules of the House. To-day is the second Friday of the month. Under clause 6, Rule XXXIV, providing for the consideration of bills on the Private Calendar, we find the following language:

“On Friday of each week, after the disposal of such business on the Speaker’s table as requires reference only, it shall be in order to entertain a motion for the House to resolve itself into the Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion.”

I wish to call the attention of the Chair to the fact that the bill for which the gentleman asks unanimous consent for consideration in the Committee of the Whole House on the state of the Union is a public bill, not on the Private Calendar, it being found on the Union Calendar, and therefore does not come within the provisions of clause 6, Rule XXXIV, providing for consideration of business on the Private Calendar.

The Speaker pro tempore<sup>2</sup> held:

The gentleman from Wisconsin, Mr. Stafford, makes the point of order that the motion of the gentleman from Kentucky, Mr. Langley, namely, that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H.R. 211, is not in order at this time, and he directs the attention of the Chair to the provision in clause 6 of Rule XXIV, which provides in substance that on Friday of each week, after the disposition of such business on the Speaker’s table as requires reference only, it shall be in order to entertain a motion that the House resolve itself into Committee of the Whole House to consider business on the Private Calendar in the following order: On the second and fourth Fridays of each month preference shall be given to private pension claims and bills removing political disabilities and bills removing desertion charges, and on every Friday except the second and fourth Fridays the House

<sup>1</sup> Second session Sixty-seventh Congress, Record, p. 8482.

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

shall give preference to the consideration of bills from the Committee on Claims and the Committee on War Claims, alternating between the two committees.

The attention of the Chair also has been directed to the provision of clause 56 of Rule XI, which provides that "the following-named committees shall have leave to report at any time on the matters herein state: The Committee on Rules on rules, joint rules, and order of business"; then, after enumerating several others, "the Committee on Invalid Pensions, general pension bills." The fact that this is the second Friday of the month would not make this motion in order under the provisions of clause 6 of Rule XXIV.

This bill, however, was reported by the Committee on Invalid Pensions on March 27 last the Chair is advised, as a privileged bill reported from the floor with all points of order reserved. It deals with the pension act of May 11, 1912, by extending its provisions, not to certain specific individuals but to a class of proposed beneficiaries who heretofore have not come under the law relating to pensions.

The present occupant of the chair had occasion to pass upon a question somewhat akin to this when the bill relating to the monthly payment of pensions was reported. A point of order at that time was made, that it was not in order to move to resolve the House into Committee of the Whole House on the state of the Union for the consideration of that bill, because that proposed legislation was not within the purview of the language of clause 56 of Rule XI. The Chair at that time held that that language in the rule, namely, "general pension bills," meant "bills or legislation general in character, as distinguished from bills of a private character or bills restricted in their purpose or effect. The precedents seem to hold that the right to report legislation at any time carries with it the right to have that legislation considered at any time, provided it is not in conflict with other rules of the House covering the procedure and precedence of legislation."

The Chair has examined the provisions of this bill—H.R. 211—and is of opinion that it is general in character, in that it adds another class to come within the benefit of the laws heretofore enacted for the payment of pensions; and that while it is not in order under the provisions of clause 6, Rule XXIV, it having been reported from the floor as a privileged bill under the provisions of clause 56, Rule XI, which would seem to be somewhat in conflict with clause 6 of Rule XIV, this latter rule should, in the view of the Chair, be held superior. This being a privileged bill, the gentleman from Kentucky in the judgment of the Chair, is entitled to make the privileged motion to resolve the House into Committee of the Whole House on the state of the Union for its consideration. The Chair therefore overrules the point of order.

**2293. While the Committee on Invalid Pensions is privileged to report at any time on general pension bills, this right does not extend to the Committee on Pensions.**

On May 18, 1921,<sup>1</sup> Mr. John M. Robison, of Kentucky, proposed to report from the floor the bill (H. R. 4.) pensioning soldiers and sailors of the War with Spain, Philippine insurrection, and Chinese Boxer rebellion campaign.

Mr. Finis J. Garrett, of Tennessee, raised a question of order and inquired if a bill from the Committee on Pensions could be so reported.

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

The Chair thinks not. The Chair thinks it comes through the basket in regular order. This is not from the Committee on Invalid Pensions. It is from the Committee on Pensions. The rule specifies the Committee on Invalid Pensions, but not the Committee on Pensions.

**2294. Construction of the rule granting privilege to the Committee on Printing.**

**In passing upon the privilege of resolutions reported by the Committee on Printing the number of copies specified can not be considered**

<sup>1</sup>First session Sixty-seventh Congress, Record, p. 1537.

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

**in determining the question as to whether such copies are for the use of the House.**

On January 14, 1909,<sup>1</sup> Mr. Charles B. Landis, of Indiana, from the Committee on Printing, reported as privileged this resolution:

*Resolved by the House of Representatives (the Senate concurring),* That there be printed for the use of the House of Representatives 2,000,000 copies of the debate and proceedings in the House of Representatives Friday, January 8, 1909, concerning that portion of the annual message of the President relating to the Secret Service, to be delivered through the folding room, excepting, 2,000, which shall be assigned to the document room.

Mr. Augustus P. Gardner, of Massachusetts, made the point of order that it was not permissible by concurrent resolution to amend a statute and, further, that the resolution was not privileged for the reason that the number of copies specified was proof that all were not for the "use of the House or two Houses," as required by the rule.

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

Rule XI makes this report privileged. In the concurrent resolution submitted it purports to be for the use of the House. That settles the question in the opinion of the Chair as to the first point of order that the gentleman from Massachusetts, Mr. Gardner, makes.

Paragraph 4 of the act approved March 1, 1907, reads:

"Orders for printing extra copies otherwise than herein provided for shall be by simple, concurrent, or joint resolution. Either House may print extra copies to the amount of \$500 by simple resolution; if the cost exceeds that sum, the printing shall be ordered by concurrent resolution except when the resolution is self-appropriating"—

And so forth.

Now, the gentleman's second point of order, it seems to the Chair, is not well taken, for the reason that to sustain the point of order the Chair would have to determine that the 2,000,000 copies were not for the use of the House. If the Chair had that authority, to put an extreme case, the Chair might hold that the printing of 2 or 2,000 copies, or any other number, was not for the use of the House. It is a question of privilege under the points of order that the Chair passes upon, and, in the opinion of the Chair, it is a matter as to the propriety on the merits of the resolution for the House to pass upon. Therefore the Chair overrules the points of order made by the gentleman from Massachusetts.

**2295. While reports from the Committee on Printing pertaining to "printing for the House or two Houses" are privileged, that privilege does not extend to a bill providing for revision of the printing laws.**

On May 2, 1914,<sup>3</sup> Mr. Henry A. Barnhart, of Indiana, from the Committee on Printing, proposing to report the bill (H. R. 15902) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications, inquired of the Speaker if the bill could be reported from the floor as within the privilege of the committee to report at any time.

The Speaker<sup>4</sup> held that the bill did not come within the privilege conferred by the rule.

**2296. The printing of hearings before a committee of the House was held to be "printing for the use of the House," and a resolution authorizing**

<sup>1</sup> Second session Sixtieth Congress, Record, p. 921.

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

<sup>3</sup> Second session Sixty-third Congress, Record, p. 7622.

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

**such printing was construed to come within the privilege of the Committee on Printing to report at any time.**

On December 18, 1924,<sup>1</sup> Mr. Edgar R. Kiess, of Pennsylvania, from the Committee on Printing, presented, as privileged, the report of that committee on the following resolution:

*Resolved*, That the hearing held before the Committee on the Judiciary, Sixty-eighth Congress, first session, on the proposed child labor amendments to the Constitution of the United States be printed as a House document, and that 2,000 additional copies be printed for the use of the House Committee on the Judiciary.

Mr. Thomas L. Blanton, of Texas, made the point of order that the resolution was not privileged.

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

The Chair does not see why it does not come within the rule. Clause 56 of Rule XI provides:

“The following-named committees shall have leave to report at any time on the matters herein stated, viz”—

Then the rule gives the list of committees. The rule mentions the Committee on Printing and provides:

“on all matters referred to them of printing for the use of the House or the two Houses.”

The Chair overrules the point of order.

**2297. Privilege conferred on bills reported by the Committee on Printing is confined to provisions for printing for the two Houses, and an appropriation for such purpose destroys the privileged character of the bill.**

On April 30, 1930,<sup>3</sup> Mr. Edward M. Beers, of Pennsylvania, by direction of the Committee on Printing, proposed to call up as privileged the following joint resolution:

*Resolved, etc.*, That the Secretary of Agriculture be, and is hereby, authorized to have printed, with illustrations, and bound in cloth 130,000 copies of the Special Report on the Diseases of Cattle, the same to be revised and brought to date, of which 90,000 shall be for the use of the House of Representatives, 25,000 for the use of the Senate, and 5,000 for the use of the Department of Agriculture; and to carry out the provisions of this resolution there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$60,000, or so much thereof as may be necessary.

Mr. Earl C. Michener, of Michigan, having questioned the privilege of the bill, the Speaker<sup>4</sup> said:

From the reading of the resolution, the Chair observes it carries a direct appropriation, which destroys its privilege.

The Chair understood this was one of the ordinary privileged resolutions; on the contrary, it carries a large appropriation, and of course is not privileged, because the Committee on Printing has no authority to report a resolution carrying an appropriation. Under the circumstances the Chair will ask the gentleman to withhold his request for the time being.

**2298. Reports from the Committee on Printing when on provisions for printing for the use of the Congress are privileged.**

<sup>1</sup> Second session Sixty-eighth Congress, Record, p. 785.

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

<sup>3</sup> Second session Seventy-first Congress, Record, p. 8083.

<sup>4</sup> Nicholas Longworth, of Ohio, Speaker.

On May 21, 1929,<sup>1</sup> Mr. Edward M. Beers, of Pennsylvania, by direction of the Committee on Printing, offered as privileged the following resolution previously referred to that committee:

*Resolved*, That the address of President Hoover on law observance delivered in New York City on April 22, 1929, at the annual luncheon of the Associated Press in New York be printed as a House document and that 10,000 additional copies be printed for the use of the House document room.

Mr. John N. Garner, of Texas, questioned the privilege of the resolution.

The Speaker<sup>2</sup> held that its provision came within the restrictions of "printing for the use of the two Houses," and overruled the point of order.

**2299. The privilege of the Committee on Accounts is confined to resolutions making expenditures from the contingent fund.**

**The inclusion of matters not privileged destroys the privileged character of a resolution.**

**Directions to the Postmaster of the House specifying the number of mail deliveries was held to destroy the privilege of a resolution reported by the Committee on Accounts.**

On January 15, 1908,<sup>3</sup> Mr. James A. Hughes, of West Virginia, from the Committee on Accounts, presented, as privileged, the following resolution:

*Resolved*, That the Postmaster of the House is hereby directed, in pursuance of Rule VI, to deliver and collect mail at the offices of Members, officers and employees of the House, and at committee rooms not less than four times per day until otherwise ordered by the House: *Provided*, That Members may also have mail delivered in the manner now provided so far as may be desired; and such additional number of messengers, not exceeding five, as may be necessary, in the discretion of the Postmaster, to carry out the provisions of this resolution, shall be employed by him during the sessions of the Sixtieth Congress, to be paid out of the contingent fund of the House, at the rate of \$100 per month each, until otherwise provided for by law.

Mr. Sereno E. Payne, of New York, raised the point of order that the resolution was not privileged.

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

This resolution provides that the Postmaster of the House be directed, in pursuance of Rule VI, to deliver and collect mail at the offices of Members, offices of employees of the House, and at committee rooms not less than four times per day until otherwise ordered by the House. That is one proposition. It is also provided that Members may have mail delivered in the manner now prevailing, so far as may be desired, and also that such additional number of messengers, not exceeding five, as may be necessary, in the discretion of the Postmaster, be employed to carry out the provisions of this resolution during the session of the Sixtieth Congress, those messengers to be paid out of the contingent fund, etc. Rule VI provides that the Postmaster shall superintend the post office kept in the Capitol for the accommodation of Representatives, Delegates, and officers of the House, and be held responsible for the prompt and safe delivery of their mail.

Clearly the latter part of this resolution, standing alone, is privileged. It provides for the payment out of the contingent fund, and it is for the service provided for by Rule VI. The Chair is perfectly clear that if the first provision, which is mandatory for the distribution of mail four times per day, were left off this resolution, the resolution would be privileged, or if the resolu-

<sup>1</sup>First session Seventy-first Congress, Journal, p. 211; Record, p. 1625.

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

<sup>3</sup>First session Sixtieth Congress, Record, p. 735.

<sup>4</sup>Joseph G. Cannon, of Illinois, Speaker.

tion provided under Rule VI for the performance of the duty of the Postmaster, as provided in Rule VI, and there stopped, and then provided for messengers, it seems to the Chair it would then be a privileged matter.

Here is positive direction equivalent to a new rule of the House, or at least providing that there should be so many distributions a day. The Chair is inclined to think that destroys the privilege of the resolution. The Chair reads from the Manual:

“The privilege of the Committee on Accounts is confined to resolutions making expenditures from the contingent fund of the House. \* \* \* A resolution from the Committee on Accounts, relating to management of the House restaurant, was not received, as a matter of privilege.”

The Chair is inclined to think the question of privilege is destroyed by the first provision of the resolution. By unanimous consent, if the House desires to grant it, it is in the power of the House to consider the resolution.

**2300. The fact that a resolution reported by the Committee on Accounts authorizes an expenditure from the contingent fund does not necessarily render it privileged.**

**Legislative propositions relating to subjects within the jurisdiction of other committees are not privileged when reported by the Committee on Accounts because involving disbursements from the contingent fund.**

**Authorization of publications in connection with the service of the House is a subject belonging to the jurisdiction of the Committee on Printing and not the Committee on Accounts.**

**Unprivileged matter in a resolution otherwise privileged vitiates the privilege of such resolutions.**

On September 24, 1918,<sup>1</sup> Mr. Frank Park, of Georgia, by direction of the Committee on Accounts, proposed to report as privileged, this resolution:

*Resolved*, That the preparation and publication of the Weekly Compendium and Monthly Compendium, compiled and edited by W. Ray Loomis, assistant superintendent of the document room of the House, is hereby authorized to be continued, published, and distributed as heretofore; and the Clerk of the House is hereby directed to pay out of the contingent fund of the House, until otherwise provided for, extra compensation to said Loomis at the rate \$125 per month, from and after December 31, 1917, the date when the preparation and publication of said compilations began.

Mr. William H. Stafford, of Wisconsin, raised a point of order and said:

As I gleaned from hearing the resolution read, it involves an authorization of some publication that has not heretofore been authorized. The gentleman from Georgia presents this as privileged, saying that it involves expenditures out of the contingent fund. That does not necessarily mean that everything involving expenditures out of the contingent fund shall be privileged. It involves matters relating to the jurisdiction of other committees, and, as I heard it read, the resolution authorizes a publication that has not heretofore been authorized and properly should go to the Committee on Printing. The Committee on Accounts should not take jurisdiction of matters that relate to the Committee on Printing, even if it involves expenditures out of the contingent fund.

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

The point of order made by the gentleman from Wisconsin is well taken. The resolution involves nonprivileged matter which vitiates the privilege of the resolution.

**2301. In exercising the right to report at any time the Committee on Accounts may not include matters extraneous to its jurisdiction.**

<sup>1</sup> Second session Sixty-fifth Congress, Record, p. 10706.

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

**Propositions limiting or enlarging the powers and discretion of officers of the House in the discharge of administrative duties are not within the jurisdiction of the Committee on Accounts and nullify the privilege of resolutions reported by that committee even though associated with expenditures from the contingent fund.**

**Directions to the Clerk of the House to classify books and documents in the House library and dispose of any surplus in conjunction with the chairman of the Committee on the Disposition of Useless Executive Papers and the Librarian of Congress was held to be a subject not within the jurisdiction of the Committee on Accounts.**

**Propositions relating to the convenience of Members of the House, as the installation of elevators, were held to belong to the jurisdiction of the Committee of Accounts, and privileged for report at any time in connection with disbursements from the contingent fund.**

On July 26, 1921,<sup>1</sup> Mr. Clifford Ireland, of Illinois, for the Committee on Accounts, offered as privileged this resolution:

*Resolved*, That the Clerk of the House is hereby directed to make a survey and classification of the books and documents in the House library and of the reserve stock stored in the House Office Building, and to dispose of such excess volumes through the Superintendent of Documents as provided by law, as, in the judgment of the Clerk, the Librarian of Congress, and the Chairman of the Committee on Disposition of Useless Executive Papers, may not be necessary as a reserve library with which to supply the Hall Library. And the Clerk is further directed, in conjunction with the Architect of the Capitol, to remove the contents of the rooms now occupied by the House library, and to refit and make ready said rooms for the occupancy of the journal clerk, tally clerk, chief bill clerk, enrolling clerk, and their respective assistants, and of such other employees of the Clerk's office as may therein be accommodated. All expenses in connection with the execution of this resolution, including labor, additional clerical assistance, and equipment not exceeding \$25,000 shall be paid out of the contingent fund of the House upon vouchers approved by the Committee on Accounts.

Mr. Finis J. Garrett, of Tennessee, in raising a point of order said:

I make the point of order that this is not a privileged resolution. It clothes the Clerk of the House with authority that he does not now have either under the law or the rules of the House. It brings into the determination of what is probably a legislative question the chairman of the Committee on Disposition of Useless Executive Papers. It does not bring in the committee, but just the chairman. Then it directs the Clerk further, in conjunction with the Architect of the Capitol, to remove the contents of the rooms now occupied by the House library. The Clerk has no jurisdiction over the House library. It directs him to refit and make ready said rooms. The Clerk of the House has no jurisdiction under the law over the matter of refitting the rooms.

I venture to direct the attention of the Speaker to the fact that the Committee on the disposition of Useless Papers is not a committee created by the rules of the House alone. It is a committee created by statute.

This resolution undertakes to confer upon the chairman of the committee created not alone by the rules of the House but by law the functions which ought to be performed by the full committee, if performed at all.

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

The Chair is somewhat perplexed by this proposition. It has been held in a number of cases that a proposition relating to the convenience of Members of the House is privileged, such as the

<sup>1</sup>First session Sixty-seventh Congress, Record, p. 4316.

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

building of elevators, and so forth. But the right to dispose of documents is provided by law, and this does seem to change it by saying that the Clerk shall dispose of them, not as now but with the concurrence of the chairman of the Committee on the Disposition of Useless Papers and the Librarian of Congress. It seems to the Chair that that does change the power the Clerk now has by law, and so the point of order is sustained.

**2302. A resolution fixing salaries of House employees was held not privileged when reported by the Committee on Accounts.**

On February 17, 1920.<sup>1</sup> Mr. Clifford Ireland, of Illinois, by direction of the Committee on Accounts presented a report on the following resolution:

*Resolved*, That the salary of one special employee of the House be \$2,800 per annum: *Provided*, That the said salary be paid out of the contingent fund of the House of Representatives until otherwise provided for by law.

Mr. Joseph Walsh, of Massachusetts, made the point of order that the resolution was not privileged.

Mr. James R. Mann, of Illinois, speaking to the point of order said:

The resolution is not privileged. The Committee on Accounts does not have jurisdiction to fix the salary of employees. It can not report a privileged resolution fixing a salary. The Committee on Accounts could provide that there should be a certain amount paid out of the contingent fund, which would increase the salary of this employee. Automatically under the rules of the House, that would authorize the Committee on Appropriations to provide an appropriation at an increased salary. But this is legislation; it fixes the salary of the employee at \$1,800 and is not privileged.

The Speaker<sup>3</sup> sustained the point of order.

**2303. A resolution providing for the employment of a designated individual at a stated salary to be paid out of the contingent fund was held to be privileged when reported by the Committee on Accounts.**

On February 17, 1920,<sup>3</sup> the Committee on Accounts reported a resolution which the Clerk read as follows:

*Resolved*, That James Clark be appointed special messenger to serve in and about the House under the direction of the Doorkeeper, at a salary of \$125 per month, to be paid out of the contingent fund of the House, until otherwise provided for.

Mr. Joseph Walsh, of Massachusetts, having raised a question of order against the resolution, Mr. James R. Mann, of Illinois, said:

Mr. Speaker, it provides for a new position, naming the incumbent, the compensation to be payable out of the contingent fund of the House, which is the very purpose of the Committee on Accounts. They have the right to bring in resolutions of that kind.

The Speaker<sup>4</sup> overruled the point of order.

**2304. A resolution enlarging the powers and increasing the duties of a standing committee through the employment of a clerk to be paid from the contingent fund was held not to be within the privilege given the Committee on Accounts to report at any time.**

**A resolution against which a point of order has been sustained is no longer before the House and amendments thereto are not in order.**

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<sup>1</sup> Second session Sixty-sixth Congress, Record, p. 3013.

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

<sup>3</sup> Second session Sixty-sixth Congress, Record, p. 3013.

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

On February 7, 1922,<sup>1</sup> the Committee on Accounts proposed to report as privileged the resolution:

*Resolved*, That pending the election and qualifications of a successor to the late Hon. J. K. Kalaniana'ole, Delegate from Hawaii, the Committee on the Territories of the House of Representatives is authorized to maintain and conduct the office of the late Delegate; and for that purpose the chairman is authorized to employ a clerk at a salary of \$266 per month, the same to be paid from the contingent fund of the House: *Provided*, That such payments shall cease on the day that a new Delegate from Hawaii takes office.

Mr. Joseph Walsh, of Massachusetts, submitted that the resolution contained matter which destroyed its privileged character.

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

The Chair thinks the resolution is subject to that point of order, because the first part of it says that "pending the election and qualification of the successor to the late Hon. J. K. Kalaniana'ole, Delegate from Hawaii, the Committee on the Territories of the House of Representatives is authorized to employ a clerk." It makes the whole resolution subject to a point of order.

Mr. Ireland said:

I maintain that it should not lose its privileged status simply because of the additional legislation therein. Whether it makes an appropriation for one month or for three months is immaterial. The language transferring the jurisdiction to the Committee on the Territories is perhaps surplusage. It would come under their jurisdiction in any event, and possibly it was an error to include that.

The Speaker said:

The Chair thinks it was an error to include it if it was intended to make the resolution in order, because it is a well-settled principle that where something not privileged is joined with matter that is privileged the whole loses its privilege thereby, and the Chair thinks the first part of the resolution is clearly not privileged, and therefore that the whole resolution loses its privilege. The opinion of the Chair has not been changed. The Chair is quite clear that the first part of the resolution is not privileged, and therefore that takes away the privilege of the whole resolution. The Chair suggests that the resolution might be presented in such form that it would be in order.

Thereupon, Mr. Ireland proposed to amend the resolution by striking out the following:

The Committee on the Territories of the House of Representatives is authorized to maintain and conduct the office of the late Delegate.

The Speaker said:

The gentleman can offer a new resolution.

**2305. A resolution providing additional compensation for employees of the House to be paid from the contingent fund, when reported by the Committee on Accounts, was held to come within the privilege given that committee to report at any time.**

On April 22, 1926,<sup>3</sup> Mr. Clarence MacGregor, of New York, by direction of the Committee on Accounts, reported as privileged a resolution directing the Clerk of the House to pay out of the contingent fund additional compensation to certain employees of the House.

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<sup>1</sup> Second session, Sixty-seventh Congress, Record, p. 2238.

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

<sup>3</sup> First session Sixty-ninth Congress, Record, p. 7982.

Mr. Eugene Black, of Texas, made the point of order that the resolution was not privileged.

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

This form of resolution has been the practice for a number of years. The Chair would think that the Committee on Accounts would not undertake to add additional employees, but it certainly has been the practice for a great many years to increase salaries by resolution. The Chair overrules the point of order.

**2306. The jurisdiction of the Committee on Accounts does not extend to the contingent fund of the Senate and a resolution providing for joint payment from the contingent funds of the two Houses was held not to be privileged for report at any time.**

On April 22, 1924,<sup>2</sup> Mr. Clarence MacGregor, of New York, by direction of the Committee on Accounts, called up, as privileged, the concurrent resolution (H. Con. Res. 19) authorizing the Architect of the Capitol to contract for the extermination of pests in the Capitol and in the Senate and House Office Buildings, and containing the following:

That the expenditures in carrying out the contract be paid from the contingent fund of the House and Senate in equal proportions and upon vouchers authorized by the respective committees having control of the contingent funds of the Senate and House of Representatives and approved by the chairman thereof.

Mr. Thomas L. Blanton, of Texas, made the point of order that reports from the Committee on Accounts were privileged when relating to the contingent fund of the House only.

The Speaker<sup>3</sup> sustained the point of order.

**2307. The requirement that reports to printed was construed not to preclude consideration before printing.**

**Failure of printed report to conform to report as originally presented to the House was held not to prevent consideration.**

**When a standing committee reports on subject matter referred to it, jurisdiction over it ceases unless recommitted.**

**The right of a Member to his seat may come up at any time as a question of privilege, even though the subject may have been referred to a committee.**

On December 15, 1922,<sup>4</sup> Mr. Frederick W. Dallinger, of Massachusetts, from the Committee on Elections No. 1, called up the contested election case of Paul v. Harrison, from Virginia.

Mr. R. Walton Moore, of Virginia, made the point of order that the report had not been printed as required by the rules and said:

The report was sent to the Government Printing Office. It was placed in type and the proof was turned over to the chairman of the committee. That document, thus dealt with, is the only report that has ever been brought into this House within the meaning of the rule. When

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<sup>1</sup>Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup>First session Sixty-eighth Congress, Record, p. 6900.

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

<sup>4</sup>Fourth session Sixty-seventh Congress, Record, p. 533; Journal, p. 59.

the chairman received the proof he undertook to change the report. He changed it elaborately. He changed it substantially and materially. For example, the report having declared that certain precincts should not be counted but disregarded altogether, the chairman changed that feature of the report and varied the number of precincts to be treated in that way. The chairman went further and added two independent important sections, something like three to five hundred words, in which he embodied calculations as to what would occur in the result on this or that hypothesis. That paper was substituted for the original paper and without any permission from the House. That paper went to the Government Printing Office and was printed and distributed, and that is what purports to be the report of the committee that is before us now.

The gentleman from Massachusetts called his committee together again, and that committee proceeded to give its approval to this second paper, which is now designated as a report. That action was taken without the authority of this House.

There was an original reference to the committee of the case and there was never any subsequent reference, and the central suggestion I wish to submit is that when the committee presented here the first paper that was agreed upon it exhausted its authority. Thereafter the Committee on Elections was powerless to go a step further. That would seem to be the view based upon common sense. If that is not a correct view, then this House is under the control of a committee, however arbitrarily it may choose to act.

Mr. Frank Mondell, of Wyoming, said in explanation:

The chairman of the committee can verify my statement. I am simply stating my understanding of the case. The only changes made in the original print were, I am told, changes made in order to include in the print certain matter that was in the report as presented by the chairman of the committee and omitted, probably by mistake, by the printer, and there is nothing in the report now before the House that was not in the original report. While a statement of this fact is not necessary to the decision of the point of order, I think it best that the fact be stated.

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

The statement just made by the gentleman from Wyoming, Mr. Mondell, of course, puts a new aspect upon the case, but it is not necessary for the Chair to rule upon the discrepancy of fact. The Chair, to save time, is ready to assume that the facts are as stated by the gentleman from Virginia. If that is true, it is clear that the committee which had jurisdiction to report this resolution, which the gentleman from Massachusetts calls up, reported it.

The report was submitted to the House and this resolution went upon the calendar, having been reported by the committee. That put it in the care of the House. The Chair thinks that the gentleman from Virginia is correct in arguing that the committee's authority was then exhausted and the committee could not then make a new report without having the matter again referred to it by the House. But it does not follow, it seems to the Chair, that a point of order can be made against consideration of the resolution because the provision of the rule which requires the report shall be printed was not carried out. It is undoubtedly desirable for the convenience of Members that they shall have sufficient copies of the report at the time the matter comes before the House.

In this case the Chair will assume that this report, which is before the House, was not the same report that the committee made. But, of course, no harm has ensued to anybody. A full report is simply the argument of the committee. This is the report which the minority had before them and which their statement of views answered. It is the report that expressed the latest views of the committee. Apparently the committee supposed they had the right to correct and amplify their first report. As a matter of equity there could be no claim that this report should not be considered as the valid report of the committee. The only claim can be that, as a matter of strict technical law, the fact that the report which the committee first made was not printed prevents this resolution being in order.

There was here no improper vote, such as was referred to in the case in Hinds', volume 4 section 3117. The report was properly made, and this being an election case it is not even neces-

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

sary that there should be any report at all to make it in order. It has been held—Hinds', third volume, section 2584—that when an election case was before the committee, and a Member in the House, without waiting for the committee to report at all, moved a resolution on that case, a resolution similar to the one that the gentleman from Massachusetts, Mr. Dallinger, moves now, that even then, without any report from the committee, that motion was in order. Much less, then, in this case, where the committee did make a report to the House, as is admitted, does such a point of order lie against the consideration of the resolution. The Chair overrules the point of order.

**2308. The requirement that reports be printed is not interpreted as making the printing of a report a condition precedent to the consideration of the bill on which made.**

On January 5, 1926,<sup>1</sup> Mr. Louis C. Cramton, of Michigan, by direction of the Committee on Appropriations presented the report of that committee on the Interior Department appropriation bill, which was referred to the Union Calendar and ordered to be printed.

Subsequently, on the same day, Mr. Cramton moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of this bill.

Mr. Fiorella H. LaGuardia, of New York, made the point of order that the report had not yet been printed as required by the rules and the bill was therefore not in order for present consideration.

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

The Chair is quite prepared to concede that as a general rule it is better procedure in reporting a bill of grave importance like this—an appropriation bill—to permit it to lie over for one day. The Chair is not called upon to rule on that question, however. If he were, on this particular occasion he would say that the most abundant fairness is given to every Member of the House, in view of the statement of the gentleman from Michigan, Mr. Cramton, in charge of the bill, that there will be three days of general debate; but the Chair is not called upon to decide that question. The only question before the Chair is whether under the rules it is in order to bring up for consideration a privileged bill on the day on which the bill and the report are presented. There is no question in the Chair's mind on that point at all. There is nothing in the rules that provides that a bill of this sort, a privileged bill, shall lie over for one day. Even in the case of bills not privileged there is nothing in the rules which provides that while the report and the bill must be printed they can not be considered on the day they are reported. The Chair does not think there is any possible doubt about the situation in this case. The Chair, therefore, overrules the point of order.

**2309.** On January 18, 1907,<sup>3</sup> Mr. Lucius Nathan Littauer, of New York, by direction of the Committee on Appropriations, reported the bill (H. R. 2454) the deficiency appropriation bill.

Later, on the same day, Mr. Littauer moved that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the deficiency bill.

The point having been raised that the report had not yet been printed and consideration of the bill was not in order until the report had been printed as provided

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<sup>1</sup> First session Sixty-ninth Congress, Record, pp. 1507, 1525.

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

<sup>3</sup> Second session Fifty-ninth Congress, Record, p. 1348.

by the rules, the Speaker<sup>1</sup> held that the only essential requirement before consideration was that the report be in writing, and this being complied with it was not necessary to wait until it also had been printed.

**2310. Ordinarily the House proceeds to the consideration of a privileged question only on motion authorized by the Committee reporting thereon.**

**The privilege of a question is not affected by the nature of the report thereon and a resolution privileged under the rule occupies the same status when reported adversely as when reported favorably.**

**A point of order having been made, all points of order on the same proposition should be submitted before decision on any.**

**By an exceptional decision it was held that a resolution of inquiry was privileged for consideration only on motion authorized by the committee having jurisdiction.**

**A resolution of inquiry asking for "reason" and "cause" was held to ask for opinions rather than facts.**

On December 13, 1924,<sup>2</sup> Mr. Fiorello H. LaGuardia, of New York, proposed to call up the resolution (H. Res. 365) requesting the Secretary of the Treasury to furnish to the House of Representatives certain information regarding Robert J. Owens, a prohibition agent.

Mr. L. C. Dyer, of Missouri, made the point of order that the resolution had been reported adversely by the Committee on the Judiciary and that Mr. LaGuardia, not being a member of that committee, was not authorized to call it up.

Mr. Everett Sanders, of Indiana, inquired if other points of order against the privilege of the resolution should be presented immediately or deferred until the pending point of order had been disposed of.

The Speaker thereupon recognized Mr. Sanders and Mr. Nicholas Longworth, of Ohio, to submit further points of order.

Mr. Sanders, submitted the further point of order that the House had by special order set aside the day for the consideration of business on the Private Calendar otherwise in order on the preceding Friday.

Mr. Longworth made the additional point of order that the resolution in asking for cause and reasons asked for opinions rather than facts.

In debating the question as to whether authorization by the committee was requisite, Mr. Louis C. Cramton, of Michigan, said:

Mr. Speaker, I am not interested in the subject matter of the resolution. I am, however, somewhat jealous of the protection of the rights of Members and the protection of the rights of minorities with reference to resolutions of inquiry. If it should be held that the point of order made by the gentleman from Missouri is correct it means to do away with the right which a minority heretofore has had with reference to resolutions of inquiry.

The point of order of the gentleman from Missouri is that a report having been made upon the resolution, that report having been adverse, that no one now can call up that resolution and the report on it except a member of the committee. I did not see where they get the authority for the

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

<sup>2</sup> Second session Sixty-eighth Congress, Record, p. 605.

statement that no one but a member of the committee can call up the resolution in view of an adverse report. The only provision of the rules that has to do with this subject is as follows:

“All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within one week after presentation.”

Under that rule has grown up the practice of the House giving to the resolution of inquiry a privileged status. All that the rule definitely requires is that the committee shall report, but the report of the committee is an idle ceremony unless it does lead to possible consideration by the House. If it is to be held that the resolution itself when reported has no privilege, then it is easy to see how a majority in this House can entirely put the lid on resolutions of inquiry. The majority in the House having control of the Rules Committee, having a majority on the committees, can secure an adverse report upon a resolution of inquiry. Is it to be understood that that adverse report absolutely prevents the getting up of a resolution for a vote by the House?

If it is to be so held, then a minority no longer can get a vote in this House upon a resolution of inquiry perhaps addressed to an administration that is politically opposed.

It would be strange, indeed, if a man who introduces a resolution shall be held to lose the right to call it up in this House—a right equal to that of any other Member—unless there is something explicit in the rules to that effect, and there is not.

There is a rule that provides that when there is an adverse report upon any bill, that bill shall lie upon the table, unless within three days some Member of the House—not only a member of the committee, but some Member of the House—asks to have that bill put on the calendar, where it belongs, and any Member of the House has the right to have that bill put on the calendar, notwithstanding an adverse report. Show me a line here that restricts to a member of the committee the right to call up a bill on which there has been an adverse report.

Where is there in the rules any statement restricting to a member of the committee the right to call up a bill or resolution on which there is an adverse report?

If there is any restriction as to the rights of the gentleman it is incumbent upon those who allege such restrictions to point them out. In the absence of them, if they are to hold that an adverse report from a committee on a resolution of inquiry shall deny to its introducer an opportunity to get a vote of this House upon the resolution, then you have done away with that outlet, which has been in this House historic as to the protection of the rights of the minority. Logically it would be an idle ceremony to require a committee to report within seven days and then not give an opportunity for consideration of the report after it should be made.

So, Mr. Speaker, I repeat. I am not concerned about the resolution. I assume that I shall not vote for it if it comes up for consideration, but I do not want a ruling that will put an end to any opportunity of Members or of a minority to call upon the administrative heads for information.

The purpose of the resolution of inquiry, its very nature, is to be used by the minority. The majority in harmony with the administration can get information, but if you are to hold that an adverse decision of a committee of this House shall prevent the House itself from having the right to decide the question, then you have done away with the resolution of inquiry.

#### The Speaker <sup>1</sup> ruled:

It seems to the Chair that this question is rather academic. It is certainly so if what the gentleman from Missouri, Mr. Dyer, states is the fact, that in the report are given the full reasons of the department. But it is none the less to be decided.

Three points of order are made. As to the day, the Chair finds that the order yesterday was simply that bills on the Private Calendar, reported from the Committee on Claims, be in order for consideration tomorrow. It seems to the Chair that does not prevent the consideration of other privileged business, if the House so desires.

The second point of order is: Can it be brought up by the gentleman from New York, Mr. LaGuardia, he not being a member of the committee, which made the report? This rule was adopted in 1880, and when it was first reported by Mr. Randall it simply provided that any motion of inquiry should be referred to a committee. Then it was contended by some Members

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

that there should be some constraint on that committee, and, therefore, the addition was made that such committee should report within one week, and since then, without any special provision in the rule, it has been held that if the committee did not report within that week the Member who offered the resolution should have the right to bring it up as a matter of privilege. There is no special reason, given in any decision the Chair has been able to find, for establishing that right, but the Chair supposes it is to compel the committee to do its duty. It is logical, if the committee does not do its duty, that the House should have the right, without the action of the committee, to immediately proceed to consider the subject. But there is nothing in the rule which provides what shall be done when the committee does report, and consequently it has been held that such a report is privileged, and, it seems to the Chair, it must stand just like any other privileged report of a committee. The Chair can see no reason for any difference in the privilege, whether it is adverse or whether it is favorable. But the Chair is unable to see any reason why this case should be held by decision to be different from all other cases. It is always held that the only person who can bring up a bill is the Member authorized by the committee. There are some privileged bills now on the calendar which are subject to be brought up, but nobody can bring them up except the member of the committee authorized to do so, and in the absence of any expression in the rules or of any precedents by a decision the Chair does not feel authorized to hold that there is any different right in this case than in any other case.

Then as to the point that is made by the gentleman from Ohio, Mr. Longworth, the rulings have been continuous that such a resolution must call simply for the facts and not for opinions. It does seem to the Chair that calling for the reason why the act was done is calling for an opinion by the official who performed that act. It is asking his motive. Of course, the language could be drawn so as to ask the facts on which he based his action, but to ask the motive and the reason of his action, it seems to the Chair, also makes this resolution subject to the point of order. So the Chair sustains the point of order.

**2311. A standing committee, unlike a select committee, is not discharged from consideration of a subject within its jurisdiction by reason of having reported thereon.**

**A standing committee having reported a bill relating to a subject within its jurisdiction is not thereby precluded from reporting other bills subsequently referred to it dealing with the same subject matter.**

**The fact that the Committee on Merchant Marine and Fisheries had reported a bill relating to radio communication was held not to prevent it from reporting a further bill on that subject and calling it up for consideration in preference to the bill first reported.**

**There being no question as to the facts affecting the validity of a report the Speaker decided that it should be received.**

**The Committee on the Merchant Marine and Fisheries has general jurisdiction over radio matters.**

On March 12, 1926,<sup>1</sup> during the Calendar Wednesday call of committees, Mr. Frank D. Scott, of Michigan, from the Committee on the Merchant Marine and Fisheries, called up the bill (H. R. 9971) for the regulation of radio communications.

Mr. Tom D. McKeown, of Oklahoma, made the point of order that the bill was improperly on the calendar for the reason that the committee having previously reported a similar bill (H.R. 9108) had been thereby automatically discharged from consideration of the subject matter.

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<sup>1</sup>First session Sixty-ninth Congress, Record, p. 5477.

After debate, the Speaker<sup>1</sup> ruled:

The Chair has followed with interest the ingenious argument of the gentleman from Oklahoma, which was well thought out, carefully prepared, and well delivered, but the Chair finds himself quite unable to follow the logic of the gentleman from Oklahoma in this case.

What are the facts? In the mind of the Chair, they are extremely simple. On February 27, 1926, Mr. Scott, chairman of the Committee on the Merchant Marine and Fisheries, reported House bill 9108, a bill for the regulation of radio communications, and for other purposes. Subsequently, on the 3d of March, Mr. White, of Maine, introduced a bill which was referred to the Committee on the Merchant Marine and Fisheries, and reported to the calendar on March 5, 1926. That bill differed in some number of details from House bill 9971. In the judgment of the Chair, the argument advanced by the gentleman from Oklahoma could only hold in one of two cases, either that the Committee on the Merchant Marine and Fisheries was a select committee or that the action taken by the committee was an actual reconsideration of the action taken on House bill 9108. Of course, the Committee on the Merchant Marine and Fisheries is a standing committee. There is some reason for the rule that where a select committee is appointed for a certain purpose it loses jurisdiction entirely over the subject matter after it reports a certain bill because it is automatically dissolved, but there can be no question that no rights are taken away from any standing committee as to its jurisdiction by the reporting or nonreporting of any particular bill.

It is plain in the mind of the Chair that the action taken with regard to House bill 9971 was in no manner a reconsideration of the action taken on House bill 9108. Though it differs in detail it is just as much within the jurisdiction of the committee as was House bill 9108. In House bill 9971 section 4 of House bill 9108 does not appear, and besides there are other amendments; but the Chair thinks the bill is very greatly altered by the elimination of section 4, which, in the opinion of the Chair—although this is a matter that it is not necessary for the Chair to decide here—is a matter probably not within the jurisdiction of the Committee on the Merchant Marine and Fisheries but of another committee. However, the fact is, and it is undenied, that the House bill which the chairman of the committee has just called up for consideration is a different proposition from a bill which the Committee on the Merchant Marine and Fisheries previously reported, and there is no question in the world but that on Calendar Wednesday it is within the province of any committee to call up any bill reported by it.

The Chair thinks there is no question of the right of the gentleman from Michigan to call up House bill 9971 and to consider it in the House under the rules applying to Calendar Wednesday. The Chair, therefore, overrules the point of order.

In response to an inquiry from Mr. Fiorello H. LaGuardia, of New York, the Speaker added:

The Committee on Merchant Marine and Fisheries has general jurisdiction over radio matters; there is no question about that.

**2312. A report when presented is not debatable unless privileged for immediate consideration.**

**A motion for rereference of a bill comes too late after the bill has been reported to the House.**

**A report when presented may be withdrawn by unanimous consent only.**

On March 23, 1921,<sup>2</sup> Mr. Halvor Steenerson, of Minnesota, presented the following report from the Committee on the Post Office and Post Roads:

The Committee on the Post Office and Post Roads, to whom was referred the petition (Exhibit A) signed by Joseph Dixon and 19 other citizens of the city of St. Louis, in the State of

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<sup>1</sup>Nicholas Longworth, of Ohio, Speaker.

<sup>2</sup>Second session sixty-sixth Congress, Record, P. 4746.

Missouri, charging Colin M. Selph, the duly appointed and acting postmaster of the city of St. Louis, a United States post office of the first class, with certain high crimes and misdemeanors in office, therein specified and set forth, and which, if found to be true, constitute grounds for impeachment, together with a petition (exhibit B) signed by Joseph Dixon and other citizens of the city of St. Louis, in support of said charges, and a further petition (Exhibit C) signed by Robert J. Ebrecht and other citizens of the city of St. Louis, report the same back with the recommendation that said charges and papers be referred to the Committee on the Judiciary, with directions to investigate the same and take such action as may be proper in the premises.

The report having been read by the Clerk, Mr. Steenerson was proceeding to debate it when Mr. John N. Garner, of Texas, made the point of order that the report not being privileged was not in order for consideration and Mr. Steenerson could not be recognized to debate it.

The Speaker<sup>1</sup> sustained the point of order.

Mr. Steenerson then proposed to move that reference of the matter be changed from the Committee on the Post Office and Post Roads to the Committee on the Judiciary.

Mr. James R. Mann, of Illinois, made the point of order that after the Committee on the Post Office and Post Roads had reported it was too late to offer a motion for change of reference.

The Speaker sustained the point of order.

Whereupon Mr. Steenerson asked unanimous consent to withdraw the report. Mr. Garner objected and the report was referred to the calendar.

**2313. An instance wherein a committee filed a supplemental report.**

On January 13, 1921,<sup>2</sup> Mr. Edward C. Little, of Kansas, by direction of the Committee on Revision of the Laws, submitted by delivery to the Clerk a supplementary report<sup>3</sup> on the bill (H.R. 9389) to consolidate, codify, revise, and reenact the general and permanent laws of the United States in force March 4, 1919, which said report was ordered to be printed.

**2314. A member of the minority party on a committee is sometimes ordered to make the report.**

**Under exceptional circumstances a minority member of a committee has sometimes presented the report of the committee to the House.**

On May 8, 1922,<sup>4</sup> Mr. William F. Stevenson, of South Carolina, a minority member of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. J. Res. 132) to provide for the continuance of certain Government publications, by direction of that committee, presented the conference report, which was thereupon considered and agreed to.

**2315.** On January 23, 1924, Mr.<sup>5</sup> Charles R. Crisp, of Georgia, a minority member of the Committee on Ways and Means, by direction of that committee, presented to the House a report on the bill (H. R. 5557) to authorize the settlement of the indebtedness to the Republic of Finland to the United States of America.

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

<sup>2</sup> Third session Sixty-sixth Congress, Record, p. 1392.

<sup>3</sup> Report No. 781, Part 2.

<sup>4</sup> Second session Sixty-seventh Congress, Record, p. 6522.

<sup>5</sup> First session Sixty-eighth Congress, Report No. 89.

On May 3, 1924,<sup>1</sup> Mr. Crisp, by direction of the committee, submitted a report on the bill to authorize the settlement of the indebtedness of the Kingdom of Hungary; on December 12, 1924,<sup>2</sup> a similar report on the bill for the settlement of the indebtedness of the Republic of Lithuania; on December 13, 1924,<sup>3</sup> on the indebtedness of the Republic of Poland; on January 8, 1926,<sup>4</sup> on the indebtedness of the Kingdom of Italy; on January 7, 1926,<sup>5</sup> reports on the indebtedness of the Kingdom of Belgium, the Republics of Estonia, and Latvia, and the Kingdom of Rumania.

**2316. The ordinary motion to discharge a committee from the consideration of an unprivileged legislative proposition is not privileged.**

**A motion for disposition of a resolution is not admissible while a point of order against the privilege of its consideration is pending.**

**Motions to discharge committees from consideration of questions privileged under the Constitution, as the right of a Member to his seat or the right to consider a vetoed bill, frequently have been held in order.**

**A charge that a committee has been inactive in regard to a subject committed to it does not constitute a question of privilege.**

**Dicta to the effect that a resolution and preamble proposing investigation of charges of corruption against the membership of a committee or a Member of the House is privileged.**

On June 14, 1910,<sup>6</sup> Mr. Choice B. Randell, of Texas, offered, as affecting the privileges of the House, the following preamble and resolution:

Whereas a bill (H. R. 24318) entitled a bill "To prohibit the giving or receiving of gifts, employment, or compensation from certain corporations by Senators, Representatives, Delegates, or Resident Commissioners in the Congress of the United States, or Senators, Representatives, Delegates, or Resident Commissioners elect, and the judges and justices of the United States courts, and prescribing penalties therefore," was duly introduced in the House of Representatives and on April 9, 1910, was referred to the Committee on the Judiciary and is now before that committee; and

Whereas said bill (H. R. 24318), among other things, contains provisions making it unlawful and penal for Members of the Congress of the United States, during their term of service, to receive any free transportation of person or property, or frank, franking privilege, or money, or other thing of value, or to directly or indirectly hold or take any office, employment, or service, or to receive any salary, fee, or pay as officer, agent, representative, or attorney from any railroad company, or ship, express, telegraph, telephone, or sleeping-car company, or any public-service corporation, or any corporation chartered by an act of the Congress of the United States, or any firm, company, or corporation organized or conducted in violation of the antitrust laws of the United States, or any corporation engaged in interstate and foreign commerce, or any person, firm, or corporation interested in legislation or other business of Congress; and

Whereas the controlling membership on said Judiciary Committee, and especially the chairman of the committee and the chairman of the subcommittee of the Judiciary Committee, to which said bill (H. R. 24318) has been referred by the full committee, are personally interested in the subject-matter of said bill (H. R. 24318) and have been, and are now, receiving gifts, franks,

<sup>1</sup> Report No. 654.

<sup>2</sup> Second session Sixty-eighth Congress, Report No. 1045.

<sup>3</sup> Report No. 1046.

<sup>4</sup> First session Sixty-ninth Congress, Report No. 63.

<sup>5</sup> Reports Nos. 47, 48, 49, 46.

<sup>6</sup> Second session Sixty-first Congress, Record, p. 8064.

employment, and compensation of great and pecuniary value, such as would be prohibited by the terms of said bill (H. R. 24318) if the same should become a law; and

Whereas the said Judiciary Committee, on account of personal interest, is incompetent and disqualified from justly and properly considering and acting upon said bill (H. R. 24318), and have failed to report said bill (H. R. 24318) back to the House of Representatives, either favorably or unfavorably, and have failed to make known to the House their disqualification by reason of personal interest to pass upon said bill (H. R. 24318); and

Whereas the retention of said bill (H. R. 24318) by the Judiciary Committee is contrary to public propriety and policy, and, by reason of the personal interest of its members adverse to the provisions of said bill, directly affects the rights of this House collectively, and the safety, dignity, and integrity of its proceedings: Therefore be it

*Resolved*, That the Judiciary Committee of the House of Representatives be, and it is hereby requested and instructed to immediately report back to the House said bill (H. R. 24318) for the further action and consideration thereon by this House.

Mr. George R. Malby, of New York, made the point of order that the resolution was not privileged.

Pending the decision of the Speaker, Mr. Albert Douglas, of Ohio, moved to strike out the preamble.

A point of order by Mr. John Dalzell, of Pennsylvania, that no motion relating to the resolution was in order while the question as to its privilege was pending, was sustained by the Speaker.<sup>1</sup>

Debate on the point of order having been concluded, the Speaker ruled:

The Chair listened to the reading of this resolution. In its preamble it makes very serious and grave charges against the personnel of the Committee on the Judiciary, and then winds up, not with a resolution to investigate those charges by a standing or select committee to see whether they be true or not, but with a resolution as follows:

*"Therefore be it resolved, That the Judiciary Committee of the House of Representatives be, and it is hereby, instructed to immediately report back to the House said bill for further action and consideration thereon by this House."*

Now, there are some cases where a motion to discharge a committee is in order. There are some questions of high constitutional privilege on which it is in order for the House to proceed without reference to a committee. Amongst that class are the right of a Member to his seat in the House and the right to consider a vetoed bill. Those are questions of privilege arising under the Constitution, and a motion to discharge a committee from consideration of a privileged resolution of that class has been frequently held in order. But in that case the subject that it was proposed to take from the committee was privileged.

Now, it is proposed to take an unprivileged subject from the Committee on the Judiciary, for the House to deal with that question after the committee is discharged, and the gentleman, as a foundation, puts in his whereases, and commences the resolution with "Therefore be it resolved."

Now, while the gentleman presents, so far as the preamble is concerned, a question that might grow into a question of privilege, so far as the substance of the resolution is concerned he presents an entirely unprivileged question. There are many precedents, of which the Chair will cite one:

"A resolution relating to matters undoubtedly involving privilege, but also relating to other matters not of privilege, may not be entertained as of precedence over the ordinary business in regular order.

"A privileged proposition may not be amended by adding thereto matter not privileged or germane to the original question."

The precedents are many, under Speakers Reed, Crisp, and Henderson, and made by the recent occupant of the chair, and, therefore, made in all these cases by the House.

Now, a charge that a committee has been inactive in regard to a subject committed to it was decided not to constitute a question of privilege. That is a decision by Mr. Speaker Crisp, and is along the line of many other precedents that the Chair will not take the time of the House to refer to.

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

If this motion to discharge the committee that has charge of a matter that is not privileged under the Constitution is privileged, then there are, in round numbers, 20,000 other matters pending before committees which are privileged, and under the gentleman's theory the motion to discharge the committee from consideration of a bill, for inaction or otherwise, would require a session of Congress lasting into several decades to dispose of them all.

The gentleman seems to have brought in a number of whereases here to bolster up, seemingly, unsubstantiated charges against a committee of the House, concluding with a "therefore" to pull through that which is not in order. If the gentleman really wanted to discharge this Committee on the Judiciary from further consideration of this bill, there is a motion that is in order immediately after the reading of the Journal. By unanimous consent first, or by direction of another committee, it is in order to move to discharge a committee from the consideration of any bill and refer it to another committee. That has very frequently been resorted to in the history of legislative proceedings. Back in the time of Mr. Speaker Carlisle a motion was made by the Committee on Agriculture to discharge the Committee on Ways and Means from consideration of what was known as the oleomargarine bill.

And while, in the opinion of many, the Ways and Means Committee had jurisdiction under the rules of the House, a majority of the House, under a parliamentary motion, voted to take the bill from the Ways and Means Committee and refer it to the Committee on Agriculture. So that the gentleman, if he merely desires to change this bill from one committee to another, has full power to make a motion under the rules any day after the reading of the Journal. If the gentleman desires, however, to introduce privileged matter making charges against the membership of the committee, or against any Member of the House from the standpoint of corruption, the proper way is to propose investigation by a resolution for that purpose, and such a preamble and resolution would, in the opinion of the Chair, be privileged. But a preamble suggesting improper conduct by the committee can hardly be made a vehicle for carrying through a procedure not in order under the rules affecting a bill not privileged above other bills. The Chair sustains the point of order.

An appeal from the decision of the Chair by Mr. Randell was laid on the table, yeas 121, nays 20.

**2317. The report of a joint commission constituted by law, with minority views thereon, was received and, with a bill recommended by the commission, was referred to the Union Calendar.**

On June 3, 1924,<sup>1</sup> Mr. Carl E. Mapes, of Michigan, by direction of the Joint Committee on Reorganization, presented from the floor the report<sup>2</sup> of that committee.

This joint committee, consisting of three Members of the Senate and three Members of the House, was created by joint resolution (S. J. Res. 191) agreed to in the third session of the Sixty-sixth Congress.

The committee, being authorized to report "by bill or otherwise," submitted with their report a bill, the title of which was read by the clerk as follows:

A bill (H. R. 9629) to provide for the reorganization and more effective coordination of the executive branch of the Government, to create a department of education and relief, and for other purposes.

Mr. Thomas L. Blanton inquired if it would be in order to reserve points of order on the bill.

The Speaker<sup>3</sup> replied in the negative, and referred the report, with minority views and the bill recommended by the committee, to the Committee of the Whole House on the state of the Union. No further action on the bill appears.

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<sup>1</sup>First session Sixty-eighth Congress, Record, p. 10329.

<sup>2</sup>Senate Document No. 128.

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